

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*

Volume - VI, Issue - I

01 - 01 - 2025 to 15 - 01 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

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

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

JUDGMENTS OF INTEREST

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1. **Supreme Court of Pakistan**
Kausar Rana Resources (Private) Limited, etc. v. Qatar Lubricants
Company W.L.L. (QALCO), etc.
C.P.L.A. 4468/2024
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Irfan Saadat Khan & Mr.
Justice Aqeel Ahmed Abbasi.
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 4468 2024.pdf

Facts: The respondents filed a petition before the Lahore High Court, invoking its jurisdiction as a Company Bench under the Companies Act 2017 (“Companies Act”). The petitioners filed an application under Section 34 of the Arbitration Act 1940 (“Arbitration Act”), seeking for referring the matter to arbitration but the Company Bench dismissed the petitioners’ application. Consequently, the petitioners have filed a petition for leave to appeal.

Issues:

- i) What are the purposes of Arbitration and how it is vital for our country and our judicial system?
- ii) Whether right to arbitrate cannot be enforced by a person who is not a party to the agreement?
- iii) Whether the award is to be filed in Civil Court or the Company Bench of the High Court?
- iv) What is difference between civil courts of general jurisdiction and civil courts of special jurisdiction, whether a court established under the Companies Act qualifies as a Civil Court?
- v) What does term “pro-arbitration bias” reflects?

Analysis:

- i) By prioritizing arbitration, courts uphold the principle of party autonomy and reinforce the parties’ choice to resolve their disputes outside traditional litigation. This approach not only respects their agreement but also addresses the inefficiencies inherent in conventional judicial proceedings. Courts should adopt a resolute stance of non- interference, encouraging arbitration and other forms of alternative dispute resolution (ADR), such as mediation, as the preferred modes of resolving disputes. This judicial mindset is particularly vital for our country, where an overburdened judicial system and burgeoning case backlogs impose immense economic costs on both the judiciary and society. By respecting arbitration agreements and fostering an environment conducive to swift dispute resolution, courts can play a pivotal role in alleviating this crisis. Courts in Pakistan must therefore embrace this ethos, recognizing that promoting arbitration is not merely a legal necessity but also an economic and commercial imperative for ensuring the country’s progress and prosperity.
- ii) Clause (1) of the agreement explicitly provides that “QALCO shall relinquish all its rights in KRR and transfer all of its existing shares in Kausar Rana Resources (Pvt.) Ltd. [KRR], including shares of nominee director, to Mr. Atif Naeem Rana – CEO or a nominee of the same”. Pursuant to this clause, the shares were transferred to the petitioner Sameen Naeem Rana, who acted as the nominee of the petitioner Atif Naeem Rana — a party and signatory to the agreement containing the arbitration clause. Thus, Sameen Naeem Rana derives his rights

and title in the transferred shares under and through Atif Naeem Rana. Accordingly, he is subject to all rights and obligations arising from the agreement signed by Atif Naeem Rana, including the right to enforce the arbitration clause contained therein.

iii) As per Section 14(2) of the Arbitration Act,⁴ the award made by an arbitrator is to be filed in Court and the “Court”, as defined in Section 2(c) of the Arbitration Act, means a Civil Court having jurisdiction to decide the question forming the subject-matter of the reference [to arbitration] if the same had been the subject-matter of a suit. The question of law before us, therefore, is: Whether the Court, i.e., a Company Bench of the High Court, established by the Companies Act qualifies as a Civil Court having jurisdiction to decide the question forming the subject matter of the reference to arbitration if the same had been the subject matter of a suit. Generally, a civil court is a court that has jurisdiction to adjudicate disputes between individuals or entities concerning their civil rights and obligations.--- Accordingly, the Civil Courts established under the Civil Courts Ordinance 1962 are referred to as general courts of civil jurisdiction or general civil courts, as they have been conferred jurisdiction under Section 9 of the Code of Civil Procedure 1908 to try all suits of a civil nature except those whose cognizance is expressly or impliedly barred. Conversely, courts such as Banking Courts, Consumer Courts and Labour Courts, etc., established under different statutes and conferred jurisdiction by those statutes to deal with specific matters, are referred to as civil courts of special jurisdiction or special civil courts.--- The dispute in the present case, as well as the subject matter of the reference to arbitration, pertains to the alleged fraudulent transfer of shares and the rectification of the register of members (shareholders),¹⁵ which falls exclusively within the jurisdiction of the Court established under the Companies Act.¹⁶ Accordingly, we accept the request of learned counsel for the parties and direct that the Award made by the Arbitrator be filed before the Company Bench for further proceedings in accordance with the Arbitration Act.

iv) The latter view also aligns with the provisions of Section 20 of the Arbitration Act, which permits an application to file an arbitration agreement in a court having jurisdiction over the matter to which the arbitration agreement relates. Such a court may either be a civil court of general jurisdiction or a civil court with special jurisdiction over the relevant matter. It is quite common that the legislature, from time to time, carves out specific matters from the general jurisdiction of Civil Courts established under the Civil Courts Ordinance 1962, either to ensure their expeditious resolution or to address the need for specialized expertise. Jurisdiction over such matters is conferred upon Special Courts established for this purpose. However, the fact that these matters are adjudicated by special civil courts established under special laws, rather than by general civil courts established under the general law, does not alter their classification as civil matters nor does it change the nature of the civil rights or obligations involved.--- If the term “Civil Court” in Section 2(c) of the Arbitration Act were interpreted to refer exclusively to civil courts of general jurisdiction, all civil matters

adjudicable by special courts under specific laws would fall outside the scope of the Arbitration Act. Such an interpretation would preclude applications for filing award or arbitration agreements in courts having special jurisdiction over the relevant matters, thereby frustrating the legislative intent and purpose of the Arbitration Act, which is to provide an alternative dispute resolution mechanism in civil matters. Section 2(c) of the Arbitration Act excludes from the definition of “Court” only one civil court of special jurisdiction, namely, the Small Cause Court, and no other civil court. Courts exercising civil jurisdiction in relation to specific matters, such as the Court established under the Companies Act, cannot be read into the exception clause of Section 2(c) of the Arbitration Act. Therefore, it is our considered view that the term “Civil Court” mentioned in Section 2(c) of the Arbitration Act does not refer exclusively to civil courts of general jurisdiction but also encompasses civil courts of special jurisdiction.

v) This conclusion aligns with the pro-arbitration bias firmly established in the enforcement of international arbitral awards, which, in our considered view, is equally applicable to domestic disputes. Where parties agree to take their disputes to arbitration, they expect the court to hold them to their bargain. It is underlined that the word “bias” used in the work “pro-arbitration bias” is not used in the negative or prejudicial sense. Instead, it reflects a judicial and a policy inclination towards supporting arbitration as a preferred method for resolving disputes. This tendency arises from recognizing arbitration’s benefits, such as efficiency, flexibility and the ability to deliver tailored outcomes. Applying this pro-arbitration bias to domestic arbitration advances the overarching objectives of arbitration law, including efficiency, party autonomy and minimising judicial interference. Requiring a party to an arbitration agreement to first approach a civil court of general jurisdiction for enforcement of the arbitration agreement and then, if the arbitral proceedings fail, to revert to a civil court of special jurisdiction, introduces unnecessary delay, inconvenience and expense. Such a convoluted process undermines the purpose of arbitration as an expeditious and cost-effective mechanism for dispute resolution. Adopting a pro-arbitration bias in domestic disputes is also essential to addressing the challenges posed by the overwhelming backlog of cases in our judicial system, particularly at the level of courts of original jurisdiction (trial courts).

Conclusion:

- i) See above analysis No. i
- ii) A right to arbitrate can be enforced by a person who is not a party to the agreement but he/she derives the rights and title from the agreement.
- iii) The award is to be filed in Company Bench of the High Court.
- iv) See above analysis No. iv
- v) See above analysis No. v

2. **Supreme Court of Pakistan**
Noor Muhammad etc. v. The State
Jail Petition Nos.603/2017, 442/2019, 443/2019 & 444/2019
Mr. Justice Jamal Khan Mandokhail, Mr. Justice Athar Minallah, Mr. Justice Malik Shahzad Ahmad Khan.
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 603 2017.pdf

- Facts:** Petitioner was tried in three separate FIRs. On conclusion of each trial, he was convicted and sentenced to imprisonments for several terms including life imprisonment. Feeling aggrieved, he filed appeals before High Court, which were dismissed by means of the impugned judgments, hence, these petitions for leave to appeal.
- Issues:** i) Whether sentences awarded to a convict can be directed to have run concurrently?
 ii) In whose favor Courts are required to exercise discretion?
- Analysis:** i) Under Section 397 Cr.P.C., the Court has power to direct that the sentences awarded to the petitioner in the other FIRs shall run concurrently. In Mst. Shahista Bibi, this Court has held that the sentences of imprisonment or that of life imprisonment awarded at the same trial or in two different trials have to run concurrently.
 ii) It is always expected that the Courts are required to exercise its discretion in favour of accused, especially in the cases of minors, unless the circumstances demand otherwise.
- Conclusion:** i) Court has power to direct that sentences awarded to a convict to have run concurrently.
 ii) Courts are required to exercise discretion in favour of accused.

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3. **Supreme Court of Pakistan**
Mst. Anita Anam v. General Public and another
Civil Petition No. 256-Q of 2020
Mr. Justice Jamal Khan Mandokhail
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 256_q 2020.pdf

- Facts:** The facts of the case are that petitioner being unmarried eldest daughter of a deceased Government officer prayed for her share in the family pension. The petitioner challenged the dismissal of her application for lower fora, asserting her entitlement as per amended rules.
- Issues:** i) What is the purpose of the summary procedure under section 373 of the Succession Act, 1925?
 ii) Does the issuance of a succession certificate under the Succession Act, 1925 constitute a final and conclusive determination of rights?
 iii) When can a Court refuse to grant a succession certificate?
 iv) Can successive applications for a succession certificate be filed under the

Succession Act, 1925?.

v) Whether the provisions of the code of Civil Procedure 1908 apply to matters governed by the Succession Act, 1925?

vi) Does the eldest unmarried daughter of a deceased Government Officer have a right to draw family pension under the amended Blochistan civil services pension rules, 1999?

Analysis:

i) Section 373 of the Act provides a simplified procedure for the Trial Court to be followed, while granting or refusing to grant a certificate. The procedure is summary in nature, only to determine a prima facie entitlement of an applicant, to receive the property of a deceased and to distribute the same amongst all those, who are legally entitled to receive their respective share. The object of summary trial provided by the Act, is to shorten the course of trial in order to ensure that justice is delivered swiftly, so as to facilitate an applicant, in order to get a certificate at the earliest, without compromising on the principles of natural justice and fair trial.

(ii) The certificate is granted for a limited purpose and for a limited sphere, therefore, it is not a final and conclusive decision between the parties or those who are entitled to get their share from the left-over property of a deceased. The court is bound to decide the application by adopting a procedure provided by section 323 of the Act while granting a certificate to an applicant, provided he makes out a prima facie title to the subject matter of the certificate.

(iii) Where the Court considers that a question of title is involved which cannot be disposed summarily, on the basis of available material, it may refuse to grant a certificate and allow the parties to establish their right by filing a regular suit before a competent court of law.

(iv) A Judge is empowered to issue more than one certificates, as provided by sub-section (3) of section 372 and sub-sections (3) and (4) of section 373 of the Act. The Act place no limitation upon the right of the parties in filing more than one application, therefore, any decision made under Part-X upon any question of right between the parties, shall not bar the trial of the same or related question in any subsequent proceedings under this Act or in any suit or other proceedings between the same parties. The Act does not restrict a person from filing application in respect of a portion of claim which he omits while filing earlier application.

(v) What is to be underlined is that the provisions of CPC cannot be applied to the matters falling under the Act, in view of the fact that being a special law, a specific procedure is provided, therefore, the provisions of Order II, Rule 2 CPC do not attract in the matters under the Act. However, where the Act is silent on matters relating to procedure for the trial of the case, the procedure provided by the CPC may be adopted to regulate the proceedings.

(vi) After amendment in the Rules in the year 1999, an eldest unmarried daughter of a deceased Govt. Officer is made entitled to draw her share in a monthly family pension, till her marriage. The Rules further provide that, in case, the eldest

daughter marries or dies, the next eldest unmarried daughter of the deceased will become entitled to draw her share out of the family pension, till her marriage.

- Conclusion:**
- i) The object of summary trial provided by the Act, is to shorten the course of trial in order to ensure that justice is delivered swiftly, so as to facilitate an applicant.
 - ii) It is not a final and conclusive decision between the parties or those who are entitled to get their share from the left-over property of a deceased.
 - iii) Where the Court considers that a question of title is involved which cannot be disposed summarily, it may refuse to grant a certificate.
 - iv) See Analysis No.(iv).
 - v) Provisions of CPC cannot be applied to the matters falling under the Act.
 - vi) An eldest unmarried daughter of a deceased Govt. Officer is made entitled to draw her share in a monthly family pension, till her marriage.

4. Supreme Court of Pakistan
Secretary to Government of the Punjab Law & Parliamentary Affairs
Department, Lahore and another v. Ali Ahmad Khan
Civil Petition No.2330-L of 2019
Mr. Justice Amin-ud-Din Khan Mr. Justice Muhammad Ali Mazhar Mr.
Justice Irfan Saadat Khan
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2330 1 2019.pdf

Facts: Disciplinary proceedings were initiated against a civil servant for willful absence, unauthorized foreign travel, and submission of a fabricated medical certificate. The department-imposed penalty of reduction to a lower post, from Deputy District Attorney (BS-18) to Assistant District Attorney (BS-17), for a period of four years. This penalty was overturned by the Service Tribunal on appeal, which was challenged in the Supreme Court.

Issues:

- i) Does the regularization of absence as extraordinary leave without pay nullify the misconduct charges and penalty imposed?
- ii) Was the tribunal justified in deciding the matter without addressing the merits of the case?
- iii) What is the standard for proving misconduct in departmental inquiries under service laws?
- iv) What is the scope of a Service Tribunal's authority in altering penalties imposed by the competent authority?

Analysis:

- i) If the act of willful absence or leave without sanction or travelling without the approval of ex-Pakistan leave is treated lightly, it will become a hobby for willful absentees rather than an act of misconduct. Thus, merely treating the period of absence without pay in cases where punishments are imposed by the competent authority other than dismissal/removal from service neither exonerate the respondent from the charge of misconduct nor the act of misconduct is vanished on this count alone.
- ii) No doubt, a lawsuit is bound to collapse when there is no rational basis on

which the claim could succeed. A case seems to have been decided on the merits when the decision or order is founded on fundamental issues, with due consideration of the defence, and the probability and preponderance of evidence, both oral and documentary... We are at loss to understand how the learned Tribunal decided the matter without touching upon the merits of the case and why it did not, after considering the merits, decide the appeal, which was its prime duty under the law.

iii) In service appeals challenging minor or major penalties imposed upon the civil servants, the core issue is to evaluate the gravity of charges and the proof of the guilt of the delinquent during the inquiry, but without adverting to the inquiry proceedings and report, it would not be possible for the learned Tribunal to reach a just and proper conclusion.

iv) A meticulous and assiduous reading of the Service Tribunal Acts, both Federal and Provincial, unequivocally shows that the Service Tribunal is empowered to confirm, set aside, vary, or modify the order appealed against, and for the purpose of deciding any appeal, it is also deemed to be a Civil Court with the same powers as those vested in the Code of Civil Procedure, 1908. However, the award of appropriate punishment under the law is primarily the function of the concerned administrative authority and the role of the Tribunal/Court is secondary.

- Conclusion:**
- i) The regularization of absence does not nullify the misconduct charges or penalty imposed.
 - ii) The tribunal was not justified in deciding the matter without addressing the merits of the case.
 - iii) The tribunal must evaluate the inquiry proceedings and report to reach a just and proper conclusion in service appeals.
 - iv) The primary function of awarding punishment lies with the administrative authority, while the tribunal's role is secondary.

5. Supreme Court of Pakistan
Gul Zarif Khan and others v. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others.
Civil Petitions No.1925 to 2006 of 2024
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1925_2024.pdf

Facts: The petitioners, working under the provincial Special Education Department, claimed Health Allowance parity with devolved employees, transferred under the 18th Amendment. Despite the allowance being reinstated for devolved employees through judicial directives and subsequent notification, the petitioners appeals for similar benefits were dismissed by the Service Tribunal.

Issues:

- i) What was the purpose of enacting the Health Personnel Scheme Ordinance, 2011?
- ii) What is the definition of "health personnel" under Section 2(b) of the Health Personnel Scheme Ordinance, 2011 and who is excluded from such definition?

- iii) What is the objective of the Health Personnel Scheme as outlined in Section 4 of the Ordinance?
- iv) What were the legal consequences of stopping the payment of Health Allowance to health service institutions?
- v) What conditions must be met for classification of persons to satisfy the standards of intelligible differentia and fairness?
- vi) What are the limits and grounds for judicial review of decisions or actions taken by a public body?

Analysis:

- i) Health Personnel Scheme Ordinance, 2011 (“Ordinance”), was enacted to regulate the appointment to and the terms and conditions of the services of health personnel and was made applicable to all health personnel, serving in the Federal health institutions and related organizations under the Federal Government of Pakistan.
- ii) According to Section 2 (Definitions Clause) (b) of the Ordinance, “health personnel” means a person who holds a post in any institute or organization delivering services in the health sector and is included in Schedule-I, but does not include (i) a person who is on deputation to the Federal Government from any Province or other authority; (ii) a person who is employed on contract, or on work-charged basis or who is paid from contingencies.
- iii) Section 4 of the Ordinance delineates the objective of the Scheme according to which career growth of health professionals has been linked with enhancement in professional education and skills through trainings, continuing education, higher qualifications, professional experience, research papers and performance, as per prescribed criteria, laid down by the relevant regulatory bodies from time to time, where applicable.
- iv) The Prime Minister of Pakistan had approved the payment of Health Allowance to the institutions providing Health Services equal to one basic pay of salary. However, when this payment was stopped for certain reasons, litigation ensued, which was ultimately resolved vide judgment dated 17.01.2018 passed by the Supreme Court of Pakistan in the case of Federation of Pakistan through Secretary Capital Administration and Development Division, Islamabad and others Vs. Nusrat Tahir and others (2018 PLC (CS) 669).
- v) Persons may be classified into groups and such groups may be treated differently if there is a reasonable basis for such difference. At the same time, the principle of equality does not imply or connote that every law must have universal application to all class of persons. In fact, the oscillating or wavering needs of dissimilar sets of persons, which may have little in common, can be treated differently on logical perspicacity. However, for such classification to meet the standards of fairness, the self-actualization of two vital constituents must be fulfilled. First, the classification must be founded on an intelligible differentia which may judiciously distinguish persons or things that are grouped together from others left out of the group, and second, the differentia must have a logical and sensible nexus with the object sought to be achieved.

vi) Under the sphere of judicial review, the Court may review the lawfulness of a decision or action made by a public body. The Court may invalidate laws, acts, and governmental actions that are incompatible with a higher authority. Though the power of judicial review of a governmental policy is now well-settled, in which neither the court can act or represent as an appellate authority with the aim of scrutinizing the rightness or aptness of a policy nor may it act as an advisor to the executives on matters of policy which they are entitled to formulate, but this can be sought when a decision-maker fails to observe statutory procedures, misdirects itself in law, exercises a power wrongly, improperly purports to exercise a power that it does not have, or the policy decision was so unreasonable that no reasonable authority could ever have come to it.

Conclusion: i) Health Personnel Scheme Ordinance, 2011 (“Ordinance”), was enacted to regulate the appointment to and the terms and conditions of the services of health personnel.
 ii) See above analysis No ii.
 iii) See above analysis No iii.
 iv) The matter was resolved vide judgment reported as 2018 PLC (CS) 669.
 v) See above analysis No v.
 vi) See above analysis No vi.

6. Supreme Court of Pakistan
Sui Northern Gas Pipelines Ltd (SNGPL), Islamabad v. Ms S.K. Pvt. Limited and others Etc.
Civil Petitions No. 3589, 3590 & 3602/2022
Mr. Justice Muhammad Ali Mazhar & Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3589 2022.pdf

Facts: The respondents, being the consumer of SNGPL, filed suits before the Gas Utility Court alleging the bills issued to them were in sheer violation of the contract for supply of gas. Trial court rejected the plaint under Order VII Rule 11 of CPC observing that an alternate remedy is available to them. The appeals of respondents were allowed by the High Court, and matter was remanded to trial court to decide the suits on merits. Hence, two Civil Petitions for leave to appeal filed before the Hon’ble Supreme Court of Pakistan.

Issues: i) Whether under the Gas (Theft, Control & Recovery) Act, 2016 (“2016 Act”) only the Gas Utility Companies can seek remedy for resolving the disputes regarding billing or metering?
 ii) What kind of issues exclusively fall within the jurisdiction of the Gas Utility Court?
 iii) Whether a provision in any law can be controlled, restricted or limited by a preamble?
 iv) Whether the preamble can be relied upon solely to override the express provisions of the law without considering its pith and substance?

- v) Whether Section 6 of “2016 Act” debars the consumer from directly invoking the jurisdiction of the Gas Utility Court?
- vi) When two interpretations are plausible or achievable, which interpretation is to be preferred by the court?

Analysis:

- i) It is clear beyond any shadow of doubt that Section 6 of the 2016 Act provides both Gas Utility Companies and consumers with an equitable and expeditious remedy for filing a complaint or suit, as the case may be, for resolving disputes regarding billing or metering.
- ii) Learned High Court, after a comprehensive discussion, rightly held that issues of overbilling, including overcharging of Gas Calorific Value (GCV), penalties, and estimated bills due to meter stoppage, fall within the scope of Section 6 of the 2016 Act. Therefore, the lawsuit was within the exclusive jurisdiction of the Gas Utility Court.
- iii) A straightforward and uncomplicated provision in any law cannot be controlled, restrained, or limited by a narrow preamble.
- iv) The preamble cannot be relied upon solely to expurgate or override the express provisions of the law without considering its pith and substance.
- v) Section 6 of the 2016 Act neither imposes such an embargo nor debars the consumer from directly invoking the jurisdiction of the Gas Utility Court.
- vi) Whenever two interpretations are plausible or achievable, the Court ought to prefer the interpretation that expands the remedy and represses the mischief.

- Conclusion:**
- i) No. The remedy for filing a complaint or suit is available for both Gas Utility Companies and consumers.
 - ii) See above analysis No.ii.
 - iii) No. It cannot be controlled.
 - iv) See above analysis No.iv.
 - v) No. It does not bar.
 - vi) See above analysis No.vi

7. **Supreme Court of Pakistan**
Ghous Baksh v. The State
Criminal Appeal No. 294 of 2020
Mr. Justice Jamal Khan Mandokhail, Ms. Justice Musarrat Hilali, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 294 2020.pdf

Facts: The appellant was tried by trial court on the charge of committing murders and was convicted under Section 302(b) PPC. He preferred appeal, High Court upheld the conviction and sentence awarded by the Trial Court. Hence, this appeal. petition.

Issues:

- i) Whether mere retraction of an earlier statement by a witness automatically render him/her hostile?
- ii) Whether Hostility and Retraction are two different concepts?

- iii) Can conviction be sustained when report is obtained on sending the crime empties together with the weapon of offence?
- iv) What is the legal principle/rule with regard to chain of circumstantial evidence not proved?

Analysis:

- i) It is well-established that mere retraction of an earlier statement by a witness does not automatically render him/her hostile.
- ii) Hostility and Retraction are two different concepts. Hostility, in legal terms, refers to a deliberate intent to deviate from the truth or act against the interests of the party calling the witness whereas 'Retraction' refers to the act of withdrawing or taking back a statement, testimony, or accusation[^] often due to its inaccuracy, falsity, or unreliability.
- iii) In the case titled *Sarfraz and another v. The State* (2023 SCMR 670) wherein it was held that "sending the crime empties together with the weapon of offence is not a safe way to sustain conviction of the accused and it smacks of foul play on the part of the Investigating Officer simply for the reason that till recovery of weapon, he kept the empties with him for no justifiable reason".
- iv) It is a well-established principle that circumstantial evidence must form a complete chain, excluding every hypothesis other than the guilt of the accused.

Conclusion:

- i) Mere retraction of an earlier statement by a witness does not automatically render him/ her hostile.
- ii) See above analysis No.ii
- iii) Conviction cannot be sustained when report is obtained on sending the crime empties together with weapon.
- iv) See above analysis No. vi

8. Supreme Court of Pakistan.
Ali Madad Jattak v. Mir Muhammad Usman Pirkani and others
Civil Appeal NO.1349 OF 2024
Mr. Justice Shahid Waheed, Mr. Justice Irfan Saadat Khan, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 1349 2024.pdf

Facts: The appellant preferred this appeal against the judgment of the learned Election Tribunal Balochistan, whereby, the petition filed by the Respondent No.1 is allowed and notification declaring the appellant as Returned Candidate is set aside.

Issues:

- i) What are the requirements of filing Election Petition under section 139/142 of the Election Act, 2017?
- ii) What are the powers and procedure to be adopted by the Election Tribunals?
- iii) Whether the adherence to procedure provided under CPC as well as under the QSO could be relaxed?
- iv) Whether compliance of legal procedure of 'Formal Exhibition' is absolute?

v) Whether absence of formal exhibit marking upon a document makes it irrelevant?

- Analysis:**
- i) Within the prescribed time alongwith requisite receipt of amount paid as security for the costs of the petition...Perusal of the memo of petition further reveals that specific allegations and detail of rigging of election, manipulation and tampering in Form45 have been made by the Respondent No.1 while filing the subject election petition before the Election Tribunal, in the memo of petition which is duly verified on Oath before the Oath Commissioner whereas, all the evidence and documents including duly sworn affidavits of Respondent No.1 alongwith fourteen (14) witnesses were also attached, whereas, list of witnesses and list of documents was also provided.
 - ii) The Election Act, 2017, empowers Election Tribunals with the same powers as of a civil court under the Civil Procedure Code (CPC). Sections 139-144 of the Act specifically deal with the Tribunal's powers regarding taking of evidence, the manner in which the proceedings are to be conducted by the Election Tribunal and the necessity of compliance with the procedural norms.
 - iii) The Election Tribunal, while exercising the powers of a Civil Court, has to adopt the procedure as provided under CPC as well as under the Qanun-e-Shahadat Order, 1984 when recording evidence, however, in appropriate cases, stricto sensu adherence or compliance can be relaxed, provided the purpose is served, and fair opportunity is provided to the parties to the litigation while confronting with the material and the documents being relied upon by either party. The Qanun-e-Shahadat Order governs the admissibility of evidence in Pakistan.
 - iv) It may be observed that in case of substantial compliance of legal procedure, the formal exhibition requirement is not absolute and can be relaxed under certain circumstances, particularly, in election matter pending before the Election Tribunal, which can adopt any course of action to regulate its proceeding instead of following the technicalities of CPC, except such provisions specifically made applicable for limited purposes.
 - v) When the question of admissibility of document arises in a court, the court focuses solely on the relevance of the document and if it has met the legal requirements laid down in Qanun-e-Shahadat Order or it follows the evidentiary law of Pakistan. The formal exhibition of a document solely doesn't guarantee its proof or admissibility. Similarly, the absence of a formal exhibit marking doesn't necessarily mean that the document cannot be considered as evidence, provided other evidentiary requirements are met.

- Conclusion:**
- i) Election petition u/s 139/142 of the Election Act, 2017 must be within prescribed time, receipt of amount paid as security for costs of petition must be accompanied. It should also contain specific allegations and details of rigging, verification on oath before the Oath Commissioner and affidavits of witnesses' alongwith list of witnesses and documents attached.

- ii) Election Tribunals are invested with the same powers as of a civil court under the CPC.
- iii) See above analysis (iii).
- iv) The compliance of legal procedure of 'Formal Exhibition' is not absolute and can be relaxed under certain circumstances.
- v) The absence of a formal exhibit marking doesn't necessarily mean that the document cannot be considered as evidence.

- 9. Supreme Court of Pakistan**
Abdul khaliq v. The state
Jail Petition No.441 of 2019
Mr. Justice Sardar Tariq Masood, Mr. justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 441_2019.pdf
- Facts:** Petitioner was convicted by Additional District Magistrate / Assistant Political Agent under section 121-A of the PPC and Regulation 11/40 of the FCR. The petitioner being aggrieved assailed his conviction through writ petition before High Court which was disposed of with permission to file appeal. Petitioner filed appeal under section 408 of Cr.P.C. which got dismissed. Hence, leave to appeal before Supreme Court of Pakistan.
- Issues:**
- i). Whether constitutional jurisdiction of High Court can be invoked against conviction under Regulation 11/40 of the FCR without availing remedies provided under the statute?
 - ii) Can High Court assume appellate jurisdiction when right of appeal is not provided by the statute?
 - iii) Whether High Courts and Supreme Court of Pakistan have jurisdiction to examine orders passed by authorities, under FCR, prior to omission of Article 247 of the Constitution?
- Analysis:**
- i) It is by now well settled that where a particular statute/law provides a self-contained mechanism and well defined forum of redressal for the determination of questions of law or facts by way of an appeal or revision to another authority or Tribunal as the case may be, the same has to be followed being the remedy provided under the law. The petitioner without exhausting such remedies cannot be allowed to invoke the constitutional jurisdiction of the High Court. Furthermore, the writ jurisdiction of the High Court cannot be exploited as the sole solution when there are equally effective and adequate alternate remedies provided under the law, these cannot be bypassed to invoke the writ jurisdiction. Even otherwise, the extraordinary jurisdiction of the High Court under Article 199 of the Constitution cannot be reduced to an ordinary jurisdiction of the High Court...It is, however, true that in certain cases, resort to the Constitutional jurisdiction of the High Court instead of availing the remedy provided under the statute may be justified, but no such material is available on record of this case for ignoring the remedy provided under the FCR.

ii) The right of appeal has always been held to be a statutory right. The judgment in Reference No.1-P/2019, as argued, is not before us nor, it has been argued and established that the law point involved in the Reference was similar to the one involved in this case. When the law has not provided any right of appeal before the High Court then the High Court itself cannot assume the said jurisdiction. If such a jurisdiction is exercised, then that would be nothing but nullity in the eye of law and coram non iudice. Hence, no basis for interfering with the impugned judgment of the High Court arises.

iii) Coming to the other important plea of the petitioner that this Court as well as the High Court now has the jurisdiction to examine the vires or legality of the order passed by the authorities under the FCR on the grounds that Article 247, which bars their jurisdiction, had been omitted through the Constitution (Twenty-fifth Amendment) Act, 2018 (the Constitution Amendment). This stance of the petitioner is not legally tenable. This is because the order against the petitioner was passed by the FATA Tribunal on 05.04.2017, whereas the Amendment Act received the assent of the President on 31.05.2018 and was published in the Gazette of Pakistan on 05.06.2018, approximately more than a year after the order dated 24.08.2017 of the Additional District Magistrate/Assistant Political Agent, Central Kurram, Sadda. A retrospective effect cannot be given to this Constitutional Amendment, nor was there any such intention by the legislature. Otherwise, matters decided prior to this Constitutional Amendment would also need to be reviewed by the Constitutional Courts, which would open floodgate to any case, at the time when the order against the petitioner was made. The Article 247 was very much in the field and the jurisdiction of the High Court was barred in matters exclusively dealt with by the FATA hierarchy, which had attained finality and were correctly upheld by the High Court in the impugned judgment.

- Conclusion:**
- i) See above analysis (i)
 - ii) High Court itself cannot assume appellate jurisdiction when not provided by statute.
 - iii) Orders passed by FATA hierarchy, prior to omission of Article 247 of the Constitution, have attained finality and cannot be reviewed by constitutional courts.

10. Supreme Court of Pakistan
Usman Ghani @ Ghani Mula Sangeen v. The State.
Jail Petition No. 375 of 2019
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/j.p._375_2019.pdf

Facts: The petitioner, convicted and sentenced under the Frontier Crimes Regulations (FCR) for involvement in anti-state activities. The petitioner exhausted all remedies provided under the FCR framework up to the FATA Tribunal. The High Court dismissed the subsequent writ petition under Article 199, leading to the instant jail petition before the Supreme Court.

Issues: i) Does Article 247(7) of the Constitution bar the jurisdiction of the High Court or Supreme Court over disputes arising from tribal areas?
 ii) Under what circumstances can the jurisdiction of the High Court or Supreme Court be invoked despite the bar under Article 247(7) of the Constitution?

Analysis: i) The combined effect of the above provisions of the Constitution is that in relation to the matters through Tribal Areas, the jurisdiction of both the High Court and this Court is excluded, regardless of the fact that, whether the grievance brought before this Court pertains to violation of the fundamental rights or any other law. The bar of jurisdiction of this Court in terms of Article 247(7) of the Constitution will be applicable where cause of action and subject matter of dispute is in the Tribal Area and the parties to the dispute are also residents of the Tribal Area.
 ii) From the above law, as laid down by this Court, the following inter alia, are circumstances under which the jurisdiction of this Court and that of the High Court will not be barred under Article 247(7) of the Constitution rather the same will be available to be exercised under Article 184 and Article 199 of the Constitution.
 (i) Where the location of the corpus in dispute is situated in the territory outside the Tribal Area;
 (ii) Where the parties to the dispute have their residence outside the Tribal Area;
 (iii) Where the cause of action has arisen outside the Tribal Area;
 (iv) Where the offence has taken place outside the Tribal Area;
 (v) Where the arrest is made or sought to be made outside the Tribal Area;
 (vi) Where effective action or step is taken or performed outside the Tribal Area"

Conclusion: i) The jurisdiction of both the High Court and this Court is excluded in relation to matters through Tribal Areas, regardless of the nature of the grievance, under Article 247(7) of the Constitution
 ii) The jurisdiction of Supreme Court and that of the High Court will not be barred under Article 247(7) of the Constitution where the dispute or its elements arise outside the Tribal Areas, as outlined in the enumerated exceptions.

11. Lahore High Court Lahore
Muhammad Rizwan Ahmed alias Bablo v. The State
Criminal Appeal No. 631 of 2022
Mr. Justice Syed Shahbaz Ali Rizvi, Mr. Justice Anwaarul Haq Pannun
<https://sys.lhc.gov.pk/appjudgments/2024LHC6145.pdf>

Facts: By way of filing criminal appeal, appellant challenged the judgment passed by the learned Additional Sessions Judge in connection with case FIR registered for offence under Section 9(c) of Control of Narcotic Substances Act, (CNSA) 1997, whereby he was convicted under Section 9(c) of the Act *ibid*.

Issue: i) Whether a conviction under section 9(c) of CNSA, 1997 can be sustained if the

charge fails to specify the kind and quantity of the alleged recovered narcotic?

- ii) What would be the impact of failure to medically examine the accused or gather evidence to substantiate the allegations made in the FIR regarding the use of narcotics and its selling/ buying?
- iii) Whether the proper protocols should be followed in the chain of custody and documentation of the recovered narcotics?
- iv) What level of scrutiny is required in evaluating evidence in cases carrying harsh sentences under CNSA, 1997?
- v) What standard of proof must be met by the prosecution, and how does the principle of benefit of doubt apply?

Analysis:

- i) The Control of Narcotic Substances Act, 1997, is a special law that per the kind and quantity of narcotic provides the quantum of sentence separately. Hence, this law requires that the charge must carry specific kind and quantity of narcotic recovered and if it is bereft of the same, conviction and sentence of the accused against the quantity given by the witnesses in their statements would not be justified at all.
- ii) The appellant as per contents of the crime report disclosed that he uses ‘charas’ and also supplies the same to the big dealers in different districts of the Punjab but surprisingly neither the appellant was got medico legally examined nor his blood test was got conducted. It is also relevant to mention here that no intended buyer at the place of recovery, the appellant allegedly was waiting for, could be arrested and even it was not attempted by the complainant and no disclosure regarding dealers in other districts of the Punjab could be obtained from the appellant during his physical custody. It is also to be noticed that without further investigation, the Investigation Officer got him sent to the judicial custody on 26.08.2021 i.e. very next day of his arrest. He even did not bother to know about and to associate the dealer to whom the appellant had already supplied the contraband against the “Wattak” amount of Rs.120,000/- recovered from him during body search.
- iii) It has straightaway been observed that the case against the appellant as alleged in the charge is that he was nabbed by the raiding party headed by the complainant when sitting in a car in possession of 94-packets of ‘charas’ besides “Wattak” amount of Rs.120,000/- but weight of the contraband even separation of narcotic for samples, their weight or preparation of parcels thereof and details of the car are not mentioned therein.(...) complainant (PW.4) as well as the recovery witness Muhammad Irfan Nazir, SI (PW.6) during cross examination concedes that complainant (PW.4) Rehan Nadeem, ASI convened a press conference at the police station on the day of recovery wherein none from the police party who captured the contraband and the accused/appellant except the complainant was visible in the photograph of press conference. In the said picture admittedly parcels of contraband are visible lying on the table in large number. The recovery witnesses in this regard are discrepant as according to PW.4 & PW.6 press conference took place at police station on 25.08.2021 but PW.5 denies the press conference on 25.08.2021. He and PW.6 however, stated that

immediately on return to the police station, the Investigation Officer (PW.7) deposited the case property with the Moharrar Muhammad Sadique (PW.3) and it was placed in 'Malkhana' thereafter. How and when the complainant received back the case property in absence of other members of the raiding party and how and when he deposited the same back to 'Malkhana' is a fact that has not been explained by any of the witnesses as the prosecution case is silent in this regard. The Investigation Officer (PW.7) during his cross examination has categorically stated that he never returned the parcels to the complainant after receiving the same from him. He also stated voluntarily that soon after bringing the parcels of contraband he got them deposited in Malkhana of Police Station and never produced before the DPO or any court.

iv) Harsh sentences carried by the relevant penal provisions of Control of Narcotic Substances Act, 1997, require strict scrutiny of evidence produced against the accused

v) It is hardly necessary to reiterate that the prosecution is obliged to prove its case against the accused beyond any reasonable doubt and if it fails to do so the accused is entitled to the benefit of doubt as of right. It is also firmly settled that if there is an element of doubt as to the guilt of the accused the benefit of that doubt must be extended to him.(...) utmost care should be taken by the Court in convicting an accused.

- Conclusion:**
- i) Charges must specify narcotics' type and quantity; otherwise conviction is invalid.
 - ii) See above analysis No.ii.
 - iii) Procedural lapses and conflicting witness accounts cast doubt on the case.
 - iv) Severe penalties require strict evidence scrutiny.
 - v) Doubt entitles the accused to acquittal as a right.

12. Lahore High Court

Awais Qarni v. The State and another
Criminal Appeal No.531/2020

Mr. Justice Muhammad Amjad Rafiq, Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2024LHC6320.pdf>

Facts: The facts of the case that an individual was apprehended at a police checkpoint following the discovery of a large quantity of contraband concealed in a vehicle. The prosecution alleged recovery of the contraband from the vehicle's compartments, while the accused denied ownership, claiming to be an unaware passenger. The trial court convicted the accused. Hence; this criminal appeal.

Issues:

- i) What is the significance of maintaining the chain of custody and obtaining a positive forensic report in narcotics cases?
- ii) What are the key factors for the admissibility of photographs as evidence in criminal trial?

- iii) How does the Qanun-e-Shahadat Order, (QSO) 1984 define photographs as documentary evidence and what are the requirements for their authentication?
- iv) What are the requirements for proving documents under QSO, 1984 and how are primary and secondary evidence distinguished?
- v) What are the conditions and legal provisions under the QSO, 1984 for the admissibility and use of photographs as evidence in court?
- vi) What are the limitations on using inadmissible photographs and derivative testimony under the QSO, 1984?
- vii) What is the burden of proof required for the prosecution in criminal cases, particularly under the Control of Narcotic Substances Act (CNSA)?
- viii) Can the prosecution rely on weaknesses in the defence to secure a conviction?

Analysis:

- i) In narcotics cases, the prosecution must corroborate the recovery witnesses' evidence with a positive forensic report from the government analyst, prepared in accordance with legal standards. It is also essential to ensure and demonstrate the safe custody of the case property and the secure transmission of sample parcels to the laboratory for chemical analysis. Any break in the chain of custody of sample parcels renders the forensic report inconsequential and wrings the prosecution's case.
- ii) The admissibility of photographs as evidence depends on two key factors: relevance and authenticity. Relevance refers to the logical connection between the evidence and the facts at issue in the case.(...) Authentication can be established through various means, including circumstantial proof.(...) Authentication and relevance are intertwined.³ A document that cannot be authenticated lacks relevance (unless adduced as bogus). (...)if the photograph presented in court is an original print or created through a uniform process (e.g., digital copies from a camera), it qualifies as primary evidence and can be directly admitted.
- iii) In Pakistan, the Qanun-e-Shahadat 1984 (QSO) is the primary law on evidence, which mirrors many of the principles found in common law jurisdictions. According to Article (2)(1)(b) of the QSO, "document" means any matter expressed or described upon any substance by means of letters, figures, or marks or by more than one of those means, intended to be used, or which may be used, to record that matter. The illustrations in Article 2(1)(b) explain that words printed, lithographed, or photographed are considered as documents. Thus, a photograph falls within the aforesaid definition of "document".⁷ Photographs are treated as documentary evidence under Article 2(c). Article 78 requires that documentary evidence, including photographs, be authenticated.
- iv) Article 72 of the QSO stipulates that the contents of documents may be proved by primary or secondary evidence. Article 73 explains that primary evidence means the document itself produced for the court's inspection. Explanation 2 to Article 73 reads: "Where a number of documents are all made by one uniform process as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest, but where they are all copies of a common

original, they are not primary evidence of the contents of the original.” Article 74 explains “secondary evidence”. Article 75 mandates that documents must be proved by primary evidence, while Article 76 outlines the situations in which court may allow secondary evidence relating to a document. Article 78 of the QSO requires that documentary evidence, including photographs, be authenticated.

v) Article 164 of the QSO provides that the court may allow the production of any evidence that becomes available through modern devices or techniques. Digital photographs and electronic evidence are admissible under this provision if their authenticity is established through witness testimony or expert evidence. (...)Articles 70 and 71 permit a witness to testify about matters within their knowledge or perception. If the witness identifies the scene depicted in the photograph and their testimony aligns with their observations, their statements are admissible as direct evidence. Article 139 further allows the defence counsel to use the photograph to challenge the credibility of witnesses by comparing their statements during cross-examination with the scene shown in the photograph. If admitted, the photograph serves as substantive evidence, and Article 140 becomes relevant if it is used to refresh the witnesses’ memory. Article 151(3) further allows scrutiny of the witnesses’ credibility if inconsistencies or contradictions arise concerning the photograph. In short, when the photograph is authenticated and meets the admissibility requirements, subsequent statements of the witnesses, reflecting their personal knowledge, are valid and admissible.

vi) Conversely, a different analysis applies if the photograph is inadmissible because it fails to qualify as primary evidence or lacks proper authentication as secondary evidence. Article 70 of the QSO mandates that all facts, except the contents of documents, may be proved by oral evidence, while Article 71 requires that oral evidence must be direct. This restricts a witness to testifying only about facts they have directly perceived. Observations made after being shown an inadmissible photograph do not meet this standard. In such a scenario, the application of Article 139 is limited, as a party cannot contradict a witness using inadmissible material. Similarly, Article 140 becomes irrelevant because an inadmissible photograph cannot serve to refresh memory. While Article 151(3) allows for impeaching the credibility of a witness, the defence cannot rely on inadmissible evidence for this purpose. Accordingly, the court must disregard the photograph and any derivative testimony based on it because admitting such statements would violate the principles of evidentiary integrity.

vii) It is a fundamental principle of law that the prosecution must establish its case beyond a reasonable doubt, and any doubt must benefit the accused.⁹ This high standard upholds the presumption of innocence and guards against wrongful convictions. (...)The guiding principle for the safe administration of criminal justice is that the more severe the punishment, the higher the standard of proof required for conviction.

viii) It is a cardinal principle of law that the prosecution must stand on its own legs and cannot rely on weaknesses in the defence case to secure a conviction.

- Conclusion:**
- i) Chain of custody and a positive forensic report are crucial in narcotics cases.
 - ii) Photographs must be relevant and authenticated to be admissible.
 - iii) Photographs are documents requiring authentication under QSO.
 - iv) Primary evidence is preferred; secondary evidence requires justification.
 - v) See analysis No.v.
 - vi) See analysis No.vi.
 - vii) Prosecution must prove its case beyond reasonable doubt.
 - viii) Prosecution cannot rely on weaknesses of defence for conviction.

13. Lahore High Court, Lahore
Hamna Fahad vs. CCPO, Lahore etc.
Writ Petition No. 89 of 2025
Mr. Justice Muzamil Akhtar Shabir
<https://sys.lhc.gov.pk/appjudgments/2025LHC1.pdf>

Facts: Through this constitutional petition, the petitioner seeks recovery of her daughter and son Ismail Fahad from alleged illegal and improper custody of father and paternal uncle of the detenues.

Issues:

- i) Does the High Court have jurisdiction to alter the interim custody of the minors when the matter is already pending before the Guardian Court?
- ii) Are habeas corpus proceedings appropriate for determining complex disputes about the custody of minors?

Analysis:

- i).....this Court is in constitutional jurisdiction although has jurisdiction to handover temporary custody to anyone of the parent by directing the other to seek remedy before the Guardian Court, yet as matter is already pending before the Guardian Court, this Court is not inclined to declare that the minors had been snatched forcibly by anyone of the parent from the other or custody of said parent as illegal and improper which requires determination of disputed facts not permissible in the Constitutional jurisdiction of this Court, lest it may prejudice rights of the parties before the Guardian Court where proceedings for custody of minors are pending,...
- ii)....habeas corpus proceedings by the very nature and purport are summary in character and neither controversies are tried nor entire evidence is recorded under ordinary substantive and procedural laws under civil and criminal jurisdiction and such a jurisdiction being extraordinary in its very nature should be sparingly used because the plenary jurisdiction in the matter rests under other laws in other forums of special jurisdiction who should normally be allowed to exercise it in accordance with law. Reliance in this behalf may be placed on the judgments reported as Muhammad Rafique v. Muhammad Ghaffoor (PLD 1972 S.C. 06) and PLD 1997 S.C. 852 (Supra)....

Conclusion: i) In case of pendency of matter before guardian court, the High Court does not inclined to interfere into proceedings of the Guardian Court.

ii) The habeas corpus proceedings are summary in nature and neither controversies are tried nor evidence is recorded.

14. Lahore High Court
Muhammad Qaswar Hussain v. Judicial Magistrate Section, 30, Multan and others
ICA No. 292 of 2024
Mr. Justice Muzamil Akhtar Shabir, Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2024LHC6109.pdf>

Facts: This Intra Court Appeal (ICA) is against the dismissal of a constitutional petition challenging a magistrate's decision to discharge an accused based on a report by an Investigating Officer from whom investigation has been transferred. The appellant also contested the initiation of proceedings against him under section 182 Pakistan Penal Code (PPC) while his private complaint on the same matter is pending.

Issues: i) Can proceedings under Section 182 PPC initiated during a pending complaint on the same subject matter?
 ii) Can police reinvestigate after a discharge order?

Analysis: i) in judgments reported "M.J.A. Gazdar Vs. The State" (1989 MLD 1694), "Ashfaq Ali Vs. The State" (PLD 1975 Karachi 87) and "Muhammad Murad Vs. The State" (1983 P.Cr.L.J. 1097) wherein it is provided that during pendency of complaint case, proceedings under Section 182 P.P.C. in a criminal case relating to same subject matter cannot be initiated,
 ii) It is important to note here that in view of the principles laid down in judgments reported as "Mian Muhammad Asif Vs. S.S.P. Operation, Lahore and 02 others" (2010 YLR 944), "Habib Ur Rehman and others Vs. The State" (1999 MLD 860), "Ashiq Hussain Vs. Sessions Judge, Lodhran and 3 others" (PLD 2001 Lahore 271) and "Muzafar Ahmad Vs. The State and 02 others" (2021 P.Cr.L.J. 1393) despite discharge order police authorities may reinvestigate the matter.

Conclusion: i) Section 182 PPC proceedings cannot be during pending complaints.
 ii) Police authorities may reinvestigate a matter even after a discharge order.

15. Lahore High Court
Miraj Zubair. v. RPO, etc.
W.P. No. 485 of 2025
Mr. Justice Muzamil Akhtar Shabir
<https://sys.lhc.gov.pk/appjudgments/2025LHC29.pdf>

Facts: This Writ Petition of Habeas Corpus is filed for the recovery of detainee statedly in illegal and unlawful confinement of SHO.

- Issues:** i) Whether the High Court is competent to convert one Habeas Corpus petition proceedings into a bail petition?
- Analysis:** i) Needless to mention that this Court is competent to convert one type of proceedings into another type of proceedings which power also includes conversion of habeas corpus petition into bail application where court while dealing the habeas corpus petition came to the conclusion that detention of a person required justification and/or such detention was found to be illegal and unauthorized or had been effected on the ground of suspicion only.
- Conclusion:** i) Court is competent to convert one type of proceedings into another type of proceedings which power also includes conversion of habeas corpus petition into bail application.

16. Lahore High Court
M/s. Gulistan Power Generation Limited & 3 others v. The Bank of Punjab & 2 others
RFA No.872/2016
Mr. Justice Muzamil Akhtar Shabir
<https://sys.lhc.gov.pk/appjudgments/2019LHC5250.pdf>

Facts: The case pertains to a dispute over principal borrower and guarantor. The respondent/bank contended that guarantee is a continuing guarantee and same is enforceable. The appellants contested their liability as a guarantor on the ground that subsequent finance renewal agreements did not mention their guarantees.

- Issues:** i) Does the non-mentioning of personal guarantee in subsequent finance renewal agreements discharge the guarantors from their obligations?
 ii) When an application for leave to defend under section 10 of Financial Institutions (Recovery of Finances) Ordinance, 2001 be dismissed as not raising substantial questions of law or fact?

Analysis: i) Although learned Single Judge in Chambers has referred to the continuing guarantees of appellant Nos. 3 and 4 issued between 14.07.2003 to 01.07.2008 against renewals of finance facility but the said judgment is silent as to the effect of renewal agreements dated 01.07.2009 onwards, which only refer to continuing guarantee of appellant No.2 but not to the guarantees issued by appellant Nos. 3 and 4. Even the Plea is silent to that effect, which only refers to personal guarantees of the appellant Nos. 3 and 4 up to the renewal of agreement for the years 2007-08. The effect of the afore-referred non-mentioning of the personal guarantees of the appellant Nos. 3 and 4 was required to be determined while passing the impugned judgment, which is not forthcoming on the record, therefore, the said appellants were at least entitled for granting leave to defend to establish that their guarantees had been discharged.
 ii) So far as contentions of other appellants are concerned, learned Single Judge in Chambers has properly appreciated the controversy and rightly dismissed their

applications for leave to defend as no substantial question of law and facts requiring recording of evidence has been raised and application for leave to defend was not in consonance with the provisions of Section 10 (3, 4 and 5) of the Ordinance and was rightly refused.

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

17. Lahore High Court
Muhammad Imran v. The State and another
Criminal Appeal No.628 of 2022
Mr. Justice Ch. Abdul Aziz, Mr. Justice Sadiq Mahmud Khurram
<https://sys.lhc.gov.pk/appjudgments/2024LHC6112.pdf>

Facts: Appellant challenged his conviction and sentence passed by learned Sessions Judge/Judge Special Court (CNS), under Section 9(c) of CNS Act 1997 to suffer rigorous imprisonment for life along with fine of Rs.50,00,000/- and in default whereof to further undergo simple imprisonment for 01-year, through this appeal.

Issues: i) What is the legal impact of dishonest improvements made by witnesses, upon the case of prosecution?
 ii) What is the scope of contradictions in prosecution evidence?
 iii) Whether incriminating articles recovered from the accused can be read in evidence if not produced and tendered in accordance with Rules & Orders of the Lahore High Court Lahore Volume-III, Chapter-24 Part-B?
 iv) Whether Section 29 CNSA is a deviation from the general law wherein throughout a criminal trial, the burden of proving a case is upon the shoulders of prosecution?

Analysis: i) In a wrestle with the proposition, we came across observation of the Supreme Court of Pakistan given in case reported as Muhammad Arif v. The State (2019 SCMR 631) wherein it is held that the portion of deposition of a witness which is brought on record through dishonest improvement is destined to be discarded from consideration.
 ii) The expression “contradiction” is wide in scope and brings within its compass all the legal omissions, shortcomings and lacunas, besides that is applicable in situations when the acceptance of deposition of one witness necessitates the rejection of another.
 iii) For tendering in evidence, the articles having incriminating worth, guidelines are provided in the Rules & Orders of the Lahore High Court Lahore Volume-III, Chapter-24 Part-B. In the referred chapter the procedure is provided for bringing on record the articles and documents having nexus with the case.
 iv) According to Section 29 though in the wake of recovery of some contraband substance a presumption adverse to the accused facing trial is to be marked but still prosecution cannot be absolved from obligation of proving its case beyond shadow of any doubt. The burden of Section 29 will tilt towards accused only if

the recovery of narcotics, its nexus with the accused along with origin as contraband substance is proved by the prosecution beyond shred of any ambiguity. The language of Section 29 is akin to the wordings of Section 8 of The Suppression of Terrorist Activities (Special Court) Act 1975, Section 9 of the Offences In Respect of Banks (Special Courts) Ordinance 1984 and Section 14 of the National Accountability Ordinance, 1999. All the afore-mentioned provisions came under judicial scrutiny and it was resolved by the courts that prosecution cannot be given leverage of not proving its case against the accused beyond any doubt and failure to discharge such obligation will culminate in judgment of acquittal.

- Conclusion:**
- i) See above analysis No.1.
 - ii) See above analysis No.2.
 - iii) The incriminating articles recovered from the accused if not produced and tendered in accordance with Rule 14-F & 14-H (ibid), thus cannot be read in evidence.
 - iv) Section 29 of CNSA is not a deviation from the general law throughout a criminal trial as the burden of proving a case is upon the shoulders of prosecution.

18. Lahore High Court
Kousar Abbas alias v. The State
Criminal Revision No. 136 of 2021
Mr. Justice Anwaarul Haq Pannun
<https://sys.lhc.gov.pk/appjudgments/2024LHC6266.pdf>

Facts: The petitioner was convicted for stabbing and injuring the victim due to a dispute. The trial and appellate courts upheld the convictions, prompting this revision petition.

- Issues:**
- i) What is the definition of hypochondrium and its anatomical boundaries?
 - ii) What is the definition of a body cavity and its role in enclosing vital organs?
 - iii) What constitutes a Jaifah injury, and how does it relate to penetration into the body cavity and damage to internal organs?
 - iv) Does the non-examination of doctor as a witness and the admission of a photocopy of the Surgical Notes as evidence adversely affect the prosecution's case?

Analysis:

- i) It may be observed that in the Merriam- Webster Medical Dictionary, the hypochondrium is defined as "Either hypochondriac region of the body, located beneath the lower ribs and above the abdomen." whereas in Dorland's Medical Dictionary, "One of the two regions of the abdomen that lie on either side of the epigastrium and below the ribs." Generally the term hypochondrium has the following dictionary meanings: (1) Anatomical Context: Either of the two regions of the upper abdomen situated on each side of the epigastrium and beneath the lower ribs. (2) Etymological Context: Derived from the Greek words "hypo-"

(under) and "chondros" [cartilage, referring to the cartilage of the ribs]. The hypochondrium refers to an anatomical region of the human abdomen, located on either side of the upper abdomen, beneath the ribcage. It is divided into two parts i.e. the right hypochondrium which contains the liver [especially the right lobe], gallbladder, and part of the kidney and the left hypochondrium, contains the stomach, spleen, tail of the pancreas, part of the kidney, and parts of the colon respectively

ii) The body cavity, on the other hand has been defined in the Oxford English Dictionary as "A hollow space within the body that contains organs or other structures, such as the thoracic cavity or abdominal cavity." In Merriam-Webster Medical Dictionary:- "A cavity in an animal body, specifically the coelom, which is the main body cavity housing organs." And in Cambridge Dictionary:- "An opening into the human body, such as the mouth, anus, or similar spaces that house internal structures." Thus, the body cavity means a part of the body under which vital organs are located.

iii) An injury penetrating into the body cavity wherein the vital organs are located is treated as Jaifah. Further collateral damage or injury to the internal organs referred hereinabove inside the abdomen is sufficient to bring the case within the purview of Jaifah... injury No.2 i.e. "a stab wound 2 x 2 x deep going left side of abdomen in left hypochondrium", clearly falls within the definition of Jaifah.

iv) The non-examination of Dr. Omer Balouch as PW as well as non-production of the original Surgical Notes in evidence, therefore, have no adverse bearing upon the prosecution's case, and the learned counsel for the petitioner can yield no fruit and draw any benefit on the strength of his argument that photocopy of the Surgical Notes has illegally been placed on record as Exh:PH. The reliance of the learned counsel for the petitioner on the case reported as "Pervaiz Khan versus The State"(PLD 1998 Lahore 84), being inapt in the facts and circumstances of instant case, does not advance the cause of the petitioner rather it affirms view of this court as discussed above.

- Conclusion:**
- i) The hypochondrium is a specific anatomical region located beneath the lower ribs and above the abdomen, with defined boundaries including organs like the liver, spleen, and stomach.
 - ii) A body cavity is a hollow space within the body that houses vital organs such as the thoracic or abdominal cavity.
 - iii) A Jaifah injury is characterised by penetration into the body cavity and causing damage to internal organs
 - iv) The unavailability of the operating doctor's testimony and reliance on photocopied Surgical Notes do not adversely affect the prosecution's case.
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19. Lahore High Court
Muhammad Waqas Gill v. Rifat Awan, etc.
Mr. Justice Muhammad Waheed Khan
Cr.Revision No.1601 of 2022
<https://sys.lhc.gov.pk/appjudgments/2024LHC6139.pdf>

Facts: Judicial Magistrate Sec.30 convicted petitioner in complaint filed under Section 6(5)(b) of the Muslim Family Laws Ordinance, 1961 with allegation of contracting second marriage without permission from first wife and Arbitration Council. Criminal Appeal preferred by the convict and criminal Revision filed by the complainant were dismissed from Sessions Court and the judgment has been challenged by convict through Revision petition before Hon'ble High Court.

Issues: Whether Judicial Magistrate has jurisdiction for trial of complaint filed under section 6(5)(b) of the Muslim Family Laws Ordinance, 1961.

Analysis: Now, advertent to the moot point raised by learned counsel for the petitioner qua the jurisdiction of the learned Magistrate Sec-30, to entertain and decide the criminal complaint under the Ordinance. So, it would be in the fitness of things to reproduce the relevant provisions of section 5 of the West Pakistan Family Courts Act, 1964, which are as under... And through amendment in the Punjab Family Court (Amendment) Act, 2015 (XI of 2015) dated 18.3.2015 a Family Court was given the power of the Judicial Magistrate 1st Class under the Cr.P.C., 1898 for the purpose of taking cognizance and trial of any offence under The Muslim Family Laws. The relevant amendments are reproduced as under...on going through sub-section (3) of the section 20 of the Act, there is hardly any cavil with the proposition that only a Family Court can take cognizance of the offence on the complaint of the Union Council, Arbitration Council or aggrieved party and obviously the respondent was the aggrieved party, however, I have to see whether the learned Judicial Magistrate was additionally given the powers of Judge Family Court or not.... Since on going through the above referred provision of Muslim Family Law, there is no cavil with the proposition that only the Family Courts have given the exclusive jurisdiction to entertain the issue and adjudicate upon the matters specified in [Part-1 of the schedule], so, the conducting of the trial by the learned Judicial Magistrate was certainly *coram non-Judice*, and a nullity, meaning thereby that very inception of the trial was not in accordance with law and it is trite that if a base of action was wrong, all superstructure raised thereon would have no sanctity under the law...In a recent pronouncement rendered by this Court in case of "*Muzaffar Nawaz v. Ishrat Rasool and others*" (2022 YLR 1920), this Court had set-aside that judgments of both the Courts below on the same point, that the learned Judicial Magistrate was not empowered to hold the trial under the "Ordinance".

Conclusion: Judicial Magistrate Section-30 has no jurisdiction to entertain complaint filed under the Muslim Family Laws ordinance, 1961.

20. **Lahore High Court.**
Muhammad Arif and another v. Haji Khalid Mahmood (deceased) through L.Rs
C.R. No.45106 of 2023
Mr. Justice Rasaal Hasan Syed
<https://sys.lhc.gov.pk/appjudgments/2024LHC6286.pdf>

Facts: A civil revision petition was filed challenging concurrent judgments by the trial and appellate courts decreeing specific performance of a sale agreement for immovable property. The petitioners contested the agreement's authenticity contending it was a security arrangement, not a sale agreement.

Issues:

- i) Can a party contest a sale agreement based on an unsubstantiated claim under the Qanun-e-Shahadat Order, 1984?
- ii) Are oral statements admissible to contradict, vary, add or subtract the terms of a written agreement?
- iii) Under what circumstances can concurrent findings of fact by lower courts be interfered with in revisional jurisdiction?

Analysis:

- i) The case of the respondents was that petitioners entered into an agreement of sale in favour of deceased... The stance of petitioners was that in fact there was no sale agreement rather it was an agreement for investment in the business of the petitioners. The petitioners were unable to prove their counter-version in regard to document Ex.P1. Plea raised in the written statement about the nature of document as security appears to be afterthought and, as such, inadmissible and also impermissible as per Articles 102, 103 and 104 of the Qanun-e-Shahadat Order 1984.
- ii) Article 102 contemplates that when the terms of a contract... have been reduced to the form of a document no evidence shall be given in proof of the terms... except the document itself or secondary evidence of its contents... Article 103... provides that the terms of any such contract... shall not be admitted as between the parties... for the purpose of contradicting, varying, adding, or subtracting from its terms.
- iii) No misreading or non-reading of evidence or any material discrepancy therein could be highlighted in the course of hearing of the petition which could vitiate the findings of the courts below. No ground for interference could be made out in the concurrent findings of fact in the circumstances. Revision petition is devoid of substance and is dismissed.

Conclusion:

- i) A sale agreement cannot be contested based on an unsubstantiated claim under Articles 102, 103, and 104 of the Qanun-e-Shahadat Order, 1984.
- ii) Oral statements cannot vary, add to, or contradict the terms of a written agreement.
- iii) Concurrent findings by lower courts can only be interfered with if there is misreading, non-reading, or material discrepancy in the evidence.

21. **Lahore High Court**
Sui Northern Gas Pipelines Limited v. Fazal Hussain (deceased) through L.Rs.
C.R. No.1169 of 2013
Mr. Justice Rasaal Hasan Syed
<https://sys.lhc.gov.pk/appjudgments/2024LHC6297.pdf>

Facts: Petitioner brought his suit with the stance that he was a consumer of petitioner utility company. While calculating bills, some error was detected and the suit amount was concluded to be due against the respondent. On failure to pay the said amount, gas supply was disconnected, which fact brought about accrual of cause of action and the instant suit was filed. After going through the procedural formalities, suit was dismissed which was affirmed in appeal, hence, the instant Civil Revision.

Issues:

- i) What is the legal fate of the judgment which is recorded without considering the evidence?
- ii) What is the mandate of first appellate court while hearing appeal?
- iii) What are the legal components of the “judgment” of the appellate Court?

Analysis:

- i) The judgment recorded without considering the evidence cannot be approved as it violates the provision of Rule 31 of Order XLI, C.P.C. which contemplates that the appellate court shall deliver the judgment in writing and shall state points for determination, the decision thereof and the reasons for the decision.
- ii) The appellate court in first appeal is duty-bound to consider the case de novo for reaching a conclusion (...) In Punjab Industrial Development Board v. United Sugar Mills Limited (2007 SCMR 1394) it was observed to the effect that it is duty of the appellate court to decide the controversy between the parties after application of independent judicial mind and that mere reproduction of the judgment of trial court and thereafter dismissing the appeal could not be in consonance with the law and that after the insertion of section 24-A in the General Clauses Act, 1894, even the public functionaries are duty bound to decide the applications of citizens while exercising statutory powers with reasons after judicial application of mind
- iii) In Abdul Hameed and 7 others v. Abdul Razzaq and 3 others (PLD 2008 Lah. 1) it was observed to the effect that the judgment of appellate court shall be error free, concise, consistent, coherent and comprehensible irrespective of the stylistic differences and that the principles, parameters and requirements of a judgment are that judgment should contain a concise statement of case, points for determination, decision thereon and reasons for such decision manifesting application of mind to resolve the issue involved which ought to be self-contained, unambiguous, easily intelligible, lucid, open only to one interpretation and thus leaving nothing to guesswork or probabilities on matters under determination and should also be self-speaking, well-reasoned and

analytical reflecting due consideration of facts, law and contentions of the parties founded on legal grounds and the evidence on record.

- Conclusion:**
- i) A judgment without having the attributes of Rule 31 of Order XLI, C.P.C., cannot be approved as judgment.
 - ii) The appellate court is invested with the legal duty firstly to consider the case de novo and secondly to decide the controversy after application of independent judicial mind.
 - iii) See above analysis No. iii

22. Lahore High Court
Dost Muhammad (deceased) through L.Rs and others v. Muhammad Sarwar and others
Writ Petition No.48544/2024
Mr. Justice Rasaal Hasan Syed
<https://sys.lhc.gov.pk/appjudgments/2024LHC6272.pdf>

Facts: Respondents filed a suit for declaration claiming their Islamic share from the inheritance of their predecessor. In that suit an application for appointment of receiver under Order XL, Rule 1, C.P.C. was filed which was accepted by the trial Court and the same order was upheld by the Learned Appellate Court. The petitioners filed a constitutional petition challenging the same orders.

Issues:

- i) Under what provisions of law a receiver is appointed?
- ii) What parameters should be kept in mind while exercising discretion for appointing a receiver?
- iii) What principles protect the rights of a bona fide purchaser and co-sharer in property disputes while appointing a receiver?

Analysis:

- i) Rule 1 of Order XL, Code of Civil Procedure provides that where it appears to the court that it is just and convenient to appoint a receiver for preservation of property, the court can appoint a receiver.
- ii) In the case of *Sardar Wali Muhammad v. Sardar Muhammad Iqbal Khan Mokal and 7 others* (PLD 1975 Lah.492) it was observed that appointment of Receiver was not a matter of course and that such discretion was to be exercised in accordance with principles enunciated by the superior courts which included the consideration that this power should be sparingly used, to safeguard the interest of all the parties as well as the property which is subject matter of the litigation and that possession of persons in bona fide occupation of the property should not be disturbed unless there are allegations of wastage or dissipation of property or apprehension of irreparable loss and injury.
- iii) In *(Shahzadi) Sharif Sultana v. (Brig. Shahzada) Sher Muhammad Jan and another* [PLD 1958 (W.P.) Lah. 288] it was observed one of the principles to be kept in view while considering the application for appointment of Receiver was that bona fide occupant of property cannot be disturbed in the garb of

appointment of Receiver and that co-sharer in undivided property is entitled to retain the possession till such time the property is partitioned and specific share is allocated.

- Conclusion:**
- i) See above analysis No i.
 - ii) The discretion to appoint a receiver should be sparingly used, to safeguard the interest of all the parties as well as the property.
 - iii) See above analysis No iii.

23. Lahore High Court
Muhammad Sarfraz etc. v. The State etc.
Crl. Misc. No.6425-M of 2024
Mr. Justice Sadiq Mahmud Khurram
<https://sys.lhc.gov.pk/appjudgments/2024LHC6200.pdf>

Facts: The facts of the case that petitioners are accused in a criminal case and subsequently acquitted by the trial court on their application. The complainant challenged this acquittal through a criminal revision petition, which was allowed by the appellate court, directing a retrial of the petitioners. Hence; this petition.

- Issues:**
- i) What remedy is provided under section 417 Criminal Procedure Code (Cr.P.C.) against an order of acquittal?
 - ii) Can revision proceedings be entertained under section 439(5) Cr.P.C. if an appeal lies?
 - iii) Is revision under section 439 Cr.P.C. allowed if appeal lies under section 417 Cr.P.C.?
 - iv) Does section 417(2-A) Cr.P.C. bar revision when appeal is available?

- Analysis:**
- i) It has been provided under section 417 Cr.P.C., that if an accused is acquitted in a case, a person aggrieved by the order of acquittal passed by any court other than a High Court may within 30 days file an appeal against such order and the Public Prosecutor may also present an appeal to the High Court from the order of acquittal passed by any court other than a High Court.
 - ii) It is also a fact that under section 439 sub-section (5) Cr.P.C., it has been expressly provided by law that where under the Cr.P.C., an appeal lies then no proceedings by way of revision shall be entertained at the instance of the party who could have appealed
 - iii) It does not matter whether the acquittal of an accused in a case has been ordered after the recording of evidence or without recording of evidence and as it is an acquittal in a case therefore an appeal has to be filed under section 417 Cr.P.C. . No proceedings by way of criminal revision petition under section 439 Cr.P.C. are envisaged in a case where accused has been acquitted by any court other than a High Court.
 - iv) After introduction of subsection (2-A) in section 417 of the Cr.P.C. any person aggrieved by an order of acquittal has been conferred a right to file an appeal against the acquittal. In presence of remedy by way of appeal, the revision is not

competent under section 439(5) of the Cr.P.C.”

- Conclusion:**
- i) Section 417 Cr.P.C. allows an aggrieved person or Public Prosecutor to appeal an acquittal within 30 days, except for orders by the High Court.
 - ii) Section 439(5) Cr.P.C. prohibits revision proceedings when an appeal is available under the Code.
 - iii) Appeal under Section 417 Cr.P.C. are mandatory for acquittal, regardless of whether evidence was recorded, barring revision under Section 439 Cr.P.C.
 - iv) Section 417(2-A) Cr.P.C. ensures appeal rights, barring revision where appeal lies.

24. Lahore High Court
Mst. Nadia alias Nadu Mai v. The State
Criminal Appeal No. 10-J of 2021
Mr. Justice Sadiq Mahmud Khurram
<https://sys.lhc.gov.pk/appjudgments/2024LHC6207.pdf>

Facts: The appellant was convicted by the trial court under Section 302(b) PPC for committing Qatl-i-Amd of her sister-in-law. The conviction was based on allegations that she manually strangled the deceased. This decision was challenged, claiming evidentiary inconsistencies and lack of independent corroboration.

- Issues:**
- i) Whether delayed recording of a witness statement under Section 161 Cr.P.C. diminishes its evidentiary value?
 - ii) Can chance witnesses be relied upon without independent corroboration of their presence at the scene of the crime?
 - iii) What is the impact of inconsistency between ocular testimony and medical evidence on the prosecution's case in a murder involving throttling?
 - iv) Whether the evidence of prosecution witnesses, disbelieved for the acquitted co-accused, can be accepted as credible against the other co-accused?
 - v) Whether the burden of proof shifts to the accused, and the onus lies on them to explain the circumstances of an unnatural death occurring in their house?

Analysis:

- i) It is trite that the delayed recording of the statement of a prosecution witness under section 161 of the Code of Criminal Procedure, 1898 reduces its value to nothing unless there is a plausible explanation for such delay
- ii) In this manner, both the prosecution witnesses namely Muhammad Bukhsh (PW-4) and Nasrullah (PW-5) can be validly termed as “*chance witnesses*” and therefore were under a bounden duty to provide a convincing reason for their presence at the place of occurrence, at the time of occurrence and were also under a duty to prove their presence by producing some physical proof of the same
- iii) I have noted with serious anxiety that the ocular account of the occurrence as furnished by the prosecution witnesses namely Muhammad Bukhsh (PW-4) ,

Nasrullah (PW-5) and Muhammad Jalal (PW-12) is inconsistent with the medical evidence as furnished by Dr. Afroze Gul (PW-8) and flawed beyond mending, resulting in disfiguring the complexion of the whole prosecution case beyond reparation and recognition(...) Dr. Afroze Gul (PW-8), on examining the dead body of Kalsoom Mai (deceased) did not observe any marks of violence on the neck of the dead body of the deceased(...)As narrated above, had the deceased been throttled in the manner as stated by Muhammad Bukhsh (PW-4) and Nasrullah (PW-5) and Muhammad Jalal (PW-12) then Dr. Afroze Gul (PW-8) must have observed the evidence of marks of pressure by the thumb and the fingertips, fingertip bruises, linear or crescentic marks produced by the fingernails, abrasions and bruises on the mouth, nose, cheeks forehead, lower jaw or any other part of the body, however she did not. The oral account of the occurrence, as given by Muhammad Bukhsh (PW-4) , Nasrullah (PW- 5) and Muhammad Jalal (PW-12), cannot be said to be in accordance with the medical evidence, rather is proved to be contrary to it.

iv) The proposition of law in Criminal Administration of Justice, that a common set of witnesses can be used for recording acquittal and conviction against the accused persons who were charged for the commission of same offence, is now a settled proposition. The august Supreme Court of Pakistan has held that partial truth cannot be allowed and perjury is a serious crime. This view stems from the notion that once a witness is found to have lied about a material aspect of a case, it cannot then be safely assumed that the said witness will declare the truth about any other aspect of the case. I have noted that the view should be that "*the testimony of one detected in a lie was wholly worthless and must of necessity be rejected.*" If a witness is not coming out with the whole truth, then his evidence is liable to be discarded as a whole, meaning thereby that his evidence cannot be used either for convicting the accused or acquitting some of them facing trial in the same case. This proposition is enshrined in the maxim *falsus in uno falsus in omnibus*.

v) The prosecution is bound to prove its case against an accused person beyond a reasonable doubt at all stages of a criminal case and in a case where the prosecution asserts the presence of some eye-witnesses and such claim of the prosecution is not established by it, there the accused person could not be convicted merely on the basis of a presumption that since the murder of a person had taken place in her house, therefore, it must be she and none else who would have committed that murder(...) The law on the burden of proof, as provided in Article 117 of the Qanun-e-Shahadat, 1984, mandates the prosecution to prove, and that too, beyond any doubt, the guilt of the accused for the commission of the crime for which he is charged(...)It is only when the prosecution is able to discharge the burden of proof by establishing the elements of the offence, which are sufficient to bring home the guilt of the accused that the burden is shifted upon the accused, inter alia, under Article 122 of the Qanun-e-Shahadat, 1984, to produce evidence of facts, which are especially in his exclusive knowledge, and practically impossible for the prosecution to prove, to avoid conviction(...) It has

to be kept in mind that Article 122 of the Qanun-e-Shahadat, 1984 comes into play only when the prosecution has proved the guilt of the accused by producing sufficient evidence, except the facts referred to in Article 122 Qanun-e-Shahadat, 1984, leading to the inescapable conclusion that the offence was committed by the accused. Then, the burden is on the accused not to prove her innocence, but only to produce evidence enough to create doubts in the prosecution's case(...) Throughout the web of the Law, one golden thread is always to be seen, that it is the duty of the prosecution to prove the accused's guilt subject to any statutory exception. No matter what the charge, the principle that the prosecution must prove the guilt of the accused is the law and no attempt to whittle it down can be entertained.

- Conclusion:**
- i) The delayed recording of statements under Section 161 Cr.P.C. diminishes their evidentiary value.
 - ii) The testimony of chance witnesses without corroboration is insufficient for conviction.
 - iii) Contradictions between medical and ocular evidence negate the prosecution's case.
 - iv) The doctrine of *falsus in uno, falsus in omnibus* applies to discredit unreliable witness testimony.
 - v) See above analysis No.v.

25. **Lahore High Court**
Ahsan Allahi Zaheer and another v. Government of Punjab through Secretary, Primary and Secondary Healthcare Department Punjab Lahore and three others.
Review Application No.07 of 2024 in Intra Court Appeal No. 57 of 2024
Mr. Justice Sardar Muhammad Sarfraz Dogar, Mr. Justice Sadiq Mahmud Khurram
<https://sys.lhc.gov.pk/appjudgments/2024LHC6179.pdf>

Facts: Respondent No.2 advertised the posts of BS04 in pursuance of Recruitment Policy 2022. Applicants qualified for the said posts and Job Offer Letters were issued in their names. Upon the completion of the initial contract, the contract periods of the applicants were not extended and they were terminated. Applicants challenged their termination through Constitutional Petition which was dismissed. Same was the fate of Intra-Court Appeal, resultantly, the instant Review Application.

- Issues:**
- i) What is the law relating to the power of review?
 - ii) In what situation, review application is maintainable?
 - iii) In what circumstance, power of review can be exercised?
 - iv) Whether the points already raised and considered can furnish the ground of review jurisdiction?
 - v) When a judgment can be reviewed?
 - vi) When, review is not legally permissible?

Analysis:

- i) Power of review is provided under section 114 and Order XLVII, Rule 1 of the Code of Civil Procedure, 1908.
- ii) Under section 114, C.P.C. a review application is maintainable for enabling the Court to correct the errors.
- iii) Power of review can only be exercised when an error or mistake is manifestly shown to float on the surface of the record, which is so patent that if allowed to remain intact, would perpetuate illegality and gross injustice.
- iv) It is a settled proposition of law that the points already raised and considered cannot be re-agitated in review jurisdiction.
- v) A judgment can be reviewed only when the error is apparent on the face of the record and that it must be so manifest, so clear, that no Court could permit such an error to remain on record.
- vi) It is also a settled question of law that review also cannot be allowed on the discovery of some new material if such material was available at the time of trial, the appeal or the revision as the case may be. Review cannot be made a pretext for re-arguing the whole case and the matter cannot be revived under the garb of a review application.

Conclusion:

- i) See above analysis No.i
- ii) A review application lies before the Court in order to rectify the errors.
- iii) Court can exercise the power of review in case of apparent error leading to injustice
- iv) See above analysis No. iv
- v) See above analysis No. v
- vi) Legally, review is not allowed if new material is discovered and the it was available at the time of trial, appeal or revision. In review, neither the matter is re-argued nor revived.

**26. Lahore High Court, Bahawalpur Bench, Bahawalpur,
Sajjad Ahmad v. The State, etc
Criminal Appeal No.124-J of 2023
Mr. Justice Sadiq Mahmud Khurram.
<https://sys.lhc.gov.pk/appjudgments/2024LHC6159.pdf>**

Facts: Appellant was convicted by the trial court for raping a minor under Section 376(3) PPC and sentenced to life imprisonment. His co-accused were acquitted. The appellant challenged his conviction and sentence through this appeal.

Issues:

- i) Who is competent to testify?
- ii) How the competency of a child witness is tested, and when a child is considered as a competent witness?
- iii) Whether evidence of a child witness is worthy of reliance and if so, whether a conviction be awarded relying upon sole testimony of a child witness?

- iv) Whether delay in reporting the crime involving person's honour and reputation can be resolved in favor of accused?
- v) Whether DNA testing is a requirement of the law?
- vi) Which kind of contradictions, improvements cannot be relied upon?
- vii) Which kind of contradictions are ignorable?

- Analysis:**
- i). Article 3 of the Qanun-e-Shahadat Order, 1984 contemplates that all persons are competent to testify unless the court considers that they are prevented from understanding the questions put to them or from giving rational answers to those questions, by tender or extreme old age, disease, whether of body or mind or any other cause of the same nature.
 - ii) For a child witness, normally the courts conduct "*voir dire test*" under which the court before examination puts certain preliminary questions to the child, which bear no connection with the case so as to judge the child's competency and understanding. If the child is capable of answering those questions properly and deposes in a smart manner, then the child is considered as a competent witness.
 - iii) A child who also happens to be a victim of an offence is competent to testify as a witness, and the deposition would be worthy of reliance provided the Court is satisfied that he or she, as the case may be, is intelligent and understands the significance of entering the witness box. A conviction can also be handed down placing reliance on the sole testimony of a child witness.
 - iv) Delay in reporting the crime to the police in respect of an offence involving a person's honour and reputation and which society may view unsympathetically could play on the minds of a victim and her family and deter them from going to the police. Therefore, in such a situation it is very obvious that even if the report has been lodged with a delay, it will not bring complications and otherwise not beneficial for an accused who has been charged with the offence the punishment of which would entail to the death penalty or imprisonment for life.
 - v) DNA testing is not a requirement of the law.
 - vi) Where the omissions amount to a contradiction, creating serious doubt about the truthfulness of the witness and other witnesses also make material improvement while deposing in the court, such evidence cannot be safe to rely upon.
 - vii) Minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case, should not be made a ground on which the evidence can be rejected in its entirety.

- Conclusion:**
- i) See above analysis No.i.
 - ii) Competency of a child witness is tested through *voir dire test* and child giving rational answers of questions is considered as a competent witness.
 - iii) Evidence of child witness is worthy of reliance and conviction can be awarded relying upon sole testimony of a child witness.
 - iv) Such delay is not beneficial for an accused.
 - v) See above analysis No.v.

- vi) See above analysis No.vi.
- vii) See above analysis No.vii.

27. Lahore High Court
Muhammad Ammar Shafi & 02 others v. The State & another
Wajid Hussain Vs Muhammad Ammar Shafi & 03 others
Criminal Appeal No. 26878 of 2024.
Criminal Revision No. 32182 of 2024
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2024LHC6125.pdf>

Facts: Accused/appellants faced trial before learned Additional Sessions Judge, Lahore in case under sections 302/34 PPC (offence under Sections 337-F(i)/420/468 and 471 PPC were added during investigation) and on conclusion of trial accused/appellants were convicted under section 316 PPC read with Section 34 PPC and sentenced to diyat of Rs.19,35,594/-, to be paid by all the accused/appellants jointly and in lump-sum to the legal heirs of , deceased and simple imprisonment for five years each. Criminal Appeal has been filed by accused/appellants against their above conviction and sentence, whereas, Criminal Revision has been brought by the complainant seeking enhancement of sentence of accused/ appellants; both these matters are being decided by this single judgment.

Issues:

- i) What are the requirements for using CCTV footage in evidence?
- ii) Whether the electronic data in the form of video/audio/pictures obtained from the Punjab Safe City Authority under the Punjab Safe City Authority Act, 2016, is admissible as evidence?
- iii) What is the effect of conflict in ocular and medical account?
- iv) Whether medical evidence can be useful to establish the identity of the accused person?

Analysis:

- i) Thus, trial Court has not met the requirement of Article 71 & 139 of Qanun-e-Shahadat Order, 1984 because CCTV footage can be used either as the documentary evidence or the real evidence. When it is being used as documentary evidence it must be shown to the witness while recording his statement and when it is used as real evidence then court must inspect it with some observations and mere marking it as “P” does not fulfill the requirement. Thus, prosecution has failed to prove the contents of CD in accordance with the principles of evidence. Reliance in this respect is placed on case reported as “NUMAN alias NOMI and others Versus The STATE” (2023 PCr.LJ 1394) & a case approved for reporting, Crl. Appeal No.592- 23“FAKHAR IQBAL SHAH VS STATE ETC.” (2024 LHC 4364).
- ii) Regulation-9 makes such data as an admissible piece of evidence and explains its presentation in proper form before the Court, format of report with protocols, rearrangement of evidence in consultation with prosecutor; understanding of electronic evidence by the Court; clarity and re-examination by Chief operating

officer. Here it is for reference;..... The cumulative effect of above provisions explains that data in the form of video/audio/pictures obtained from IC3 under Punjab Safe City Authority Act 2016 and regulations made thereunder in due course of process shall be deemed genuine and admissible in evidence without sending such video/audio/pictures to Punjab Forensic Science Agency. However, such electronic data shall be read in evidence in conjunction with other explanation like photogrammetry test etc. of accused visible therein. In the instant case prosecution has failed to prove the due process adopted for obtaining the data from Safe City Authority nor Electronic Data Certificate was produced about genuineness of such data. Thus, CD or the pictures, the sole alleged impactful evidence of the prosecution, are not helpful to be read in the evidence.

iii) Under the aforementioned circumstances, medical evidence is not supporting the ocular account rather it is in conflict with the same. In such circumstances, conflict in ocular and medical account is damaging for prosecution. Reliance is placed on case reported as “MUHAMMAD IDREES and another Vs. The STATE and others” (2021 SCMR 612)

iv) Moreover, medical evidence by itself does not throw any light on the identity of the offender. Such evidence may confirm the available substantive evidence with regard to certain facts including seat of the injury, nature of the injury, cause of the death, kind of the weapon used in the occurrence, duration between the injuries and the death, and presence of an injured witness or the injured accused at the place of occurrence, but it does not connect the accused with the commission of the offence. It cannot constitute corroboration for proving involvement of the accused person in the commission of offence, as it does not establish the identity of the accused person.

- Conclusion:**
- i) When it is being used as documentary evidence it must be shown to the witness while recording his statement and when it is used as real evidence then court must inspect it with some observations and mere marking it as “P” does not fulfill the requirement.
 - ii) Such data if obtained from IC3 in due course of process shall be deemed genuine and admissible in evidence without sending such video/audio/pictures to Punjab Forensic Science Agency, however, there should be photogrammetry test etc. of accused visible therein.
 - iii) conflict in ocular and medical account is damaging for prosecution.
 - iv) It does not establish the identity of the accused person.

28. Lahore High Court, Lahore
Maqbool Ahmad vs. Addl. District Judge and others
Writ Petition No. 4183 of 2022
Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2024LHC6308.pdf>

Facts: The respondents had filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908, during the proceedings of the civil suit after recording of

the evidence of the parties, with the prayer that they may be permitted to insert the word “declaration” in the heading as well as to allow them to make amendment to the effect that order passed by the District Collector and the subsequent actions of the revenue authorities are beyond jurisdiction. The application was accepted by the trial court and revision against the order was dismissed by the District Court. The concurrent findings have been assailed through writ petition before High Court.

Issues i) What are the legal parameters for deciding application for amendment in pleadings under Order VI Rule 17 of the Code of Civil Procedure?

Analysis: i) Order VI Rule 17 of the Code provides that the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. The Supreme Court in case titled “Mst. Ghulam Bibi and others versus Sarsa Khan and others” (PLD 1985 Supreme Court 345) observed that this rule can be divided into two parts. In the cases falling under the first part, the Court has discretion but under the second part i.e. when the amendment is necessary for the purpose of determining the real question, it becomes the duty of the Court to permit the amendment, however, subject to an important condition that the nature of the suit is not changed by amendment.... A learned Division Bench of the Peshawar High Court in case titled “Muhammad Zaman versus Siraj-ul-Islam and 11 others” (2013 YLR 1548) has observed that the word “alter” used in the above rule gives a bit wider power than the word “amendment”, if Court comes to the conclusion that the same is necessary to do the complete and substantial justice.... This Court in Iftikhar Ahmad case (supra) has recently considered the aspect of delay in applying for amendment while keeping in view the wording of the rule which provides that amendment can be made “at any stage of the proceedings”. This Court has reached to the decision that the amendment can be permitted even in appeal or revisional jurisdiction, when it is just. ... The Supreme Court of Pakistan has also discussed and concluded that amendment should be liberally allowed provided that the same does not cause injury to the other side... The question of limitation can also be an important factor, when necessitated by facts of the case, while dealing with the application of amendment.... some important factors, which are only illustrative and not exhaustive, that can be kept in my mind while dealing with the application for amendment are (i) the intention of the applicant seeking to amend pleadings; (ii) the question of limitation if applicable; (iii) refusal or acceptance of amendment should not lead to injustice or injury to opponent side; (iv) efforts should be made to avoid multiplicity of litigation; (v) the nature of the suit and cause of action originally set-up and (vi) if the amendment is necessary for the purpose of determination of the real question in controversy between the parties provided subject matter of suit remains unchanged.

Conclusion: i) See above analysis No. i

LATEST LEGISLATION/AMENDMENTS

1. Vide Notification in official Gazette of Pakistan dated 28-12-2024, The National Forensics Agency Act, 2024 was promulgated.
2. Vide The Societies Registration (Amendment) Act, 2024 dated 29-12-2024, a new section 21 was added in the Societies Registration Act, 1860.
3. Vide notification No.SO(E-I)4-5/2021 (TEVTA) (Rules) dated 25-11-2024, The Punjab Apprenticeship Rules, 2024 are made.
4. Vide notification No.SO(H-II)3-3/2021(P-I) dated 25-11-2024, the first schedule of the Punjab Central Business District Development Authority Act, 2021 was amended with insertion of word 'Lahore Knowledge Park (Nawaz Sharif I.T City).'
5. Vide notification No.SOR-III(S&GAD) 2-17/83(P-I) dated 27-11-2024, amendments are made in the Punjab Judicial Service Rules, 1994.
6. Vide notification No.SO(H-I) Misc-6/20(P-IV) dated 06-12-2024, amendments are made in the Punjab Housing & Town-Planning Agency (Affordable Private Housing Schemes Rules) 2020.
7. Vide notification No.SOR-III(S&GAD)1-3/2002(PI) dated 17-12-2024, amendments are made in the Punjab Forestry and Wildlife (Wildlife Executive) Service Rules, 1978.
8. Vide notification No.SC(CAB-I)2-25/12(ROB) dated 20-12-2024, amendments are made in the Punjab Government Rules of Business, 2011.
9. Vide notification No.SOG/EP&CCD/5-1/2023 dated 20-12-2024, the description of uniform for the authorized officer is notified in the Punjab Environmental Protection (Motor Vehicles) Rules, 2013.

SELECTED ARTICLES

1. ASIAN JOURNAL OF LAW AND SOCIETY

<https://www.cambridge.org/core/journals/asian-journal-of-law-and-society/article/abs/in-response-to-constitutional-crisis-the-latent-carl-schmitt-in-zhang-junmais-political-thought/B5F983F1D0C97841023B42AA61F7E068>

In Response to Constitutional Crisis: The Latent Carl Schmitt in Zhang Junmai's Political Thought by Dandan Chen

This paper examines two responses to the global constitutional crises in the twentieth century, with a focus on a comparison between Carl Schmitt, a notorious German political theorist and critic of liberal constitutionalism and Zhang Junmai, a constitutionalist in Republican China. After the First World War, both Germany and China experienced constitutional crises, which prompted critical reflections among

intellectuals. My paper is the first to discover and examine the latent element of Carl Schmitt in Zhang Junmai's acceptance of the Weimar Constitution. My research shows that Zhang's 1930 article, "Hugo Preuss (Author of the New German Constitution), His Concept of the State and His Position in the History of German Political Theory" (德國新憲起草者柏呂斯之國家觀念及其在德國政治學說史上之地位) is his Chinese translation of Carl Schmitt's 1930 article, "Hugo Preuss: His Concept of the State and His Position in German State Theory" ("Hugo Preuss: Sein Staatsbegriff und seine Stellung in der deutschen Staatslehre"). Instead of simply regarding Zhang's writing as plagiarism, my paper interrogates the gaps between Carl Schmitt's original text and Zhang's translation. By examining the intertextual relation between Carl Schmitt and Zhang Junmai, this paper reveals a latent aspect of the spectrum of Constitutionalism in the twentieth century and shows a special dialogue between a German critic of constitutionalism and a Chinese constitutionalist.

2. **ASIAN JOURNAL OF LAW AND SOCIETY**

<https://www.cambridge.org/core/journals/asian-journal-of-law-and-society/article/paper-in-the-age-of-the-digital-the-curious-case-of-65b-certificates-in-india/B4CFA2448482C029AB59B10EBC2A0730>

Paper in the Age of the Digital: The Curious Case of 65-B Certificates in India by Shikhar Goel

Law enforcement institutions in India are undergoing fundamental media technological transformations, integrating digital media technologies into crime investigation, documentation, and presentation methods. This article seeks to understand these transformations by examining the curious case of 65-B certificates, a mandatory paper document that gatekeeps and governs the life of new media objects as evidence in the Indian legal system. In exploring the tensions that arise when bureaucratic institutions change their means of information production, the article reflects on the continued stubborn presence of paper at this transformative juncture in the life of legal institutions. By studying the role of paper in bureaucratic practices, analyzing jurisprudential debates and case law surrounding 65-B certificates, and thinking through some scattered ethnographic encounters around these certificates involving police officers, forensic scientists, and practicing lawyers, this article argues that despite ongoing digital transformations, law essentially remains a technology of paper.

3. **MANUPATRA**

<https://articles.manupatra.com/article-details/SECTION-377-IPC-A-COMPREHENSIVE-ANALYSIS-OF-THE-CRIMINALIZATION-OF-HOMOSEXUALITY-ITS-LEGAL-EVOLUTION-JUDICIAL-RULINGS-AND-THE-NEED-FOR-INCLUSION-IN-THE-BNS>

Section 377 IPC: A Comprehensive Analysis of The Criminalization of Homosexuality, Its Legal Evolution, Judicial Rulings, And the Need for Inclusion in The Bns. By Akhil Kumar K.S.

Homosexuality or same-sex relationships are not new to the world, from ancient times, it has been an accepted practice in various civilizations and cultures. The term “unnatural” which was associated with homosexuality by the Indian Penal Code was flawed by the logic that it has always existed in different societies and was not considered against nature. Same-sex relationships were common in ancient Greece; various artworks and stories depicted it. Indian text Kamasutra also mentions that lesbians were called “Swarinis,” who often married each other and raised children together.¹ One of the visual examples is carved on the walls of Khajuraho Temple in Madhya Pradesh, known for its overt erotic sculptures showcasing the existence of sexual fluidity between homosexuals.² Prominent rulers of history such as Alexander, Babur, and Alauddin Khilji were known to have engaged in homosexual relationships and the fact that they did not face any disapproval highlights that it was not considered unnatural.

4. **LAWYERS CLUB INDIA**

<https://www.lawyersclubindia.com/articles/what-are-the-laws-that-govern-stock-markets-in-india--17315.asp>

What are the laws that govern stock markets in India? By Sankalp Tiwari

For any business looking to grow and have easy access to public funds, an initial public offering is a big financial event. An IPO procedure makes it possible to issue shares to the general public for the first time, giving investors the opportunity to invest in a previously private firm. In India, the process of an IPO has become very popular since companies seek growth capital in financing expansion, product development, and market penetration. The growth in the Indian economy and increasing middle class are the factors behind the spurt in IPOs. The routes through which Indian technology, pharmaceutical, and manufacturing companies now regularly take to the IPO market are highly regulated in India due to the presence of the regulator, SEBI, or the Securities and Exchange Board of India. It controls such activities in the best interest of fairness, transparency, and protection for the investors. Thus, through this process, a company raises funds and promotes the visibility of companies by providing recognition and credibility to a company. There are multiple stages in the process of the IPO in India: regulatory approval, price determination, public offering, and listing at stock exchanges. It is subject to a very strict legal framework requiring full disclosure of financial and operational details of the offering company. The initiation stage of an IPO is quite critical where the companies and advisors evaluate the conditions of the market and decide upon the best possible time to issue shares. Even the price quoted and numbers of shares offered are very judiciously selected in order to increase the chance of the IPO.

5. **LAWYERS CLUB INDIA**

<https://www.lawyersclubindia.com/articles/tom-cruise-receives-usa-navy-award-10-most-coveted-awards-of-the-us-and-the-rules-and-laws-that-govern-them-17299.asp>

Tom Cruise Receives USA Navy Award: 10 Most Coveted Awards of the US and the Rules and Laws That Govern Them by Navaneeth E M

Awards, whether in the arts, sciences, public service, or even national security, are vital because they honour those who've made exceptional contributions to society. These are more than just accolades; they act as reminders of the values a nation holds dear and symbolize appreciation. In the United States, for example, awards like the Medal of Honor and the Presidential Medal of Freedom highlight acts of bravery or service that inspire others and bring a sense of unity to society. To ensure fairness, there are rules and regulations—laws, really—that govern how these awards are given, especially when it comes to distinguishing between civilian and military honors. Military awards, such as the Medal of Honor, require a rigorous review process to confirm the merit of nominees. Civilian awards, on the other hand, have their own set of criteria for nominations and eligibility. This all ensures transparency and equity. Beyond the symbolism of achievement, these awards set a standard, a kind of bar for excellence, that pushes others to aspire for greatness too. The recent recognition of actor 'Tom Cruise' with the 'U.S. Navy's Distinguished Public Service Award' highlights the importance of these honours. Tom Cruise, who acted as a naval aviator in Top Gun, has improved the public awareness of the Navy and its core values. This award not only acknowledges Cruise's impact but also shows how such recognitions can strengthen the bond between the citizens and the military. In an era where public trust is important, awards which are governed by clear guidelines ensure that they remain symbols of integrity.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*
Volume - VI, Issue - II

16 - 01 - 2025 to 31 - 01 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(16-01-2025 to 31-01-2025)

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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12.	Notification No.SO(CAB-I)2-28/2012(P) dated 8 th January 2025; Punjab Government Rules of Business 2011 (Amendment).	39
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1. **Supreme Court of Pakistan.**
Matter regarding non fixation of case as per court-order 16.01.2025
Crl. O. P.1/2025 in CPLA 836-K of 2020, etc.
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/crl.o.p. 1 2025 27120 25.pdf

Facts: A three-member Bench of Supreme Court adjourned a case for further arguments upon objection to jurisdiction. On date fixed the Bench stood reconstituted and case was fixed before the new Bench. However, the reconstituted Bench directed the office, to fix these cases before the earlier Bench. But the cases were not so fixed and reallocated to a 08-member Constitutional Bench through the two committees constituted under Section 2 of the Supreme Court (Practice and Procedure) Act, 2023 and the Article 191A of the Constitution. Hence, the instant proceedings initiated.

Issues:

- i) Whether the Committees constituted under Section 2 of the Act and Article 191A of the Constitution have the authority to withdraw a case [from a Bench], in which cognisance has already been taken by a regular Bench and serious questions of constitutional law relating to the jurisdiction of the regular Bench have been framed?
- ii) Whether the powers of committee established under the Section 2 of the Supreme Court (Practice and Procedure) Act, 2023 are similar to that of the Chief Justice or otherwise?
- iii) Whether the said Committees can, by an administrative order, undo the effect of a judicial order, whereby next date of hearing a specific case has been fixed before a regular Bench to hear arguments on the jurisdiction of the regular Bench?
- iv) Whether every court has inherent power to decide its own jurisdictional question?

Analysis: i) If any of the parties to the cases in which the said orders were passed, or any other person, was aggrieved by the same, he could have availed of the legal remedy of seeking a review of the order through the judicial process provided under the Constitution and the law. But, no one is entitled to disobey or decline compliance with the court order merely because he believes it to be inconsistent with the Constitution and the law...The practice of hearing part-heard cases by the same Bench is so well-established in our jurisdiction that neither the learned counsel assisting this Court on the above question nor our research assistants could find and cite any case from our jurisdiction in which a dispute arose and was adjudicated regarding the withdrawal of a part-heard case from one Bench and its reassignment to another, without a request being made by the original Bench hearing the case in its judicial order...once a case is assigned to a Bench and that Bench has taken seisin (assumed jurisdiction) of the matter and partly heard it, the Chief Justice cannot unilaterally withdraw it and reassign it to another Bench except under specific, judicially recognised circumstances. This practice is

firmly rooted in the high constitutional value of judicial independence whereby a Bench enjoys the freedom and independence to adjudicate upon a lis it has taken cognisance of. When a Bench is seized of a case and has partly heard it, the matter becomes part of judicial proceedings, and the Bench hearing the case assumes exclusive jurisdiction over it. Any interference—whether through withdrawal or reassignment—without judicial justification undermines the principle of judicial independence...The said practice imposes a significant limitation on the administrative powers of the Chief Justice. While the Chief Justice has the authority to regulate the formation of Benches and allocate cases as an administrative function, these powers do not extend to withdrawing or transferring a part-heard case from a Bench that has already assumed jurisdiction. Such withdrawal or reassignment is not merely an administrative act but a judicial one. Consequently, any such action must either stem from a judicial order passed by the Bench seized of the matter or be supported by express statutory authority if carried out by another court or authority.

ii) We may mention here that it was argued before us that the cases concerning the powers of the Chief Justice, decided prior to the promulgation of the Act, have become irrelevant following the establishment of the Bench Constitution Committee under Section 2 of the Act, which has been endorsed by the Full Court of the Supreme Court on the judicial side in the case of Raja Amer. We, however, are not persuaded by this argument for the simple reason that it was categorically held in Raja Amer that the powers of the Committee under Section 2 of the Act are the same as those previously exercised by the Chief Justice. The relevant observation is as follows:

Both the powers of suo motu invoking original jurisdiction and constituting benches were earlier being exercised by one person, the Chief Justice; it is these administrative powers that have now been conferred on the Committee comprising three persons, i.e., the Chief Justice and the two most senior Judges - nothing more nothing less.

Therefore, whatever was stated in the referred cases regarding the powers of the Chief Justice to assign or withdraw cases from Benches fully applies to the Committees as well.

iii) This question need not detain us long, as a similar issue was addressed and decided by a Full Court of this Court in the case of Malik Asad Ali. It was held in the said case that an administrative order passed by the Hon'ble Chief Justice (acting under restraint) passed in derogation of a judicial order would be without lawful authority and of no legal effect. In that case, the Chief Justice's administrative declaration, which sought to invalidate the convening of a Full Court under a judicial order of a Bench for hearing cases listed in Supplementary Cause List No. 405 of 1997, was declared illegal...The above cited observations of a seven-member Bench of this Court in the contempt case against Syed Yousaf Raza Gillani are equally relevant. It was observed therein that “the executive authority may question a Court’s decision through the judicial process provided

for in the Constitution and the law but is not entitled to flout it because it believes it to be inconsistent with the law or the Constitution.” This principle applies with equal force to the executive authority of the Chief Justice or the Committees, as the case may be...Therefore, it can be held unequivocally that no administrative authority, including the Committees constituted under Section 2 of the Act and 191A of the Constitution, can, by an administrative order, undo the effect of a judicial order.

iv) Every court inherently has the power to adjudicate. The Bench, which had previously referred such cases to the Constitutional Bench, was confronted with the principles governing a court’s inherent power to decide jurisdictional questions. When the argument was prima facie supported by the referred precedents of the cases of Pir Sabir Shah, Fazlul Quader Chowdhry and Marbury, the Bench decided to adjudicate the jurisdictional matter after obtaining full assistance from the learned counsel for the parties, and the cases were adjourned to allow for further preparation and assistance on the jurisdictional issue.

- Conclusion:**
- i) The Committees constituted under Section 2 of the Act and Article 191A of the Constitution have no authority to withdraw a case from a Bench, in which cognisance has already been taken by a regular Bench and serious questions of constitutional law relating to the jurisdiction of the regular Bench have been framed.
 - ii) Powers of the Chief Justice to assign or withdraw cases from Benches fully applies to the Committees as well.
 - iii) The Committees cannot, by an administrative order, undo the effect of a judicial order, whereby next date of hearing a specific case has been fixed before a regular Bench to hear arguments on the jurisdiction of the regular Bench
 - iv) Every court inherently has the power to adjudicate upon its jurisdictional question

2. Supreme Court of Pakistan

Adil Khan Bazai. v. Election Commission of Pakistan and another.

Civil Appeal No. 1507 of 2024

Civil Appeal No. 1508 of 2024

Mr. Justice Syed Mansoor Ali Shah, Mrs. Justice Ayesha A. Malik, Mr. Justice Aqeel Ahmed Abbasi

https://www.supremecourt.gov.pk/downloads_judgements/c.a. 1507 2024 2001 2025.pdf

- Facts:**
- The two appeals have been filed under clause (5) of Article 63A of the Constitution of the Islamic Republic of Pakistan to challenge the orders passed by the Election Commission of Pakistan regarding the declarations made by the Party Head, which were referred to the Commission by the Speaker of the National Assembly under clause (3) of Article 63A of the Constitution. In the declarations, the Party Head declared that the appellant had intentionally defected from the Parliamentary Party, on the grounds of his sitting on the opposition benches in the

National Assembly with another Parliamentary Party and his abstaining from voting on the Finance Bill 2024 and the Constitution (26th Amendment) Bill, in contravention of the directions issued by the Parliamentary Party. By the impugned orders, the Commission confirmed these declarations under clause (4) of Article 63A of the Constitution. Consequently, the appellant was de-seated from his membership in the National Assembly, and his seat was declared vacant.

- Issues:**
- i) Does a Civil Court or the Commission have the jurisdiction to determine whether the member concerned is a member of the Parliamentary Party of a political party in proceedings under clauses (3) and (4) of Article 63A of the Constitution, for the purpose of determining his alleged defection from that political party?
 - ii) How the doctrine of jurisdictional fact has been expounded in various judicial pronouncements?
 - iii) What would be the effect if a tribunal or authority with jurisdiction limited to a particular matter assumes jurisdiction over a matter not conferred upon it by erroneously deciding the jurisdictional fact?
 - iv) What is the constitutional role of the Election Commission of Pakistan while hearing the matter of defection under Article 63A of the Constitution of the Islamic Republic of Pakistan, 1973?

- Analysis:**
- i) The original jurisdiction conferred upon the Commission, as well as the appellate jurisdiction of this Court, to confirm or otherwise the declaration made by the Party Head, extends to examining whether the Party Head has exercised this power justly, fairly and reasonably. Article 63A of the Constitution does not explicitly entrust the Commission with the power to determine the preliminary state of facts— jurisdictional facts—on which its jurisdiction to confirm the declaration depends. Its finding on a jurisdictional fact, such as whether the member concerned belongs to the Parliamentary Party of a political party, is not conclusive; rather, it is subject to correction by this Court, as its appellate forum, and ultimately to final determination by a Civil Court of plenary jurisdiction.
 - ii) The doctrine of jurisdictional fact connotes that if a certain state of facts must exist before a tribunal or authority can exercise the jurisdiction vested in it, such tribunal or authority may inquire into those facts to determine whether it has jurisdiction but cannot confer jurisdiction upon itself by making an erroneous decision regarding them. As per this doctrine, when a tribunal or authority is vested with jurisdiction limited to decide on a particular matter, it generally has the ancillary power to inquire into and ascertain the existence of facts collateral to that matter when their existence is disputed before it. This power to ascertain collateral facts—referred to as jurisdictional facts— forms the foundation for the exercise of its jurisdiction. A jurisdictional fact is, thus, one upon whose existence the assumption and exercise of jurisdiction by a tribunal or authority depend. It is a prerequisite fact whose existence must be ascertained before jurisdiction over a particular matter can be properly assumed and exercised. Its existence is a sine

qua non or condition precedent to the assumption and exercise of jurisdiction.

iii) When a tribunal or authority is established by law to exercise jurisdiction over a particular matter, the legislature defines the scope of its powers. It may, either expressly or by necessary implication, stipulate that jurisdiction can only be assumed and exercised if a particular state of facts exists or is shown to exist. In such cases, though the tribunal or authority is obligated to objectively ascertain, in the event of a dispute, whether that state of facts exists before exercising jurisdiction over the matter, its decision on the existence of that state of facts—the jurisdictional fact—is not conclusive. Instead, the decision is subject to challenge before and final determination by the civil courts of plenary jurisdiction or is subject to correction by the constitutional courts through judicial review.

iv) The constitutional duty of the ECP was discussed in the *Muhammad Sibtain Khan* case wherein this Court differentiated between the legal concept of power and duty and concluded that a constitutional duty is not the same as a constitutional power and that the ECP had failed to maintain the distinction between these two distinct legal concepts. The Court explained that Article 218 (3) of the Constitution imposed a constitutional duty on the ECP and that Articles 220 and 224 were in furtherance of that duty and cannot be read as a constitutional power which would make the ECP the master of all electoral matters. The reason given was simple, that on a constitutional plane, the ECP is not the master rather the forum or organ that must perform the task which lies at the heart of the constitutional democracy.

Conclusion: i) See Analysis i above.

ii) Decision on jurisdictional facts stands on the same footing as a decision on the fact in issue or the adjudicatory fact regarding the substantive matter, and is likewise final, subject to any right of appeal to a higher forum; it cannot be challenged before a Civil Court of plenary jurisdiction.

iii) An error in determining a jurisdictional fact constitutes a jurisdictional error, rendering the order passed without jurisdiction.

iv) The constitutional duty of the ECP cannot be considered as an overarching constitutional power vis-à-vis other constitutional provisions and institutions. The ECP is, as per the constitutional mandate, an independent body, duty bound to conduct free and fair elections and duty bound to ensure that those elected by the people remain in government.

3. **Supreme Court of Pakistan**
Federation of Pakistan through Revenue Division & others etc v. Dewan Motors (Pvt) Ltd.etc.
Civil Petitions No.836-k to 887-k, 951-k,1056-k,1296-k of 2020 and Civil Petitions No.741-k to 743-k, of 2021 and Civil Petition No.165-k of 2022 and Civil Petitions No.1143-k to 1173-k of 2024.
Mr. Justice Amin-ud-Din Khan, Senior Judge, Mr. Justice Jamal Khan Mandokhail, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Justice Musarrat Hilali, Justice Naeem Akhter Afghan, Mr. Justice Shahid Bilal Hassan.
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 836 k 2020 281 2025.pdf
- Facts:** The appellants have challenged orders of Regular Bench with contention that CPLAs were mistakenly/inadvertently fixed before the regular Bench and the regular Bench had assumed the jurisdiction without lawful authority.
- Issues:** i) Which fora has jurisdiction to determine the fixation of matters before Benches?
 ii) Whether functions performed by Committees impinge upon the judicial functions of any Bench?
- Analysis:** i) The Committees constituted under Article 191A(4) of the Constitution and under Section 2(1) of the Supreme Court (Practice and Procedure) Act, 2023 are the legal and Constitutional *fora* to determine which Bench shall hear what matters.
 ii) The exercise of powers and performance of legal and Constitutional functions by both the Committees do not impinge upon the judicial functions of any Bench.
- Conclusions:** i) See above analysis No.i).
 ii) See above analysis No.ii).

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4. **Supreme Court of Pakistan**
Secretary to the Government of Pakistan, Establishment Division, Islamabad and another v. Muhammad Ahmed Khan and others.
Civil Appeal No. 1671 of 2021
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 1671 2021.pdf

- Facts:** Case of the respondents was forwarded to their department for up-gradation/re-designation of their posts, which was accorded with vide Office Memorandum and the respondents were upgraded from BS-12 to BS-14 and BS-14 to BS-15 respectively. However, the Employer Department requested the concerned Wing to re-examine the case of posts of BS-12 and BS-14 as BS-16. Respondents impugned the said administrative decision by way of Constitutional Petition, which was allowed and the said order was challenged in shape of leave to appeal which was granted to consider the plea of Additional Attorney General that grant

of upgradation and re-designation of the posts is a matter of policy, and unless there exists a policy, the relief regarding grant of upgradation and re-designation of the posts cannot be allowed by the High Court.

- Issues:**
- i) What is the essence of up-gradation policy?
 - ii) In what circumstances, up-gradation of posts come into play?
 - iii) Whether up-gradation of a post is a vested right?
 - iv) What are the consequences of up-gradation of the posts?
 - v) What is the responsibility of Govt. on announcement of a policy?
 - vi) To what extent, the Court can interfere in the matter of policy?
 - vii) What is the connotation of the word “discrimination” and when does it occur?
 - viii) What is the significance of equal treatment in an egalitarian society?
 - ix) What is the benchmark of Article 25 of the Constitution of Islamic Republic of Pakistan?
 - x) Which role of the state is articulated in the above said Article?
 - xi) Which sort of interpretation of Article 25 is required to be made?

- Analysis:**
- i) The essence of the upgradation policy is to upgrade certain posts to rationalize the administrative structure of a Ministry/Division or a Department, making it more effective or bringing uniformity to the pay scales of similar posts across different organizations.
 - ii) This applies where the duties and responsibilities attached to a post have considerably increased, and the pay scale of a post is considered grossly incommensurate.
 - iii) The upgradation of a post is not a vested right, rather it stems from a policy decision intended to benefit a particular set of employees under the scheme embedded in the policy.
 - iv) In the case of upgradation, the employee continues to hold the same post without any change in his duties, but he is accorded a higher pay scale in order to mitigate the distress associated with stagnation due to a lack of progression or promotional avenues.
 - v) Once the Government announces a policy, it is also responsible for enforcing such policy across the board to accord the benefit of the policy to all those who are eligible under it and may be benefited because of it.
 - vi) No doubt, the Court cannot interfere in the policymaking domain of the Government, but when a widespread and comprehensive policy is announced to benefit employees, it should be implemented bigheartedly and generously, without adding any ifs and buts or discrimination that can stifle the main objective of the policy.
 - vii) The literal connotation of the word “discrimination” essentially refers to different treatment of the same kind or class of persons or behaving less favourably towards them. During the course of employment, discrimination occurs when an employer treats an employee less favourably or disadvantageously than others without any intelligible differentia.

viii) Equal treatment with equal opportunity is a cornerstone for an egalitarian society, while acts of discrimination in the workplace seriously undermine a harmonious working environment and create unrest among employees discriminated who are deprived of perks and privileges..

ix) Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, establishes a tremendous benchmark for maintaining equality amongst the citizens, stating that all citizens are equal before the law, and are entitled to equal protection of the law, and there shall be no discrimination on the basis of sex.

x) However, the same article also provides a further clause which articulates that nothing in this Article shall prevent the State from making any special provision for the protection of women and children.

xi) This article cannot be interpreted with a narrow-minded, pedantic, or lexicographic approach to restrict or diminish its wideranging scope. Therefore, similar laws, rules, and policies should apply uniformly to all in similar situations, without any discrimination or distinction between one employee and another, within the sphere of legislation or policy, provided that their status is substantially equivalent and indistinguishable.

- Conclusion:**
- i) See above analysis No. i
 - ii) See above analysis No. ii
 - iii) The upgradation of a post is not a vested right rather a matter of policy.
 - iv) The employee, on up-gradation of a post, holds the post without any change in his duties, but he obtains higher pay scale.
 - v) Government is responsible for implementing the policy to accord the benefit of to all eligible.
 - vi) See above analysis No. vi
 - vii) The word “discrimination” refers to different treatment of the same kind or class of persons or behaving less favorably towards them.
 - viii) Equal treatment is the foundational principle for promoting harmony in the society, while discrimination brings about undermining a harmonious working environment.
 - ix) Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, postulates the fundamental right of equality amongst the citizens.
 - x) See above analysis No. x
 - xi) Article 25 cannot be interpreted in a restricted sense. Application of the similar laws, rules, and policies should apply uniformly to all in similar situations, without any discrimination or distinction between one employee and another,

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5. **Supreme Court of Pakistan**
Syed Masood Ali (both cases) v. Mst. Feroza Begum and another, Jamal Uddin Siyal, IIIrd Senior Civil Judge Karachi and another
Civil Petition No.552-K of 2021 & 1108-K of 2023
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 552 k 2021.pdf

- Facts:** Through this petition, the validity of a gift of immovable property made through an oral declaration later confirmed by a registered deed has been questioned. The petitioner challenged the gift, alleging non-fulfilment of essential legal requirements, including delivery of possession and the validity of signatures due to the donor's alleged illness. The courts upheld the validity of the gift, finding no infirmity in its execution.
- Issues:**
- i) What are the essential conditions for the validity of a gift (Hiba) under Muslim law?
 - ii) What is required for delivery of possession under Muslim law?
 - iii) Is physical departure by the donor required if both donor and donee reside in the gifted property?
 - iv) What constitutes a valid overt act for delivery of possession in a gift?
 - v) Is formal delivery of possession required when a husband gifts property to his wife and they reside together?
 - vi) Does a husband living in a gifted house or collecting rent invalidate the gift to his wife?
 - vii) Is the concept of *spes successionis* recognised under Mohammedan Law?
 - viii) Is writing or registration mandatory for a valid gift under the law?
 - ix) Can constitutional jurisdiction override existing legal remedies?
 - x) Does questioning a trial judge's decision undermine judicial independence?
- Analysis:**
- i) A gift, or Hiba, is defined in Hedaya as the donation of a thing from which the donee may derive a benefit. In legal terms, it refers to the immediate and unconditional transfer of property without any consideration or exchange(...)The Principles of Mohammedan Law by D.F Mulla outlines three essential conditions for the validity of a gift under Section 149 thereof which reads as under:- (i) A clear and unequivocal declaration of the gift by the donor, (ii) Acceptance of the gift, either express or implied, by or on behalf of the donee, and (iii) Delivery of possession of the subject matter of the gift by the donor to the donee, as further explained in Section 150.
 - ii) As far as delivery of possession is concerned, Section 150 of Principles of Mohammadan Law stipulates that the donor must deliver such possession as the subject matter of the gift is capable of being possessed.
 - iii) Section (3) of Section 152 specifically addresses situations where both the donor and the donee are residing in the subject property at the time the gift is made. It clarifies that in such circumstances, physical departure by the donor or formal entry by the donee is not required. Instead, the gift is considered complete upon an overt act by the donor indicating an intention to transfer possession and divest control over the property.
 - iv) A relevant example of such an overt act is found in the Indian case titled Syed Md. Saleem Hashmi vs. Syed Abdul Fateh and ors [AIR 1972 Patna 279] where the donor and donee resided together in a house, the court held that the donor's act of handing over the property papers to the donee was a valid overt act,

satisfying the requisite condition for delivery of possession, thereby fulfilling the necessary requirement for completing the gift.

v) A conjoint reading of Sections 152(3) and 153 clearly establishes that formal delivery of possession is not required when the donor is the husband and the donee is his wife, and both were residing together in the property at the time of the gift's declaration and creation. In such instances, the existing shared possession satisfies the requirement of delivery of possession, provided the donor has clearly divested himself of ownership and control over the property.

vi) It is also well settled that in the case of a gift of immovable property by the husband to the wife, the fact that the husband continues to live in the house gifted or to receive the rents after the date of gift, will not invalidate the gift, the presumption being that the rents are collected by the husband as a rent collector on behalf of the wife and not on his own accord.

vii) Furthermore, under Mohammadan Law, the concept of *spes successionis* (the mere hope or expectation of inheriting) is not recognized, meaning a presumptive heir has no rights in the property of the deceased until his death occurs.

viii) suffice is to state that neither the writing nor the registration of a Deed of Declaration and Confirmation of Oral Gift is an essential requirement for the validity of a lawful gift under the law

ix) It is a well-settled principle of law that where an alternative and efficacious remedy is available under the ordinary legal framework, constitutional jurisdiction cannot be invoked to bypass the statutory mechanisms in place. Constitutional jurisdiction is not intended to substitute the ordinary remedies provided under the law.

x) The independence of the judiciary is a cornerstone of the legal system, ensuring that judicial officers are safeguarded by law for decisions made in the exercise of their judicial functions. Furthermore, the issue of whether a decision in the said suit may or may not have been rendered during the pendency of a similar matter before the Supreme Court is a legal question that can be adequately addressed by the appellate court. Therefore, directly raising allegations against the learned presiding Judge of the trial court is entirely unwarranted. Allowing constitutional petitions of this nature would undermine the autonomy of the judiciary and erode public confidence in the judicial process.

- Conclusion:**
- i) A valid gift requires declaration, acceptance and delivery of possession.
 - ii) See analysis No.ii.
 - iii) Shared residence needs no transfer of physical possession.
 - iv) Handing over property papers is a valid overt act for delivering possession in a gift.
 - v) Shared possession between spouses satisfies gift requirements.
 - vi) A husband's residence or rent collection doesn't invalidate a gift.
 - vii) *Spes successionis* is not recognised in Muslim law and gives no right to heirs until the donor's death.
 - viii) Writing or registering a deed is not mandatory for a valid gift.

- ix) Constitutional jurisdiction can't replace statutory remedies.
- x) Judicial independence is vital, and allegations against judges undermine confidence in the judiciary; legal questions should be addressed through appellate mechanisms.

6. Supreme Court of Pakistan
Mr. Abdul Aziz & others v. All Pakistan Clerks Association through its Zilai President Manzoor Ahmad and others -
CPLA NO.251-Q of 2024
Mr. Justice Irfan Saadat Khan, Mr. Justice Shahid Bilal Hassan.
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 251 q 2024.pdf

Facts: An application for impleading the respondent No.1 as a proper and necessary party under order I Rule 10 CPC was accepted by the trial court, against which an appeal was allowed by the Appellate Court. Thereafter a petition was filed before the High Court, the court up held the order of the trial Court and set aside the order of the appellate court by observing that “admittedly both the Mouza Tegh and Sunni are lying adjacent to each other and the description mentioned in the suit is admittedly of the petitioner/intervener allotted land”; after finding the respondent No.1 to be a proper and necessary party to be impleaded in the said suit.

Issue: i) whether allottee of an adjacent land/Mouza can be impleaded as a proper and necessary party?
 ii) What is settled position of law to decide application under Order I Rule 10?

Analysis: i) The present respondent No.1 is a proper and necessary party as their land is lying adjacent to the land of the petitioner and the outcome of the suit, if decided in favour of the present petitioner without hearing them, could adversely effect their rights in respect of the properties claimed by them.
 ii) It is a settled preposition of law that while dealing with the applications under order I Rule 10 the Court has to exercise its discretion in a liberal manner rather than adopting a narrow or pedantic approach, especially when any party is likely to be affected by any judgment in a proceeding and whose presence would enable the Court to effectively adjudicate the matter in accordance with the law.

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

7. Supreme Court of Pakistan
Mst. Sidra Hameed etc. v. Syed Abdul Mateen
Mr Justice Yahya Afridi, Mr Justice Irfan Saadat Khan
Civil Miscellaneous Application No. 100 of 2024
https://www.supremecourt.gov.pk/downloads_judgements/c.m.a. 100 2024.pdf

- Facts:** Respondent filed a guardianship petition in the Family Court, Islamabad (East), which was dismissed in 2023. His appeal against the dismissal was pending before the District Court, Islamabad (East). Meanwhile, the applicant also filed a guardianship petition before the same court. The petitioner seeks transfer of both her guardianship petition and the respondent's pending appeal to the Family Court and District Court in Karachi (East).
- Issues:**
- i) Can the Apex Supreme Court transfer family cases to a court of another Province?
 - ii) Whether custody and guardianship matters fall under the jurisdiction of family courts and whether Hon'ble Higher courts can exercise transfer powers despite any restrictions?
 - iii) What constitutes "proceedings" in the context of judicial business before a court?
 - iv) Are guardianship and custody cases considered proceedings under family law and eligible for transfer between provinces?
 - v) Can the Supreme Court transfer guardianship and custody cases from the Islamabad Capital Territory to another province under Section 25A(2-B) of the Family Courts Act, 1964?
- Analysis:**
- i) The application has been filed under subsection (2b) of section 25A of the Family Courts Act, 1964... Under the foregoing subsection (2b), any party before a Court in proceedings under the Family Court Act can apply to the Supreme Court for transfer of such proceedings to a Court of another Province.
 - ii) It would be clear that the matters of custody and guardianship both would also be governed under the FCA. Though section 25 of the FCA binds only the Family Court to follow the procedure of the GWA during the trial of guardian and custody matters; however, in our view the High Court's and this Court's power could not be curtailed via section 4A of the GWA.
 - iii) This court has carried out a similar exercise in *Naeemullah Khan* (2001 SCMR 1461) wherein the word "proceedings", not having been defined in the relevant act, was considered to have its ordinary dictionary meaning. The Court concluded with respect to the import of the term "proceedings", "we are of the opinion that the word 'proceedings' is a comprehensive expression which includes every step taken towards further progress of a cause in Court or Tribunal, from its commencement till its disposal. In legal terminology the word 'proceedings' means the instituting or carrying on of an action of law. Generally, a 'proceeding' is the form and manner of conducting judicial business before a Court or judicial officer, including all possible steps in an action from its commencement to the execution of a judgment and in a more particular sense it is any application to a Court of justice for aid in enforcement of rights, for relief: for redress of injuries, or damages or for any remedial object. It in its general use comprehends every step taken or measure adopted in prosecution or defence of an action."

iv) Guardianship and custody cases, which are instituted in the Family Courts, would be treated as proceedings under the FCA. Hence, in the absence of any specific provision in GWA regarding transfer of matters from one Province to another, guardianship and custody cases could be transferred according to subsection (2b) of section 25 of the FCA.

v) This aspect too has been comprehensively dealt with by this Court in *Rabia Ahmad* (2022 SCMR 733) ...Thus, for the convenience of the parties, particularly females and minors, as in the present case, this Court has the power and authority to transfer GWA cases to other Provinces of the Country or to the Islamabad Capital Territory ("ICT") or vice versa in deserving cases.

- Conclusion:**
- i) Any party before a Court in proceedings under the Family Court Act can apply to the Supreme Court for transfer of such proceedings to a Court of another Province.
 - ii) It would be clear that the matters of custody and guardianship both would also be governed under the FCA.
 - iii) See above analysis No iii.
 - iv) Guardianship and custody cases, which are instituted in the Family Courts, would be treated as proceedings under the FCA. Hence, in the absence of any specific provision in GWA guardianship and custody cases could be transferred according to subsection (2b) of section 25 of the FCA.
 - v) Apex Supreme Court has the power to transfer GWA cases to other Provinces of the Country or to the Islamabad Capital Territory or vice versa.

8. Supreme Court of Pakistan

Umar Gul v. Dr. Hafiza Akhtar and others

Mr. Justice Irfan Saadat Khan, Mr. Justice Shahid Bilal Hassan

https://www.supremecourt.gov.pk/downloads_judgements/c.p.4389_2023.pdf

Facts: Petitioner through the petition had challenged order of Peshawar High Court through which findings of first appellate court regarding setting aside of order of Rent Controller was upheld. The first appellate court had set aside order of Rent Controller regarding dismissal of eviction petition.

Issues:

- i) Whether utility bills in the name of a person regarding some property are proof of his ownership?
- ii) What is the recourse available when tenant disputes ownership of landlord?

Analysis:

- i) Apropos the aspect of utility bills is concerned, suffice it to say that the utility bills in the name of a person only denote possession of the property, but they do not prove ownership of the same.
- ii) It is also a settled proposition of law that when a tenant disputes the very ownership of the landlord, the only recourse available with him is to file a civil suit. In the instant matter both the appellate Court and the High Court have

correctly opined that the contention with regards to the ownership of the property, if any, could only be resolved through a Civil Court.

Conclusion: i) Utility bills denote possession of the property not the ownership
ii) The remedy available is to file civil suit.

9. Supreme Court of Pakistan
Sikandar Ali alias Bhola v. The State
Jail Petition No.29 of 2021
Mr. Justice Yahya Afridi, CJ, Mr. Justice Malik Shahzad Ahmad khan
www.supremecourt.gov.pk/downloads_judgements/j.p. 29 2021.pdf

Facts: The petitioner was convicted under Section 302(b) PPC and sentenced to life imprisonment by the Trial Court, which was upheld by the High Court. On appeal, the Supreme Court reviewed the case and acquitted the petitioner, granting the benefit of the doubt.

Issues:

- i) Whether circumstantial evidence must form an unbroken chain to sustain a conviction.
- ii) Whether an unexplained delay in lodging the FIR affects the prosecution's case.
- iii) Whether the prosecution must establish a motive beyond a reasonable doubt for conviction.
- iv) Whether a judicial confession by a co-accused, if exculpatory, can be used against the petitioner.
- v) Whether forensic evidence is necessary to corroborate recovery of alleged crime tools.
- vi) Whether the benefit of the doubt should be extended to the accused in case of inconsistencies in the prosecution's case.

Analysis:

- i) It is settled by now that in such like cases every circumstance should be linked with each other and it should form such a continuous chain that its one end touches the dead body and other to the neck of the accused. But if any link in the chain is missing then its benefit must go to the accused.
- ii) We have noted that the occurrence in this case took place on 12.10.2012 but the FIR was lodged on 16.10.2012 and as such there is delay of about four (04) days in lodging the FIR."
- iii) The motive of illicit relationship of the petitioner with the Wife of the deceased namely Mst. Shazia Kausar (co-accused since died), was not mentioned in the FIR, which was lodged with the abovementioned motive... The prosecution story *qua* the motive is result of an afterthought and the same has not been proved in this case.
- iv). The judicial confession of Mst. Shazia Kausar (co-accused since died), is exculpatory in nature... She had not stated that she also committed the murder of her husband or she participated in the occurrence... therefore, the above-

mentioned judicial confession of Mst. Shazia Kausar (co-accused since died), which is exculpatory in nature, cannot be used against the petitioner.

v) Although a pillow was also recovered in this case from the room of the deceased on the pointing out of Mst. Shazia Kausar (co-accused since died)... however, according to the postmortem report, blood was coming out from the nostrils and ears of Muhammad Asif (deceased) but there is no report of PFSA, qua the presence of blood on the abovementioned pillow. We are, therefore, of the view that the abovementioned recovery of rope and pillow are inconsequential for the prosecution case.

vi) Keeping in view all the aforementioned facts, we have come to this irresistible conclusion that the prosecution has failed to prove its case against the petitioner beyond the shadow of doubt... If there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused, whereas the instant case is replete with a number of circumstances, which have created serious doubts in the prosecution story.

- Conclusion:**
- i) If any link in circumstantial evidence is missing, the accused must be given the benefit of the doubt.
 - ii) A significant delay in lodging the FIR without justification creates doubts about the prosecution's case.
 - iii) If motive is introduced later without evidence, it cannot be relied upon for conviction.
 - iv) An exculpatory confession by a co-accused cannot be used as evidence against the petitioner.
 - v) Absence of forensic evidence on recovered crime tools weakens the prosecution's case.
 - vi) If the prosecution's case has inconsistencies, the benefit of the doubt must be given to the accused.

10. Supreme Court of Pakistan
Muhammad Ejaz v. Judge Family Court, Hafizabad and others
C.P.L.A.No.2759-L of 2023
Mr. Justice Irfan Saadat Khan, Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2759_1_2023.pdf

Facts: The petitioner withdrew an application to set aside an ex parte decree but later sought to recall this withdrawal, on the plea that no instructions for withdrawal of the application were conveyed to the counsel, which was dismissed. The petitioner then appealed and filed a suit regarding the Nikahnama (said suit was instituted by same counsel who withdrew the application), which is still pending. After the appellate Court's consolidated judgment, the petitioner filed a writ petition with the High Court, which was dismissed, leading to the current petition challenging that order.

- Issues:**
- i) Whether withdrawal of the application to set aside the ex parte decree constitutes acquiescence to the decree, thereby waiving his right to further challenge it?
 - ii) Whether a party is bound by the statements made by their counsel in court?

- Analysis:**
- i) Though the petitioner sought setting aside of ex parte decree by filing an application under sub-section (6) of Section 9, Family Courts Act, 1964 but later on, he withdrew the same 02.04.2022, meaning thereby he acquiesced of the decree and waived off his right to further agitate it.
 - ii) A party is always bound by the statement of his counsel unless there is anything contrary in the power of attorney placing restriction(s) on the authority, delegated upon the counsel, to compromise or abandon the claim on behalf of his client(s).

- Conclusion:**
- i) Withdrawal of application to set aside the ex parte decree construed that party acquiesced of the decree and waived off his right to further agitate it.
 - ii) See above analysis No.ii.

11. Supreme Court of Pakistan
Matloob and others v. Taj din(deceased) through legal heirs and others
Mr. Justice Irfan Saadat Khan, Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2095_1_2016.pdf

Facts: Petitioner through the petition under article 185(3) of the constitution of Islamic Republic of Pakistan had challenged judgment of High Court and first appellate court through which suit for declaration filed by the respondents was decreed and judgment of trial court was set aside.

Issues: Can a nominee appointed under the Cooperative Societies Act, 1925 substitute legal heir(s) after death of member of society?

Analysis: The said question has been answered by the Act in section 27, which reads ... Bare perusal of the above provision of law makes it vivid that share or interest of the deceased member is to be transferred to a person or persons who has/have been nominated in accordance with the byelaws of the society ... it is a settled principle of law that nomination is merely made to confer a right to collect the money or to receive the money and it does not operate either as a gift or as a will; therefore, it cannot deprive the other heirs of the nominator who may be entitled thereto under the law of succession applicable to the deceased. The said ratio was further adopted and reiterated in judgment by this Court, wherein it was held that nomination by a member of a cooperative society does not operate as a gift or will and it was further held that membership of the Society is a matter altogether different from succeeding to the estate of the deceased. Further, the said view was continuously upheld by this Court in judgments.

Conclusion: Nominee cannot substitute legal heir(s) of the deceased.

12. Lahore High Court, Lahore
Ali Haider & another v. Muhammad Boota & another
Civil Revision No.77789 of 2023
Mr. Justice Shujaat Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC75.pdf>

Facts: The petitioners filed suit seeking cancellation of Sale Deed and permanent injunction against the respondents, the trial court dismissed suit of petitioners and they filed an appeal, which was also dismissed by the learned Additional District Judge vide the impugned judgment and decree. The concurrent findings have been assailed through Civil Revision before the High Court.

Issues

- i) Whether the attorney is bound to get permission of principle to transfer the property in his name or to his kin?
- ii) Whether a plea having not been taken in written statement can be introduced during evidence?
- iii) What are the consequences of withholding of best available evidence?
- iv) Whether cancellation of criminal case precludes to file civil suit and dismissal of application for initiation of proceedings under section 476 Cr.P.C operate as estoppel or res-judicata?
- v) What is status of concurrent findings of facts?

Analysis: i) It is well established by now that when an attorney opts to transfer land on the basis of General Power of Attorney in favour of his kith and kin, he is bound to get written permission from the principal simply for the reason that no prejudice is caused to the principal due to *inter-se* relation between the attorney and prospective vendee. The Apex Court of the country in the case of Mst. Naila Kausar and another (supra) while dilating upon a question relating to the powers of an attorney to transfer the property, subject matter of General Power of Attorney, in his own name or to his kith and kin without written permission of the principal has *inter-alia* held under: -

“7. It is an admitted fact that Mst. Fatima Jan was the original owner of the property, who was an aged woman. It appears from the record that she executed a power of attorney in favour of Appellant No.2 Sardar Muhammad Aslam, who was an official in the Revenue Department and not related to Mst. Fatima Jan. It is settled law that an attorney cannot utilize the powers conferred upon him to transfer the property to himself or to his kith and kin without special and specific consent and permission of the principal.....”

ii)...during evidence, with a view to improve their case, respondent No.1 (DW-1) for the first time introduced a novel story by stating that as a matter of fact he purchased the land from father of the petitioners through an Agreement to Sell and due to said fact father of the petitioners executed General Power of Attorney in his favour. The said plea having not been taken in the Written Statement could not be allowed to be introduced during evidence and said portion from the

statement of respondent No.1(DW-1) could not be read to decide the fate of the suit filed by the petitioners....

iii)... it is crystal clear that he failed to produce the most crucial document. It is trite law that when a party withholds the best available evidence, it is bound to face its consequences. The Apex Court of the country in the cases of *Muhammad Boota through L.Rs. v. Mst. Bano Begum and others* (2005 SCMR 1885) has held that when a party withholds best available evidence he is bound to face its consequences.... there leaves no doubt that the said document had important bearing upon the outcome of the *lis* between the parties and there was no valid justification to withhold the same....

iv) even if the criminal case, registered against the respondents, was cancelled, the said fact did not preclude the petitioners to bring civil suit against the respondents. Similarly, dismissal of the application of the petitioners for initiation of proceedings under section 476 Cr.P.C. against the respondents on account of filing unauthorized suit on behalf of their father did not operate as estoppel or *res-judicata* as prior to the year 2019 the petitioners did not seek cancellation of sale deed executed in favour of respondent No.2.

v) There is no cavil with the preposition that ordinarily concurrent findings of facts recorded by the courts below cannot be interfered, however, the same cannot be considered as sacrosanct especially when they are found arbitrary or perverse. Reliance in this regard is placed on the case reported as *Hajid Wajdad v. Provincial Government through Secretary, Board of Revenue Government of Balochistan, Quetta and others* (2020 SCMR 2046) and *Subedar (Retd.) Jamil Khan (deceased) through legal heirs v. Salim Khan (deceased) through legal heirs and 06 others* (2017 SCMR 860).

- Conclusion:**
- i) The attorney is bound to get permission of principle to transfer the property in his name or to his kin.
 - ii) The plea having not been taken in the Written Statement could not be allowed to be introduced during evidence.
 - iii) when a party withholds the best available evidence, it is bound to face its consequences.
 - iv) See above analysis No.iv
 - v) See above analysis No.v

13. Lahore High Court
Amir Khan etc. v. Addl. Collector of Customs etc.
Writ Petition No.44573/2024
Mr. Justice Abid Aziz Sheikh
<https://sys.lhc.gov.pk/appjudgments/2024LHC6286.pdf>

Facts: The petitioner challenged a corrigendum issued by the respondent, which modified an earlier adjudicatory order by substantially increasing the imposed personal penalties. The petitioner contended that the respondent lacked jurisdiction to unilaterally amend the order without following the prescribed appellate procedure.

Issues:

- i) Whether an adjudicating authority has the power to modify its final order without following the statutory appellate process?

- ii) Whether the doctrine of functus officio applies to quasi-judicial authorities after passing a final order?
- iii) Whether the corrigendum issued by the respondent was legally valid under the Customs Act, 1969?

Analysis:

- i) The foregoing facts incontrovertibly demonstrate that the order-in-original was passed by the respondent acting as an Adjudicating Authority under Section 179 of the Act and the sole and exclusive remedy available to any party aggrieved by said order was an Appeal under Section 193 of the Act before the Collector Customs (Appeal). Critically, the respondent had no Suo-moto power to modify the order-in-original, enhancing the personal penalties from Rs.10,000/- each to an aggregate amount of Rs.7,922,048/-, particularly in absence of any application from the aggrieved party requesting such modification.
- ii) It is settled law that 'judicial' or 'quasi-judicial authorities' cannot change its determination in an adjudication after signing 'judgment', 'order' and 'decree' as then the doctrine of 'functus officio' comes in the way. The expression 'functus officio' means that having fulfilled the functions, discharged the duties, discharged the office, or the purpose got accomplished, there remains no further force or authority with the 'judicial' or 'quasi-judicial Authorities'.
- iii) A plain reading of Section 179 of the Act reveals no provision for conferring upon the respondent even the power to rectify order-in-original, rather such power vests exclusively in the Customs Appellate Tribunal under Section 194-B (2) of the Act and same is also exercisable only upon a mistake apparent on record being duly brought before the Tribunal by a party to an appeal. Consequently, the impugned Corrigendum is manifestly ultra vires the relevant provision of the Act.

Conclusion:

- i) An adjudicating authority cannot unilaterally modify its final order once passed.
- ii) The doctrine of functus officio applies to quasi-judicial authorities, preventing post-adjudication modifications.
- iii) The corrigendum issued by the respondent was ultra vires and lacked legal effect.

14. Lahore High Court
Allah Ditta v. Noor Ahmad
Regular First Appeal No. 25617 of 2023
Mr. Justice Masud Abid Naqvi
<https://sys.lhc.gov.pk/appjudgments/2024LHC6368.pdf>

Facts: The plaintiff filed a suit for the recovery of amount based on a promissory note. The defendant contested the claim, arguing that no valid consideration was given for the execution of the document. The trial court dismissed the suit with costs. Hence; this appeal.

- Issues:**
- i) What is the legal effect of the statutory presumption under Section 118 of the Negotiable Instruments Act, 1881, regarding consideration in negotiable instruments?
 - ii) What is the effect of lack of valid consideration on a negotiable instrument under Section 43 of the Negotiable Instruments Act, 1881?
 - iii) What is the legal effect of an agreement that involves consideration for compounding a non-compoundable criminal offence?
 - iv) Why is a private settlement in cases involving non-compoundable criminal offences contrary to public policy?
 - v) What is the consequence of a pronote executed under coercion or blackmail related to criminal charges?

- Analysis:**
- i) It is well settled law that under section 118 of the Negotiable Instruments Act, 1881, there is an initial statutory presumption that the negotiable instrument is made, drawn, accepted or endorsed for consideration and in a case to contrary, the onus is on the person who is denying the consideration to prove the same. However, if the plaintiff presents facts contrary to the stated consideration in the pronote or which militate against the presumption then the presumption is lost/destroyed and the burden of proving the validity shifts to the plaintiff to prove that the pronote was executed by the defendant for consideration.
 - ii) Hence, the alleged negotiable instrument is made or transferred without valid consideration and the negotiable instrument without consideration creates no obligation for the payment between the parties, according to Section 43 of the Negotiable Instruments Act 1881.
 - iii) Section 23 of the Contract Act, 1872 also invalidates agreements if their considerations, objects or purposes are illegal, including those that violate public policy. Non-compoundable offenses are regarded as matters of public concern and permitting private agreements to settle such offences would compromise public interest and proper administration of justice. No court of law can countenance or give effect to an agreement which attempts to take administration of law out of hands of the judges and put it in the hands of private individuals.
 - iv) This policy is based on the principle that criminal prosecution in non-compounding offenses cannot be compounded at the free will and choice of the parties which is not a private dispute between them but is one in which society at large is interested and any private agreement by the person ostensibly aggrieved, in return for a reward, to forbear from or withdraw or abandon the prosecution knocks at the root of criminal justice. If such agreements are allowed to be enforced by the courts, the doors will be opened to blackmailing on large scale.
 - v) For instance, a man who loses or believes that he has lost something may frighten another by starting or threatening to start a case for theft against him or somebody in whom he is interested, then the later will often come around and in his anxiety to save himself from harassment of trial, make an offer or execute a pronote or actually pay money. Therefore, the agreement to pay consideration for the pronote in the present case being the compounding of non-compoundable

criminal charges is void in law.

- Conclusion:**
- i) The statutory presumption of consideration in negotiable instruments stands unless contradicted by the plaintiff, shifting the burden of proof onto the plaintiff.
 - ii) A negotiable instrument without valid consideration is unenforceable.
 - iii) Agreements with unlawful consideration violating public policy are void.
 - iv) Private settlements of non-compoundable offences violate public policy.
 - v) Coercive agreements based on criminal threats are legally void.

**15. Lahore High Court, Lahore,
M/s Mumtaz Ghani Textile (Pvt.) Ltd. & others v. Federation of Pakistan & others
Writ Petition No.79375 of 2023
Mr. Justice Shahid Karim.
<https://sys.lhc.gov.pk/appjudgments/2025LHC115.pdf>**

Facts: This petition is among multiple writ petitions addressing similar issues related to the show cause notices issued by the State Bank of Pakistan, alleging a failure to fully realize export proceeds in violation of S.12(1) of the Foreign Exchange Regulations Act, 1947 (the Act). The petitioner was required to respond within 21 days; failure to do so may result in legal action being initiated under Section 23B of the Act.

Issues:

- i) What authority does Sub-section (3) of Section 20 of the Act give to the State Bank of Pakistan regarding directions to authorized dealers?
- ii) What does the Act provide for when export proceeds are not realized within 120 days?
- iii) What does Sub-section (4) of Section 23B of the Act allow the Adjudicating Officer to do in cases of contravention, including violations of Section 12(1) and Section 20(3)?

Analysis:

- i). Sub-section (3) of Section 20 of the Act grants the State Bank of Pakistan (SBP) the authority to issue directions concerning payments and actions by authorized dealers, aimed at ensuring compliance with the Act's provisions.
- ii) The provisions of the Act merely state that in case the export proceeds are not realized within 120 days, which is an admitted position, then the matter shall be referred to the Adjudicating Officers under Section 23B.
- iii) Sub-section (4) of section 23B provides that in case of any contravention including that of sub-section (1) of section 12 of the Act or sub-section (3) of section 20 of the Act, cognizance shall be taken by the Adjudicating Officer of such contravention who may impose a penalty at the conclusion of that adjudication.

Conclusion:

- i) See above analysis No.i).
- ii) The Act stipulates that if export proceeds are not realized within 120 days, the matter must be referred to the Adjudicating Officers under Section 23B.
- iii) See above analysis No.iii)

- 16. Lahore High Court**
Ameer Abdullah v. Member, Federal Land Commission, Islamabad etc
Writ Petition Nos.12078 of 2014 & 32541 of 2013
Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Safdar Saleem Shahid.
<https://sys.lhc.gov.pk/appjudgments/2022LHC9808.pdf>

Facts: The legal heirs of Respondent No. 2, whose excess land was resumed under the Land Reforms Regulation, 1972 (MLR 115), filed a revision petition in 2011 before the Federal Land Commission, challenging orders passed in 1972 and 1973. The Federal Land Commission accepted the revision, setting aside previous orders and restoring the resumed land to the legal heirs of the declarant. The petitioners, landless tenants who were allotted the resumed land, challenged this decision through these writ petitions.

Issues:

- i) What was the purpose of promulgating the Land Reforms Regulation 1972 (MLR 115), and how did it aim to address the economic well-being of peasantry?
- ii) What is the remedy available under the Land Reforms Regulation 1972 for an aggrieved person, and what is the time limit for filing a revision before the Federal Government?
- iii) Does the Land Reforms Act, 1977 has a prospective or retrospective application?
- iv) Does the proviso to Section 27 of the Land Reforms Act, 1977 impose any conditions on the exercise of revisional jurisdiction?

Analysis:

- i) The Government of Pakistan in order to improve the economic well-being of peasantry and making agriculture a profitable vocation, promulgated the Land Reforms Regulation 1972 (MLR 115) on 11.03.1972 (to be referred hereafter as ‘Regulation’) whereby maximum ceiling of the own land was fixed for the declarants and the excess land was made allottable to the landless tenants as per policy/law.
- ii) As per structured scheme of law, any person if aggrieved of any order passed by the authority established under the Regulation has a remedy of Revision before the Federal Government to be filed within a period of 60 days.
- iii) Furthermore, Section 3 of the Land Reforms Act, 1977 describes that the said enactment shall have prospective effect only.
- iv) Even otherwise, Proviso to Section 27 lays an embargo on the unbridled exercise of Revisional jurisdiction that it shall not affect the right of the adverse party unless a fair reasonable hearing is afforded to it but in the case in hand no document has been produced to show that any hearing was granted to the petitioners, which flaw is fatal that dismantled the legality of the impugned order.

Conclusion: i) See above analysis No.i.

- ii) An aggrieved person has a remedy to file a revision within 60 days of the order being passed.
- iii) The Land Reforms Act, 1977 has a prospective application.
- iv) Proviso of Section 27 ensures no adverse order without a fair hearing.

17. Punjab Subordinate Judiciary Service Tribunal Lahore
Muhammad Afzal Zahid, Ex-Additional District & Sessions Judge v. Lahore High Court, Lahore through its Registrar.
Service Appeal No.26 of 2013
Mr. Justice Muhammad Sajid Mehmood Sethi Chairman, Mr. Justice Rasaal Hasan Syed, Mr. Justice Abid Husain Chattha.
<https://sys.lhc.gov.pk/appjudgments/2024LHC6286.pdf>

Facts: The appellant, a former judicial officer, was dismissed from service following allegations of misconduct and corruption. He challenged the dismissal, arguing procedural irregularities and lack of substantial evidence. The Punjab Subordinate Judiciary Service Tribunal partially allowed the appeal, modifying the penalty to compulsory retirement.

Issues:

- i) What are the legal principles governing the exercise of compulsory retirement in service matters?
- ii) How should the proportionality of a penalty be determined in disciplinary proceedings?

Analysis:

- i) The exercise of power of compulsory retirement must not be a haunt on public servant but must act as a check and reasonable measure to ensure efficiency of service and free from corruption and incompetence. The officer would live by reputation built around him and where his conduct and reputation is such that his continuance in service would be a menace in public service and injurious to public interest, he should be compulsorily retired from service.
- ii) It is evidently clear that the Courts have consistently emphasized the importance of considering the employee's length of service, the nature of the offense, and the context surrounding the misconduct. The precedents illustrate that a fair and just approach to disciplinary actions is essential in maintaining morale and ensuring that penalties are proportionate to the offenses committed. In these circumstances, we are of the considered view that the impugned penalty of removal from service is not proportionate to the gravity of the misconduct proved against the appellant. Therefore, we are inclined to convert the major penalty of removal from service into compulsory retirement.

Conclusion:

- i) Compulsory retirement ensures service integrity by removing officials harmful to public interest.
- ii) Disciplinary penalties must be fair and proportionate to the misconduct.

18. Lahore High Court
Dr. Nakshab Chaudhry Vs. Province of the Punjab and others
Writ Petition No. 46054/2024
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC54.pdf>

Facts: The petitioner, a senior academic at a medical university established under King Edward Medical University Lahore Act, 2005 (the "KEMU Act"), challenges the government's interference in appointing teaching faculty. It is alleged that such appointments, made by the government without the approval of the university's Syndicate, contravene the statutory autonomy granted to the King Edward Medical University under the KEMU Act. Whereas the government defends its actions based on transitional provisions in the statute and the necessity of fulfilling accreditation standards.

Issues:

- i) Does the Syndicate hold exclusive authority under the King Edward Medical University Act to create teaching posts and appoint individuals to positions equivalent to BPS-19 or above?
- ii) Does the proviso to Section 20(2) of the KEMU Act grant the government authority to make ongoing appointments or transfers of teaching staff beyond the transitional period?
- iii) Does Section 5 of the KEMU Act limit the government's administrative control over attached hospitals while granting the university exclusive teaching jurisdiction?
- iv) What is the distinction between an "aggrieved party" and an "aggrieved person" under Article 199 of the Constitution, and how does this affect the High Court's jurisdiction?
- v) Who are the key members and authorities responsible for the governance and administration of the university?
- vi) What is the legal status and capacity of the university as a corporate entity?
- vii) What authority does the university have to create and fill academic posts?
- viii) What are the responsibilities and appointment powers of the Vice-Chancellor?
- ix) What is the role of the Senate in the university's administration?
- x) What are the powers of the Syndicate regarding appointments and the creation or abolition of posts?
- xi) How should a proviso in a statute be interpreted?
- xii) When does the High Court exercise its discretionary jurisdiction under Article 199 of the Constitution?

Analysis: i) Direct transfers or appointments by the Government to teaching posts in KEMU, without requisition or approval by the Syndicate, contravene section 25(xv) of the KEMU Act. Such actions constitute unlawful interference in the University's affairs, compromise its autonomy, and violate the objective and structure of the Act.

- ii) By its plain language of proviso to section 20(2) of the KEMU Act, the proviso allows the Government to transfer employees who opted to remain with the Government back to the University, subject to terms determined by the Government. This mechanism was intended to address transitional exigencies and does not grant the Government perpetual or unrestricted power to make appointments or transfers beyond the scope of the initial transition.
- iii) Section 5 further grants KEMU exclusive jurisdiction over teaching in its attached hospitals. However, the administrative control of these hospitals remains with the Government.
- iv) The High Court must be moved by an aggrieved party in respect of the matters mentioned in clauses (i) & (ii) of Article 199(1)(a), while any person may approach it for an order under clauses (i) & (ii) of Article 199(1)(b). As for the matters falling within the ambit of Article 199(1)(c), it can exercise jurisdiction only on the application of an aggrieved person. It is important to note that Article 199 has used two expressions: “aggrieved party” and “aggrieved person”.
- v) Section 3(2) of the KEMU Act stipulates that KEMU shall consist of the Chancellor, the Pro-Chancellor, the Vice Chancellor, the Pro-Vice Chancellor and members of the Senate, the Syndicate, the Academic Council, and other authorities.
- vi) Section 3(3) of the Act states that the University shall be a body corporate and shall have perpetual succession and a common seal. It may sue and be sued by the said name.
- vii) Section 4 of the Act outlines the University’s functions. Clause (j) of section 4 empowers it to create jobs of Professors, Associate Professors, Assistant Professors, and Demonstrators and other posts for research, publication, extension, administration, and other related purposes and to appoint persons thereto.
- viii) Section 14(1) of the KEMU Act designates the Vice-Chancellor as the chief executive of KEMU, responsible for controlling all offices, teachers, and employees and enforcing the provisions of the Act, Rules, and Regulations. Clause ix) of section 14(4) grants the Vice-Chancellor the authority to make appointments to posts in BPS-1 to BPS-18.
- ix) Section 23 declares the Senate as the highest administrative and executive body of the University and describes its functions.
- x) Section 25 defines the Syndicate’s powers, including appointing honorary visiting faculty (clause xiv), creating or abolishing posts for teaching, administrative, and research positions (clauses xv and xvi), and appointing teachers and officers for posts equivalent to BPS-19 or above (on the recommendations of the Selection Board), determining their terms and conditions, including pay (clause xvii). Clause (xviii) empowers the Syndicate to appoint a Professor Emeritus under prescribed terms.
- xi) Craies on Statute Law has enumerated the following principles: “The effect of an excepting or qualifying proviso, according to the ordinary rules of construction, is to except out of the preceding portion of the enactment, or to qualify something enacted therein, which but for the proviso would be within it; and such a proviso

cannot be construed as enlarging the scope of an enactment when it can be fairly and properly construed without attributing it to that effect.”

xii) It is well settled that the jurisdiction of the High Court under Article 199 of the Constitution, except in habeas corpus cases, is discretionary. In exercising this discretion, the court must consider a range of factors, including the facts of the case, the urgency for exercising its discretion, the potential consequences of granting the writ, and the nature and extent of the wrong or injury resulting from a refusal of the writ.

- Conclusion:**
- i) Such actions constitute unlawful interference in the University’s affairs, compromise its autonomy, and violate the objective and structure of the Act.
 - ii) This mechanism does not grant the Government perpetual or unrestricted power to make appointments or transfers beyond the scope of the initial transition.
 - iii) See above analysis no iii.
 - iv) See above analysis no iv.
 - v) See above analysis no v.
 - vi) University shall be a body corporate and shall have perpetual succession and a common seal.
 - vii) See above analysis no vii.
 - viii) See above analysis no viii.
 - ix) Senate is the highest administrative and executive body of the University
 - x) See above analysis no x.
 - xi) See above analysis no xi.
 - xii) See above analysis no xii.

19. Lahore High Court
Sadiq Hussain and another v. Deputy Director, Federal Investigation Agency, and others
Writ Petition No.12935/2024
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2024LHC6351.pdf>

Facts: The petitioners challenged the registration of an FIR under the Prevention of Trafficking in Persons Act, 2018, the Emigration Ordinance, 1979, and the Pakistan Penal Code, alleging that the charges were misapplied and violated their constitutional rights to travel and practice religion. The petitioners filed a writ petition under Article 199 of the Constitution seeking quashing of the FIR.

Issues:

- i) Whether sections 3 and 4 of the Prevention of Trafficking in Persons Act, 2018, apply in cases of suspected organized begging?
- ii) Whether an immigration authority can restrict travel under domestic and international legal obligations?
- iii) Whether the High Court can interfere in the investigative process under its constitutional jurisdiction?

- Analysis:**
- i) Under the PTPA, beggary does not inherently constitute trafficking unless it involves elements meeting the legal threshold of trafficking as stipulated in section 3(1), i.e., coercion, fraud, manipulation, or other forms of exploitation by a third party. Even when beggary is limited in duration – such as cases bound by visa restrictions – it can still be classified as trafficking under the PTPA if exploitative elements are present.
 - ii) Pakistan has a comprehensive legal framework to regulate the entry and exit of individuals, including both citizens and foreigners, at its borders. Standing Order No. 31/2005 empowers the Special Checking Officer to scrutinize passengers whose profiles appear inconsistent with their stated purpose of travel. In the context of human trafficking, the FIA must adhere to the PTP Rules. Recently, the FIA Risk Analysis Unit developed a standardized set of interview questions to assist immigration staff in identifying individuals suspected of travelling abroad for organized beggary.
 - iii) The Supreme Court has consistently held that the High Court should not interrupt or divert the ordinary course of criminal procedure as prescribed by the procedural statute by invoking Article 199 of the Constitution or section 561-A Cr.P.C. The grounds ordinarily considered for quashing an FIR are: (a) a jurisdictional defect evident on record, (b) a patent violation of some provision of law, or (c) the allegations contained in the FIR do not constitute an offence... The Supreme Court has underscored that determining the guilt or innocence of an accused person is a rigorous judicial process... The Court cautioned against invoking section 561-A Cr.P.C. to prematurely decide criminal cases, as such a deviation risks undermining the purpose of a fair trial. It held that extraordinary circumstances must exist to justify departing from the prescribed procedural path.
- Conclusion:**
- i) The determination of trafficking requires a factual inquiry into coercion, fraud, or economic exploitation.
 - ii) Immigration authorities have the legal authority to impose travel restrictions to prevent exploitation and uphold international commitments.
 - iii) The High Court should not interfere in ongoing investigations unless there is clear abuse of legal authority.

20. Lahore High Court
Criminal Appeal No.180 of 2021
Sadaqat & another v. The State & another
Criminal Appeal No.247 of 2021
Habib Ullah v. The State & 2 others
Murder Reference No.07 of 2021
The State v. Sadaqat & another
Mr. Justice Ch. Abdul Aziz, Mr. Justice Sadiq Mahmud Khurram
<https://sys.lhc.gov.pk/appjudgments/2024LHC6372.pdf>

Facts: The appellants were sentenced to death by the trial court for murder; whereas, acquitted one co-accused.

- Issues:**
- i) How the promptness of FIR is to be evaluated in murder cases?
 - ii) What information must be given in 'Inquest Report'; and why to submit before Medical Officer prior to postmortem?
 - iii) When one accused acquitted, then how the conviction of co-accused could sustain on the same?
 - iv) What is worth of evidence of a witness, who makes dishonest improvements?
 - v) What is the importance of medical evidence?
 - vi) How the site plan attains evidentiary value and when it could be contradicted?
 - vii) What is the effect of non-mentioning of crime empties in column no. 22 and 23 of the Inquest Report?
 - viii) How and under what circumstances a party is allowed to re-examine its witness?
 - ix) What is 'Hostile Witness'; how to declare a witness hostile and what is the extent of cross-examination by the party calling him?
 - x) What is difference between hostile witness and cross-examination?

- Analysis:**
- i) Being cognizant of the fact that the purity of criminal administration of justice including the police working has plummeted to a noticeable extent due to which the police station record is always prone to tampering, thus we pondered upon the acclaimed prompt registration of FIR with utmost circumspection. Unfortunately, it has become trend of police investigation to facilitate the complainant of a murder case by putting at halt Registers No.1 & 2 more commonly known as First Information Report Register and Station Diary respectively, so as to show a crime report though lodged with delay as having been promptly registered...It is further noticed that the complaint (Exh.PA) was drafted at the crime scene and was dispatched to police station through Muhammad Nadeem 1443/C for the registration of formal FIR but neither he was cited as witness in the prosecution case nor was produced during trial as such. The claim of registration of FIR without delay is a factor which is not to be projected through rhetoric but is to be substantiated through impeccable evidence.
 - ii) According to Chapter-XXV Rule 35 of the Police Rules, 1934 the inquest report is drafted by the Investigating Officer after recording the statement of complainant and collection of relevant material from the crime scene. The inquest report comprises upon four pages and contains twenty four columns, besides that its last page is meant for mentioning the brief facts of the case emerging from the accusation set out by the complainant. Twenty four columns of the inquest report provide information about the place of occurrence, the time of incident, the names of witnesses, particulars of the deceased along with condition of the corpse, the nature as well as locales of injuries, the description of weapon used in the crime and above all the articles recovered from the spot. It is equally important to mention here that since the statement of at least the complainant is to be recorded before drafting of inquest report, thus the police officer gains knowledge about the identity of the culprits and the weapons used by them. The inquest report is to

be prepared in duplicate by the carbon copying process in a prescribed format and is essentially required to be provided to the Medical Officer before the autopsy as is evident from the provisions of **Chapter-XXV of the Police Rules, 1934** and the **Instructions Regarding The Conduct Of Medco Legal And Postmortem Examination 2015** issued by the Surgeon Medico Legal Punjab, Lahore. As token of acknowledgement upon receipt of inquest report before the autopsy with all the columns filled properly, the medical officer is required to sign its each and every page. If the needful towards drafting of inquest report is done in accordance with afore-mentioned requirements, it excludes the possibility of tampering with record.

iii) Reverting back to the query that when the eyewitnesses have been disbelieved to the extent of Mewa and that too for cogent reasons, then what will be the fate of their depositions with regard to the appellants. Unambiguously, the acquittal of Mewa has polluted the purity of the evidence given by both the eyewitnesses, thus conviction of the appellants can only be sustained on the same ocular account if it receives independent strong corroboration from some other source of irreproachable nature.

iv) We are constrained to hold that through such dishonest improvement he compromised his integrity which left a question mark upon the intrinsic worth of his deposition. The approach of the Supreme Court of Pakistan regarding material dishonest improvement is consistently against the maker of such statement, whereby the fresh facts introduced during trial are discarded from consideration.

v) The acceptance of the depositions of eyewitnesses even in the presence of a noticeable glitch between medical and ocular evidence amounts to discarding the statement of a medical expert without assigning any reasoning which perhaps will be nothing more than an injustice and besides that it will give leverage to false witnesses for securing conviction against innocent even after being contradicted by the medical evidence. Beyond everything, such practice on the part of the courts will give vent to frustrating the very purpose of collecting medical evidence in a charge pertaining to offences against human body. The medical evidence, needless to mention, is furnished by an expert and is aimed at enabling the court to adjudge the veracity of the accusations set out by the eyewitnesses in murder or hurt cases. This will not be an overstatement that medical evidence sheds light upon the depositions of eyewitnesses and draws a distinguishing line between the truthful and false narration about the incident. The deposition of an honest medical practitioner abridges the gap between the accusations of the witnesses and the flawless administration of justice by the court. For the same reason, on account of a noticeable variation between medical and ocular evidence a consistent judicial view is formed to acquit the accused.

vi) We are not oblivious of the fact that unless it is proved that the site plan was prepared on the pointation of eyewitnesses it cannot be used to contradict them or for any other legal purpose. On the contrary, if the site plan is duly proved to have been drafted on the pointing out of the eyewitnesses, it provides an insight about the nature of crime scene, the location of witnesses, the distance between victim

and assailants, besides that it enables the Court to draw a vision about the actual genesis of the occurrence. Habib Ullah (PW.4) unequivocally admitted that the site plan was prepared on the pointation provided by him and the other eyewitnesses. In these circumstances the site plan (Exh.PH) does not remain a simple piece of paper rather gains evidentiary value so as to be legally and legitimately used by this Court.

vii) The afore-mentioned positive report (Exh.PR) lost its significance when seen in the context of column No.22 & 23 of inquest report (Exh.PG) according to which no crime empty was recovered from the place of occurrence. Possibly, the crime empties were planted by the police so as to knit an evidence for corroborating the statements of eyewitnesses.

viii) During examination-in-chief, the party calling the witness is restrained from putting leading questions, if objected by the other side as is evident from Article 137 (1). On the contrary, in accordance with Article 133 (2) the scope of cross-examination is wide in nature and besides queries relating to the point in issue a witness can be questioned beyond it. So far as re-examination under Article 132(3) of QSO is concerned, it can be carried out by the party who had called the witness, almost as a matter of right but its scope is limited to the extent of providing an opportunity to the prosecution for reconciling the discrepancies, if any, between examination-in-chief and cross-examination or for removing some ambiguity in any statement inadvertently made by a witness during cross-examination. The re-examination under Article 132(3) of QSO must be restricted for explaining inadvertent omissions or out of context issues arising in cross-examination. In the absence of some ambiguity or a fact needing explanation, re-examination under 132(3) of QSO cannot be carried out to counter the effect of some benefit having been accrued to the defence during cross-examination. We have to keep in mind that through cross-examination a defence lawyer endeavours to structure the case of his client by establishing some facts contradicting the witness with his previous statement, exposing the credibility of a witness by confronting him with other attending circumstances and thereby knits a defence. The very purpose of cross-examination would be frustrated if a witness is permitted to overcome the effect of shortcomings through the tool of re-examination. According to Article 133(3) of QSO the re-examination must be directed to the explanation of the matters referred to in cross-examination and the foregoing provision places a restriction that a new fact can only be introduced with the permission of the Court which for obvious reason is to be granted in writing.

ix) The language of Article 150 is free from any ambiguity and leaves no room for discussion that cross-examination of a witness by a party calling him in the dock is entirely dependent upon the discretion of the Court which can only be accorded if there exists a compelling circumstance. For demonstrating that the discretion was lawfully exercised by the Court in terms of Article 150 of QSO, there must be an order backed by the reasoning and that too upon the application moved by the party mentioning therein attending circumstances. If such

permission is granted by the Court, then in consonance with Article 141 of QSO a witness can be asked any question which tend to test his veracity, to discover who he is and what is his position in life or to shake his credit by injuring his character although answer to such question may tend directly or indirectly to criminate him or even may expose him to a penalty or forfeiture. The power under Article 150 of QSO is exercised by the Court in reference to a witness who becomes antagonist to the party on whose behalf he appears before the Court. Such witness ordinarily is labelled as hostile, a term which though is not used in the Qanoon-e-Shahdat Order, 1984 as well as erstwhile Evidence Act, 1872 but is developed through common law.

x) Through re-examination an ambiguity stemming out of cross-examination can be removed whereas Article 150 is a provision which enables the prosecution to extract truth from a witness who turns hostile during his examination-in-chief or even during cross-examination and takes a stance different from his version earlier put forth. It is essentially required for the Court to have a look upon the previous statement/stance of the witness before declaring him hostile. If such witness is a police officer who had given an opinion favourable to accused during investigative phase of the case and he reiterates the same in his examination-in-chief, declaring him hostile will be a fallacious approach.

- Conclusion:**
- i) The claim of registration of FIR without delay is a factor which is not to be projected through rhetoric but is to be substantiated through impeccable evidence.
 - ii) See above analysis (ii).
 - iii) Conviction of co-accused can only be sustained on the same evidence if it receives independent strong corroboration from some other source of irreproachable nature.
 - iv) The fresh facts introduced during trial are discarded from consideration.
 - v) The medical evidence, needless to mention, is furnished by an expert and is aimed at enabling the court to adjudge the veracity of the accusations set out by the eyewitnesses in murder or hurt cases.
 - vi) When it is proved that site plan is prepared at the pointation of eye witnesses, it could be contradicted only if so established and attains evidentiary value.
 - vii) Failure to mention crime empties in Inquest Report would amount that recover of empties, if any is planted.
 - viii) See above analysis (viii).
 - ix) See above analysis (ix).
 - x) See above analysis (x).

21. Lahore High Court
Maqbool Ahmad v. The State etc.
Crl. Misc. No.8741-B of 2022
Mr. Justice Anwaarul Haq Pannun
<https://sys.lhc.gov.pk/appjudgments/2023LHC7781.pdf>

- Facts:** The case involves the alleged sale of substandard fertilizer, where a sample taken from a shop was found unfit upon chemical analysis. The petitioner, a sales officer, was booked along with the shop and factory owners, despite no allegation of tampering or adulteration against him. The court also noted the department's failure to take action against the manufacturer and to seal the godown.
- Issues:** i) What are the fundamental legal and ethical principles that police must follow to maintain public confidence and legitimacy?
- Analysis:** i) It may be observed that good policing is the policing which is both effective and fair as well as with legitimacy on the basis of public consensus rather than repression. If the policing is ineffective, illegitimate or unfair in protecting the public against crime, it will lose the public's confidence. Therefore, it is expected that the police should have a high degree of professionalism and independence from any influences and should act in conformity with the law and established policies as well as on the basis of public consent (within the framework of the law) as evidenced by levels of public confidence. With this model in mind, an analysis of the current police investigation system can be made, identifying gaps and weaknesses and developing suggestions for its improvement.
- Conclusion:** i) Policing must be fair, effective, and legitimate to maintain public confidence.

**22. Lahore High Court, Multan Bench, Multan,
Nasim Hakim, etc. v. Province of Punjab, etc.
Writ Petition No.1987/ 2022
Mr. Justice Asim Hafeez.
<https://sys.lhc.gov.pk/appjudgments/2025LHC38.pdf>**

- Facts:** Petitioners through instant constitutional petition have disputed the acquisition of their lands under Land Acquisition Act, 1894 ("the Act") alleging that they were stripped of their constitutionally protected rights i.e. right to own, enjoy and utilize the property, in arbitrary manner and without adhering to the statutory safeguards provided under the Constitution of Islamic republic of Pakistan 1973.
- Issues:** i) Whether question of adequacy of compensation can be determined under constitutional jurisdiction?
ii) How the objections regarding inadequacy of quantum of compensation and nature can be raised and remedied?
iii) What is purpose of notice under S.9 of the Act?
iv) Whether the constitutionality of the acquisition or legality of notifications under section 4 and section 17 of the Act can be challenged under Section 9 of the Act?
v) Whether non-appearance of interested persons, pursuant to notice under S.9 of the Act would render the Award ineffective or void?
- Analysis:** i) Question of adequacy of compensation was neither raised and nor such determination would likely be carried out under constitutional jurisdiction.

- ii) Objections regarding inadequacy of quantum of compensation and nature / extent of the interest of the petitioners – context being the ownership claims – could be raised upon invoking the remedies provided under the Act, subject to the conditionalities prescribed.
- iii) Purpose of section 9 notice, appearing from textual reading of said provision, is to categorically convey the intent of taking possession and to invite claims to compensation against acquisition.
- iv) Section 9 of the Act is not an all-encompassing provision, and certainly not extending the option of filing objections to challenge the constitutionality of the acquisition or legality of notifications under section 4 and section 17 of the Act.
- v) Simplicitor non-appearance of the interested persons, pursuant to notice under section 9 of the Act would not render the Award ineffective or void.

Conclusion: i) Adequacy of compensation cannot be determined under constitutional jurisdiction.
 ii) See above analysis No.ii).
 iii) Purpose of notice under S.9 of the Act is to convey the intent of taking possession and to invite claims to compensation against acquisition.
 iv) See above analysis No.iv).
 v) Non-appearance of interested person would not render the Award ineffective or void.

23. Lahore High Court
Sahib Bibi & another. v. Khushi Muhammad (deceased) through LRs.
Civil Revision No.2116 of 2011
Mr. Justice Ahmad Nadeem Arshad
<https://sys.lhc.gov.pk/appjudgments/2025LHC104.pdf>

Facts: The case involves a dispute over the inheritance of a deceased individual, where the petitioners claimed succession based on a particular religious sect. The respondents contested the inheritance mutation, asserting that the deceased belonged to a different sect, which would alter the distribution of the estate. The courts determined the sect of the deceased based on the preponderance of evidence and upheld the respondents' claim. Hence; this Revision.

Issues: i) What is the legal standard for determining the religious sect of a deceased individual in inheritance matters?
 ii) What is the evidentiary burden in proving the religious sect of a deceased individual in inheritance disputes?
 iii) Is there a presumption regarding the sect of a Muslim individual in the Indo-Pak Subcontinent?
 iv) How does the burden of proof apply in cases where a party claims a different religious sect for inheritance purposes?
 v) What is the difference between Ushar and Khums in Islamic financial obligations?
 vi) What is the role of Revenue Officers in inheritance disputes involving religious sect determination?

vii) Can concurrent findings of fact be disturbed in revisional jurisdiction under Section 115 of the CPC?

Analysis:

- i) No strict criteria can be set to determine the faith of a person, and thus, to pass any finding thereon, the Courts are to consider the surrounding circumstances; way of life, parental faith and faith of other close relatives.
- ii) In civil dispensation of justice, Courts are to adjudge the lis on the standard of preponderance of probability of evidence produced by the parties and the decision of the court would tilt in favour of the party having preponderance of evidence. As for the burden of proving a fact is concerned, it gains importance and relevance, only when no evidence is led by the concerned party or the Court is unable to take a decision, one way or the other, on the basis of evidence available on record of the case.
- iii) In a case titled "Pathana V. Mst. Wasai and another." (PLD 1965 SC 134), a five-member Bench of the Hon^{ble} Supreme Court of Pakistan, held that every Muslim in the Sub-continent is presumed to belong to Sunni sect, unless "good evidence" to the contrary is produced by the party contesting the same. The Court ruled that: "In the Indo Pak Sub-continent there is the initial presumption that a Muslim is governed by Hanafi Law, unless the contrary is established by good evidence (vide Mulla's Muhammadan Law, section 28)"
- iv) In the case titled "Abdul Rehman and others V. Mst. Allah Wasai and others" (2022 SCMR 399), Hon^{ble} Supreme Court of Pakistan observed as under: "As per Article 117 of the Qanun-e-Shahadat 1984, the burden of proof lies on a person, who desires a Court to give judgment, as to a legal right or liability dependent on the existence of facts, which he asserts; while under Article 118 (supra), burden of proof in any suit or proceeding lies on a person, who would fail, if no evidence at all were given on either side. Hence, when a plaintiff comes to a Court, and seeks relief on the basis of certain facts, asserted by him in his plaint, the burden of proving those facts is on him; for the relief prayed for cannot be granted, unless the Court holds the existence of those facts proved.
- v) In the Shia sect, the practice of paying Ushar (or Ushur) is not observed. Ushar refers to a tithe, typically a 10% tax on agricultural produce, which is more commonly associated with traditional Islamic practices and laws in some Sunni communities. However, in the context of Shia Islam, the concept that closely resembles this kind of financial obligation is Khums. Khums is an important obligation for Shia Muslims and is a religious tax that is paid annually, amounting to 1/5 of one's surplus income, which is divided into two parts. 50% goes to the descendants of the Prophet Muhammad (اسدات), particularly to those who are eligible for this portion. Remaining 50% is used for religious leaders/scholars and for the upkeep of religious institutions.
- vi) Undoubtedly, the proceedings before the Revenue Officer are "summary" in nature, this does not absolve the officer from ensuring that the proper procedure is followed when faced with a legal dispute. Sanctioning an inheritance mutation based solely on oral testimonies, especially when there is a clear sectarian dispute,

is problematic.(...) In cases where the sect of the deceased is in dispute, the appropriate course of action would be for the Revenue Officer to refer the matter to a court of competent jurisdiction. This referral would ensure that the dispute is adjudicated by a judicial authority with the expertise and authority to examine the evidence, including testimonies, documents, and make a determination regarding the deceased's sect.

vi) Even otherwise, concurrent findings on facts cannot be disturbed when the same do not suffer from misreading and non-reading of evidence, howsoever erroneous in exercise of revisional jurisdiction under section 115, Code of Civil Procedure, 1908.

- Conclusion:**
- i) Faith is determined by surrounding circumstances, way of life, and family beliefs.
 - ii) Decisions rely on preponderance of evidence; burden arises when no clear proof exists.
 - iii) Muslims in Indo-Pak Sub-continent are presumed Sunni unless proven otherwise with good evidence.
 - iv) The party asserting a fact must prove it to obtain relief.
 - v) Ushar is a Sunni tithe on crops; Khums is a Shia tax on surplus income.
 - vi) Revenue Officers must refer sectarian inheritance disputes to courts of competent jurisdiction
 - vii) Concurrent findings stand unless based on misreading or non-reading of evidence.

24. Lahore High Court, Lahore
Asif Atta vs. The State, etc.
Criminal Appeal No.40068/2020
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC33.pdf>

Facts: Appellant assailed the order whereby he was convicted under section 174 of Pakistan Penal Code 1860 (PPC) and sentenced to undergo seven days' imprisonment by learned Additional Sessions Judge.

Issues:

- i) What is the special procedure to regulate the proceedings of offences of contempt of lawful authority, false evidence and public justice?
- ii) What is the procedure for trial of offences mentioned U/S 195, sub section 1, clause (a) of Cr.P.C?
- iii) Whether complaint is necessary to be forwarded to authorize magistrate when offences U/S 172-188 PPC are committed before a judge or in contempt of his lawful authority, or is brought under his notice but other than High court?
- iv) Whether Learned Additional Sessions Judge was authorized to pass sentence U/S 174 PPC?

Analysis: i) Contempt of lawful authority of a public servant & false evidence and offences

against public justice are regulated under Chapters X & XI of PPC which consist of sections 172 to 190 & 191 to 229. In order to initiate proceedings in certain offences mentioned in above chapters, section 195 Cr.P.C prescribes special procedure.

ii) Offences mentioned under section 195, subsection (1), clause (a) of Cr.P.C., (Sections 172 to 188 PPC) are variously regulated for trial. Procedure for offences under sections 175, 178, 179, 180, as well as section 228 PPC (though section 228 PPC can also be dealt with under section 476 Cr.P.C) has been given in section 480 of Cr.P.C.

iii) All offences in bracket of section 172-188 PPC shall ordinarily be tried under chapter XX of Cr.P.C., on a complaint, if the Judge or Magistrate does not attend offences under sections 175, 178, 179 & 180 of PPC within the purview of procedure prescribed under section 480 of Cr.P.C; but when such offences are committed before himself or in contempt of his lawful authority, or is brought under his notice, as such Judge or Magistrate (except Judge of High Court) in the course of a judicial proceeding, he shall not try it himself. This command of law is incorporated in section 487 of Cr.P.C.

iv) Learned Additional Sessions Judge has sentenced the appellant under section 174 of PPC for his failure to produce the accused against whom notice was issued on petition for cancellation of his bail. Section 174 falls in category of offences mentioned in section 195, sub-section (1), clause (a), therefore, learned Additional Sessions Judge was not authorized to sentence the appellant by himself, rather complaint should have been forwarded to the Magistrate having jurisdiction in the matter, and on receiving such complaint concerned Magistrate is not required to record statement of Judge as mentioned in section 200 of Cr.P.C., rather follow the process contained in section 200 to 204 Cr.P.C., and provisions relating to trial as the case may be.

- Conclusion:**
- i) See above analysis No.i.
 - ii) See above analysis No.ii.
 - iii) Complaint is necessary to be forwarded to authorize magistrate when offences U/S 172-188 PPC are committed before a judge other than High court or in contempt of his lawful authority, or is brought under his notice
 - iv) see above analysis No iv.

25. Lahore High Court, Lahore
Cargo United Goods Transport Company, etc. v. Province of Punjab, etc.
Writ Petitions No. 51697 of 2023 and 66220 of 2024
Mr. Justice Abid Hussain Chatha
<https://sys.lhc.gov.pk/appjudgments/2025LHC69.pdf>

Facts: The vehicles of the petitioners loaded with goods were confiscated by police to block roads against the protests. The vehicles were put fire which caused huge loss to the petitioners. Through two writ petitions the Petitioners claim compensation of losses suffered by them and seek declaration to the effect that the

arbitrary act of impounding, confiscating and detaining vehicles is unlawful and unconstitutional.

Issues: i) Whether power of judicial review can be exercised in the last resort?

Analysis: i) This Court is mindful of the fact that in the last resort in terms of constitutional dispensation, it may have to answer the foresaid questions itself in exercise of its powers of judicial review.

Conclusion: i) In the last resort the court has power of judicial review.

26. Lahore High Court.

Mansoor Ali vs. Mst. Anam Hussain, etc.

Writ Petition No.819 of 2020

Mr. Justice Anwaar Hussain

<https://sys.lhc.gov.pk/appjudgments/2024LHC6335.pdf>

Facts: A dispute arose regarding the maintenance claims for a minor, the depreciation of dowry articles, and related issues following the dissolution of a marriage. The trial court awarded maintenance to the minor and alternate compensation for dowry articles while dismissing some claims. Both parties appealed; the appellate court dismissed the appeals, leading to the present writ petitions before the Lahore High Court.

Issues: i) Can depreciation in the value of dowry articles during litigation be imposed on the female plaintiff?
 ii) Can a father be obligated to pay child maintenance beyond his financial means?
 iii) Can child maintenance, once fixed, be reduced if the father's financial circumstances adversely change?

Analysis: i) If depreciation of the dowry articles for such a period is forced upon a female while calculating the alternate value of dowry articles, this would amount to putting a premium on the conduct of the husband who withheld the dowry articles, depriving the female of her belongings for the period during which the suit remained pending, on account of not admitting the claim of the female straightaway.
 ii) The father's responsibility to maintain his children is a religious, moral, and legal obligation, while at the same time, the right of the children to be maintained by their father is a legal, religious, and natural right... The object of the law, no doubt, is to provide financial security to children and to ensure that a father does not avoid his legal, moral and religious obligation to maintain his children, however, the purpose is certainly not to penalize the father or to place a burden on him, greater than he can actually bear.
 iii) Maintenance, as also the financial resources, is not a static rather changing phenomenon. The financial means of father as well as financial needs of the minor may undergo change positively, adversely and/or inversely as well. The Court, in determining the quantum of maintenance, cannot act in an arbitrary manner but should in fact carry out an evidence-based exercise to determine the

needs of the minor and the financial capacity of the father in terms of his earnings and assets etc. It is equally clear that fixation of an oppressive or over burdensome quantum of maintenance, without regard to the father's sources of income, is also improper and cannot be allowed. In this regard, the Supreme Court of Pakistan held as under:

'... the Family Court is under an obligation while granting the maintenance allowance, to keep in mind the financial condition and status of the father. It has to make an inquiry in this regard. It cannot act arbitrarily or whimsically. Furthermore, at the same time, the unjust enrichment of the minors cannot be permitted at the cost of the father.'

In application of the principles emanating out of the above discussion, it may be stated that while the maintenance can be enhanced and is enhanced statutorily and/or by decree of the Court, the same can be reduced as well with the changed financial circumstances of the father.

Conclusion: i) Depreciation during litigation cannot be imposed on the female plaintiff if it results from the husband's non-admission of claims.
 ii) A father cannot be burdened with maintenance obligations beyond his financial means.
 iii) Child maintenance can be reduced if the father's financial circumstances change adversely.

LATEST LEGISLATION/AMENDMENTS

1. Vide Income Tax (Amendment) Ordinance, 2024 dated 29-12-2024, amendments in first and seventh schedule are made in the Income Tax Ordinance, 2001.
2. Vide Notification No.AD-E-II/4536/VI dated 11-11-2024, amendments in rule 7 & 8 are made in Sub-Inspectors and Inspectors (Appointment and Conditions of Service) Rules 2013.
3. Vide Notification No.SOT(M&M)1-5/2001(Part File) dated 25-11-2024, Terms & Conditions of competitive bidding for prospecting licenses under Small Scale Mining are published.
4. Vide notification No. No.SOT(M&M)1-5/2001(Part File) dated 25-11-2024, Terms & Conditions of competitive bidding for mining lease under Small Scale Mining are published.
5. Vide notification No. No.SOR(LG)38-3/2017 dated 16-12-2024, amendments are made in Punjab Local Government (Works) Rules 2017.
6. Vide notification No. No.SO(TRG)1-35/2024 dated 13-01-2025, Foundational Learning Policy Punjab (FLPP), 2024 are notified.
7. Vide notification No. NO.SO(A-I)3-1/2024 dated 20-01-2025, Punjab School Management Councils Policy, 2024 is published.
8. Vide notification No.SO(DIS)1-3/2022(P-I) dated 21-01-2025, Punjab Empowerment of Persons with Disabilities Rules, 2024 are published.
9. Vide notification No.SOT(M&M)3-1/2015(VOL-II)/89 dated 03-01-2025, amendments are made in Punjab Mining Concession Rules, 2002.

10. Vide notification No.SOR-III(S&GAD)1-13/2024 dated 03-01-2025, Higher Education Department (Planning, Information and Reform Unit) Service Rules 2024 are published.
11. Vide notification No.HP-II/9-11/2018(P) dated 06-01-2025, amendments are made in Punjab Border Military Police and Baluch Levy Service Rules, 2009.
12. Vide notification No.SO(CAB-I)2-28/2012(P) dated 08-01-2025, amendments are made in first & second schedule of Punjab Government Rules of Business 2011.
13. Vide notification No.SOR-III(S&GAD)1-14/2022 dated 08-01-2025, amendments at serial No.7B of schedule are made in Punjab Directorate General of Archaeology Rules, 1988.

SELECTED ARTICLES

1. MANUPATRA

<https://articles.manupatra.com/article-details/INTERNATIONAL-TRADE-LAW-UNDER-TRUMP-20>

INTERNATIONAL TRADE LAW UNDER TRUMP by Alaknanda Mishra, Vikash Kumar

After The US's 2024 historical presidential contest is won by Donald Trump will take the oath and start his second term from the 20 Jan. This victory of Trump gives hints for his upcoming trade policies, glimpses of which can be seen throughout his election campaign. This article analyzes Donald J. Trump's ideas on his upcoming trade policies. Many economists comment that Trump's statement on foreign trade policy is based on two main objectives. The first is based On the principle of 'fair trade' and the second on stopping delocalization of productive activities from the USA and creating jobs to boost the US economy. In order to increase tariffs which aimed to reshape US Foreign trade policy? According to sec 201, 301 of trade act, 1974, IEEPA, Sec 232 of Trade expansion act, 1962, Trump increased tariffs on China, Mexico and universal tariff respectively. In his second term as president post, they tried to repeat his previous economic policies. Author analysis the Trump statements in different election campaigns on different types of tariff policy and section agenda.

2. MANUPATRA

<https://articles.manupatra.com/article-details/Reconciliation-Realised-A-Dive-into-Restorative-Justice-Paradigm>

RESTORATIVE JUSTICE: A VIABLE ALTERNATIVE IN CRIMINAL LAW? by Hemant Singh

Restorative justice is a concept that predates modern legal systems, finding its roots in traditional and community-based justice mechanisms. Indigenous cultures, including several tribal communities in India, historically used methods of reconciliation and

community involvement to address crimes and disputes. For instance, in many tribal societies in Northeast India, restorative principles are embedded in customary practices that prioritize collective wellbeing over punitive action.² The Gandhian philosophy of Sarvodaya (universal upliftment) and Ahimsa (non-violence) also reflects restorative values, emphasizing forgiveness, dialogue, and reconciliation. These principles resonate with restorative justice's goal to repair harm and restore social harmony rather than focusing solely on punishment.³

3. MANUPATRA

<https://articles.manupatra.com/article-details/BEYOND-THE-VISIBLE-MENTAL-CRUELTY-AND-THE-LAW-OF-DIVORCE>

BEYOND THE VISIBLE: MENTAL CRUELTY AND THE LAW OF DIVORCE by Dhyey Jani and Zarana Acharya

Cruelty, a significant issue in matrimonial law, extends beyond physical violence to include emotional and psychological abuse. Its definition has evolved in Indian divorce law, acknowledging that mental harm can make marriage unbearable. Black's Law Dictionary defines mental cruelty as conduct causing anguish that endangers a spouse's physical or mental health. However, mental cruelty cannot be confined to a fixed definition, as it varies with changing societal norms. Indian law, particularly through the Hindu Marriage Act Amendment Act 1976, recognizes mental cruelty as a valid ground for divorce under Section 13(1)(ia). The Special Marriage Act, 1954, similarly emphasizes mental health in marriage. Mental cruelty encompasses more than mere quarrels or frustrations, including emotional assault, demeaning behaviour, abandonment, and degradation. Unlike physical abuse, it is often subtle and embedded in daily interactions, making it challenging to prove. Judges must carefully analyze behavioural patterns and psychological trauma to deliver justice in such cases.

4. Lawyers Club India

<https://www.lawyersclubindia.com/articles/usa-exits-who-what-is-the-process-and-implication-for-the-usa--17356.asp>

USA Exits WHO: What is the process and implication for the USA? By Sankalp Tiwari

The WHO is the global health flagship agency coordinating collaborative responses to public health emergencies, guiding health policies, and working towards universal healthcare for all. The WHO was established in the aftermath of World War II, which was a significant step toward global cooperation that emphasized the principle that health transcends national boundaries and is a fundamental human right. The operations of WHO are based on a solid universal membership and cooperation. However, the framework through which countries affiliate with WHO does not seem entirely immune to trouble. While many member states enjoy cooperative relations, tensions have on occasion resulted in withdrawal threats and funding rows, as demonstrated by the

attempt by the United States to pull out of WHO in 2020. The occurrence of these events raises urgent questions about the stability and the governance of the WHO in the increasingly politicized global landscape.

5. Lawyers Club India

<https://www.lawyersclubindia.com/articles/how-to-add-auto-captions-to-instagram-reels-17329.asp>

How to Add Auto-Captions to Instagram Reels by Yaksh Sharma

Imagine scrolling through Instagram and stumbling upon a video that grabs your attention, but you're in a noisy environment or don't have your headphones handy. What keeps you engaged? Captions. They not only attract viewers but also enhance the accessibility of your content for a broader audience, including those who prefer or need to watch videos without sound. Incorporating captions into your Instagram Reels can increase engagement, retention, and reach, ensuring your message is communicated effectively to everyone. In this guide, we'll walk you through one of the free video editing software to add captions to your videos. CapCut desktop video editor is a more flexible tool that offers greater control over style, accuracy, and customization.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*

Volume - VI, Issue - III

01 - 02 - 2025 to 15 - 02 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(01-02-2025 to 15-02-2025)

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

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1. **Supreme Court of Pakistan**
Muhammad Saeed v. The State thr. A.G. Islamabad and another
Crl.P.L.A.588/2024
Mr. Justice Yahya Afridi Chief Justice, Mr. Justice Shahid Waheed
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 588 2024.pdf

Facts: The complainant's sons were allegedly intercepted by the accused while on their way home. The accused, armed with a pistol, hurled abuses and fired at them with the intention to kill, injuring one of them in the leg. The complainant sought leave to appeal against the grant of pre-arrest bail to the accused.

Issues: i) Whether mala fide must always be proved through direct evidence for the grant of pre-arrest bail?
 ii) Whether the High Court was precluded from entertaining a fresh bail petition after the Sessions Court found the second bail petition to be not competent?

Analysis: i) As regards the contention that mala fide was not properly considered, it is important to note that mala fide cannot always be proved through direct evidence and is often to be inferred from the facts and circumstances of the case.
 ii) The argument that the High Court ought not to have entertained the bail petition after the Sessions Court found the second bail petition to be not competent is misconceived, as it neither precluded the respondent accused from filing a fresh bail petition before a higher forum nor barred the High Court from independently assessing the case and granting relief where warranted.

Conclusion: i) Mala fide does not always require direct evidence and can be inferred from the facts and circumstances of the case.
 ii) The High Court was not barred from entertaining a fresh bail petition despite the Sessions Court's ruling on the second bail petition's incompetency.

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2. **Supreme Court of Pakistan**
Syed Ali Hussain, etc. v. Senior Member/Member (Revenue) Board of Revenue Punjab, Lahore etc.
Constitutional Petition No. 2918-L of 2025
Constitutional Petition No. 3039-L of 2025
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2918 1 2015 310 12025.pdf

Facts: Petitioners, in both constitutional petitions, challenged acquisition and seeks restoration of the land acquired for the public purpose of setting up a Wastewater Treatment Plant ("WWTP") to treat the contaminated wastewater flowing into the River Ravi.

Issues: (i) Whether land acquired three decades ago for a public purpose, which has not been fulfilled, can result in the land being restored to its original owners as per Rule 14 of the Punjab Land Acquisition Rules, 1983?

Analysis: (i) The land was acquired from private landowners with the promise to set up WWTP that has not materialized over three decades. WASA's inaction over these years represents a serious failure in upholding its commitment to both public welfare and private rights. The restriction on using the acquired land exclusively for the WWTP may be reconsidered. Given that the project footprint does not require acres of land, WASA may repurpose the remaining land for other climate adaptation initiatives such as afforestation, renewable energy projects (solar or wind farms), or sustainable agriculture to combat soil degradation and improve food security. By diversifying adaptation projects in the same area, WASA not only maximizes land use but also strengthens resilience against climate change. Considering the importance of WWTP and its bearing on fundamental rights of the people, WASA may want to reconsider its financial and technological options while pursuing its negotiations with AFD. Let the PDWP through its Chair, Chairman Planning and Development Punjab, Civil Secretariat Lahore, CDWP through its Chair, Deputy Chairman Planning Commission, Pakistan Secretariat, Constitution Avenue Islamabad and ECNEC, Cabinet Block, Cabinet Secretariat, Red Zone Islamabad conclude the matter latest by end of August 2025.

Conclusion: i) See above analysis No 1.

3. Supreme Court of Pakistan
Muhammad Asif v. Amjad Iqbal and others
C.P. No.3151/2021
Mr. Justice Amin-ud-Din Khan, Mr. Justice Irfan Saadat Khan
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3151 2021.pdf

Facts: The petitioner/defendant assailed the order of the Hon'ble High Court which dismissed his revision to the effect of decree of suit of respondent/plaintiff by the courts below respectively.

Issues: i) On whom the burden of proof lies, when the validity of a transaction and instrument of transfer is challenged based on undue influence?
 ii) Who would be burdened to proof, when there is no denial of signatures and appearance at the time of attestation of mutation but because of pressure and fear?

Analysis: i) It is not an ordinary case where a person having influence upon the vendor/transferor got the mutation attested as we ordinarily see in most of the litigation in our country where a person having undue influence over the vendor/transferor gets the mutation attested by using undue influence like a son gets property through gift or sale from his aged and ailing father/mother or a brother from his sister, or a husband from his wife. There are many more instances like this. In that eventuality, the law developed and pronounced by this Court is that when a person challenges the validity of the transaction and instrument of transfer, it may be a registered document or a mutation. The filing of suit and after that making a statement before the Court on oath that he/she has not made the transaction and the instrument. In that eventuality, it is very clear

position of law that the onus to prove shifts and the beneficiary must prove the transaction as well as valid registration/attestation of document.

ii) A grown-up person having married and having a daughter pleads that he was abducted by the vendee who kept him 4/5 days and got the mutation attested and denied the transaction of sale in favour of the petitioner/vendee/defendant. In this case, it was the primary duty of plaintiff/respondent to prove the case pleaded by him.

Conclusion: i) The burden of proof lies on beneficiary, when the validity of a transaction and instrument of transfer is challenged based on undue influence.
ii) When there is no denial of signatures and appearance at the time of attestation of mutation but because of pressure and fear, the plaintiff must prove.

4. Supreme Court of Pakistan
Chairman, NADRA, NADRA Headquarter, Islamabad and others v. Abdul Majeed and another
Civil Petition No. 6059 of 2021
Mr. Justice Amin-ud-Din Khan, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 6059 2021.pdf

Facts: Respondent No.1 was appointed as a Naib Qasid in NADRA on a contract basis, and he joined his duty in March 2011. Later, a policy was introduced for the regularization of employees who had completed one year of service. However, the respondent was denied regularization due to a shortfall of three days in the required service period. Feeling aggrieved, he challenged this decision before the High Court, which ruled in his favor and directed his regularization. The petitioners have now filed this Civil Petition for leave to appeal against that judgment.

Issues: i) Whether a contractual employee of a statutory organization can invoke constitutional jurisdiction of the High Court under Article 199 of the Constitution of Pakistan, 1973?
 ii) Do contractual employees have any vested right to regularization?
 iii) What factors are to be considered for regularization?
 iv) Whether contractual employees can claim regularization as a vested right without departmental approval, policy, or statutory backing?
 v) What does Article 4 of the Constitution entail regarding the doctrine of equality before the law?
 vi) Is legal protection and fair treatment an inalienable right of every citizen?
 vii) Does Article 25 ensure equality before the law, non-discrimination, and equal opportunity without arbitrary distinctions?
 viii) What does the Objectives Resolution, mandate regarding equality, social justice, and economic justice as fundamental rights?
 ix). What does Article 38 of the Constitution mandate regarding people's well-being, equitable rights, and income disparity?"

- x) What obligation does Article 3 place on the State regarding exploitation and economic justice?
- xi) Should a disabled employee, serving satisfactorily on a contract for a considerable time, be regularized to ensure employment benefits?
- xii) What is disability-based discrimination, and how does it affect equal enjoyment of rights and freedoms?
- xiii) "How does Article 27 of United Nations Convention on the Rights of Persons with Disabilities, 2006 ("Convention") ensure equal employment rights and non-discrimination for persons with disabilities?
- xiv) "What is the primary objective of the Disabled Persons (Employment & Rehabilitation) Ordinance, 1981?
- xv) Does filing an ICA serve as a procedural rule without limiting the Supreme Court's constitutional jurisdiction?"

Analysis:

- i) The constitutional jurisdiction of the High Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution") could not be invoked by a contractual employee of a statutory organization.
- ii) Contractual employees have no vested right to regularization.
- iii) Regularization may be considered subject to fitness, suitability, and the applicable laws, rules, and regulations of the concerned Department.
- iv) No vested right accrues to the employees hired on a contractual basis unless there is a departmental decision, policy, or statutory backing and protection, and no automatic right to regularization can be claimed.
- v) Article 4 of the Constitution incorporates the doctrine of equality before the law and equal protection under it, ensuring that no action detrimental to the life, liberty, body, reputation or property of any person can be taken except in accordance with the law.
- vi) To enjoy the protection of law and to be treated in accordance with law is an inalienable right of every citizen.
- vii) According to Article 25 of the Constitution, all citizens are equal before the law and are entitled to equal protection of the law, and there shall be no discrimination on the basis of sex. The phrase "equal laws" accentuates that there should be no discrimination between individuals in the context and perspective of law and policy if both are evidently on the same footing. The periphery of our constitutional code mandates equality and ensures equal opportunity among persons substantially within the same class, without arbitrary distinctions or preferences.
- viii) The Objectives Resolution, made a substantive part of the Constitution by virtue of Article 2-A, unequivocally enjoins that the principles of equality, social justice, and economic justice, as enunciated by Islam, will be fully observed and guaranteed as fundamental rights.
- ix) The Principles of Policy contained in Article 38 of the Constitution also provide that the State should secure the well-being of the people by raising their standards of living and by ensuring equitable adjustment of rights between

employer and employees, and provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood, and reduce disparity in income and earnings of individuals.

x) The State is obliged under Article 3 of the Constitution, to ensure the elimination of all forms of exploitation and work towards the gradual fulfilment of the fundamental principle of “from each according to his ability, to each according to his work”.

xi) If a disabled person, initially appointed on a contractual basis, performs his duties for a considerable period of time to the satisfaction of his superiors/department, then proprietary demands that he should be regularized as a permanent employee so that he may reap all employment benefits, rather than being dragged on contractual basis perpetually

xii) Discrimination on the basis of disability means any distinction, exclusion, or restriction that impairs or nullifies the recognition, enjoyment, or exercise of all human rights and fundamental freedoms on an equal basis in the political, economic, social, cultural, civil, or any other field.

xiii) Article 27 of the Convention, which pertains to “Work and employment on an equal basis,” includes the right to gain a living through work freely chosen or accepted in a labour market and work environment that is open, inclusive, and accessible to persons with disabilities. It also prohibits the discrimination on the basis of disability in all matters concerning employment, including conditions of recruitment, hiring, continuance of employment, career advancement, and safe and healthy working conditions.

xiv) The foremost objective of the Ordinance 1981 is to protect and safeguard the overall interest of disabled persons, including provisions for employment commensurate with their capabilities and capacities to work.

xv) Filing an ICA is a rule of practice for regulating the procedure of the Court and does not oust or abridge the constitutional jurisdiction of this Court.

- Conclusion:**
- i) A contractual employee of a statutory organization cannot invoke constitutional jurisdiction of the High Court under Article 199 of the Constitution of Pakistan, 1973.
 - ii) Contractual employees have no vested right to regularization.
 - iii See above analysis No.iii.
 - iv) Contractual employees cannot claim a right to regularization without departmental approval, policy, or statutory backing.
 - v) Article 4 of the Constitution guarantees equality before the law and protects individuals from unlawful actions against their life, liberty, reputation, or property.
 - vi) Every citizen has an inalienable right to legal protection and fair treatment under the law.
 - vii) Article 25 guarantees equality before the law for all citizens, prohibits sex-based discrimination, and promotes equal opportunities within the same class.

- viii) The Objectives Resolution mandates the full observance of equality, social justice, and economic justice as fundamental rights in line with Islamic principles.
- ix) See above analysis No.ix.
- x) Article 3 obliges the State to eliminate exploitation and promote the principle of "from each according to his ability, to each according to his work."
- xi) See above analysis No.xi.
- xii) see above analysis No.xii.
- xiii) Article 27 of the Convention guarantees persons with disabilities the right to choose work in an inclusive environment and prohibits discrimination in all employment matters.
- xiv) The primary aim of the 1981 Ordinance is to protect the interests of disabled persons, ensuring employment opportunities that match their capabilities.
- xv) Filing an ICA is a procedural rule that does not limit the constitutional jurisdiction of Supreme Court.

5. Supreme Court of Pakistan

Muzammal Khan v. Inspector General of Police, Lahore and others

Mrs. Justice Ayesha A. Malik, Mr. Justice Malik Shahzad Ahmad Khan

https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1354 2023.pdf

- Facts:** Petitioner challenged judgment of Service Tribunal through which order regarding his dismissal from service was upheld.
- Issues:**
- i) What is difference between “wilful absence” and “legitimate absence” from duty?
 - ii) When a Tribunal or Court can intervene in punishment awarded by competent authority?
 - iii) What is the test for determining jurisdiction under Article 212(3) of the Constitution of Islamic Republic of Pakistan?
- Analysis:**
- i) Willful absence is when a person intentionally fails to show up for duty and does not attempt to even inform the department/competent authority of the reasons for the absence. There may be different eventualities due to which a person is compelled to be absent from duty, being circumstances beyond his control like illness, accident, hospitalization, but even in such circumstances, they are required to inform the department and seek permission for their continued absence. One can’t disappear from work without any information or contact and then suddenly re-appear and suggest that this act was not deliberate. A legitimate absence is one where the reasons are known and duly communicated, whereas willful absence is when the absence lacks a reasonable explanation and cannot be justified
 - ii) The award of punishment under the law is primarily the function of the competent authority and the role of the Tribunal or Court is secondary unless the punishment imposed on the delinquent is found to be unreasonable and contrary to law. The Tribunal or the Court intervenes due to the severity or nature of the penalty imposed by the competent authority by considering it unreasonable,

perverse, excessively harsh, or by exercising leniency, then such interference is based on the conclusion that the penalty is disproportionate to the proven misconduct as determined through the test of proportionality. However, interference with the penalty imposed by the department must be approached with caution and careful consideration, reserved for cases where the order is entirely perverse or so clearly disproportionate and excessive to the misconduct that allowing it to stand would be unfair, unjust, and inequitable.

iii) The test for determining whether a matter attracts the Article 212(3) jurisdiction of this Court is whether such matter qualifies as one of public importance. This means that it must extend beyond a private dispute or a purely factual controversy and have significant implications for the wider community or a class of civil servants. A legal issue may, therefore, qualify as a substantial question of law of public importance if it; (i) requires the interpretation of the law, rules, instructions, notifications or governmental policy; (ii) remains unresolved by this Court or is subject to ambiguity, conflicting interpretations, or requires a discussion of alternative perspectives; (iii) exposes a lack of clarity in the law, particularly where contradictory judicial precedents exist; or (iv) reveals a serious violation of due process that affects fundamental rights or procedural fairness under the Constitution.

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

6. Supreme Court of Pakistan
Muhammad Shakeel and others v. Additional District Judge, Faisalabad and others
C.P.L.A.4582/2023
Mr. Justice Yahya Afridi, CJ & Mr. Justice Shahid Waheed
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 4582 2023.pdf

Facts: The Family Court decreed the suit of respondent No.3 (Plaintiff) and ordered the petitioners/defendants (brothers of plaintiff's husband) to return the dowry articles except certain items, or to provide an alternative equivalent in value after a 40% depreciation deduction. The decree maintained till the High Court. Hence this Petition.

Issues: i) What is proper stage to take a plea of non-joinder of necessary party?
 ii) Whether in family cases a party, other than the spouses, can be impleaded?
 iii) Whether nature of jurisdiction of family court is inquisitorial or adversarial?
 iv) Who can invoke the jurisdiction of family court?
 v) On what touchstone a precedent/Judgment can be applicable in future cases?
 vi) While exercising the constitutional jurisdiction whether High court can scrutinize the decrees issued by lower courts in family matters?
 vii) In what circumstances an order of certiorari can be passed by superior court?

viii) What kind of issues comes exclusively in the purview of Family Court and the First Appellate Court?

Analysis:

- i) The legal principle at play here dictates that a plea of non-joinder must be articulated at the earliest possible moment in the proceedings, and the party raising such a plea is required to specifically identify the person or party purportedly omitted from the proceedings. If an objection regarding non-joinder is not presented promptly, it is considered to have been waived, thereby losing its merit.
- ii) To ensure the presence of the real defendant, power is also given to the Family Court to add such a person as a party to the dispute. This definition is liberal and extensive and is not confined only to spouses; rather, it gives a right and the prerogative to choose and implead in a suit as the defendant, the person against whom relief is sought.
- iii) The jurisdiction of the Family Court is inquisitorial in nature.--- The procedural framework established for the Family Court is notably inquisitorial rather than adversarial.
- iv) As such, it follows that any person demonstrating a legitimate interest in seeking legal remedies pertinent to the matters numerated in the schedule of the Family Courts Act of 1964 is entitled to invoke the jurisdiction of the Family Court. This inclusivity also encompasses any person against whom a cause of action regarding such disputes is alleged to exist and who is called upon to defend it.
- v) It is imperative to understand that a legal case holds authority solely concerning the specific issues it addresses and the conclusions it reaches. A judgment cannot be generalised beyond its context, as it is only applicable to the situation at hand and does not serve as a precedent for matters that lie outside its explicit scope. This principle underscores the limited applicability of judgments and reinforces the need for careful analysis when considering their implications in future cases.
- vi) It is important to note that even after the litigation concerning family disputes concludes at the appeal stage, the High Court retains the authority, under Article 199 of the Constitution, to scrutinise the decrees issued by lower courts.--- This supervisory role imposes clear limitations: specifically, it prohibits the High Court from reevaluating or questioning factual findings made by subordinate courts based on their assessment of evidence. The High Court does not engage in reviewing or reweighing evidence that underlies the decisions made by the Family Court or its First Appellate Court
- vii) A certiorari order is applicable when a Family Court or First Appellate Court acts in an illegal or improper manner while exercising its jurisdiction.--- Furthermore, certiorari orders can be granted solely when a clear error of law is evident on the face of the record; however, this does not extend to addressing errors of fact, regardless of their severity.

viii) Issues pertaining to the sufficiency or adequacy of evidence presented on specific points and the factual inferences drawn from such findings are relegated exclusively to the purview of the Family Court or its First Appellate Court.

- Conclusion:**
- i) The plea of non-joinder should be taken at earliest possible moment.
 - ii) A party in family cases, other than the spouses, can also be impleaded.
 - iii) The jurisdiction of family court is inquisitional in nature.
 - iv) Any person who has interest in seeking legal remedies can invoke jurisdiction of Family Court.
 - v) See above analysis No.v
 - vi) See above analysis No.vi
 - vii) See above analysis No.vii
 - viii) See above analysis No.viii

7. Supreme Court of Pakistan
Abdul Samad v. The State etc.
Criminal Petition No.972-L/2017
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 972 1 2017.pdf

Facts: Through this Criminal Petition, the petitioner has challenged the judgment of the High Court, whereby the petitioner's appeal against the conviction and sentence awarded to him by the Anti-Terrorism Court, was dismissed by the High Court.

Issues

- i) What is most important aspect, which has not been taken into consideration?
- ii) Whether the benefit of doubt accrues in favour of accused as matter of right or as a matter of grace?

Analysis:

- i) The most important aspect, which has perhaps has not been taken into consideration by the Trial Court as well as the High Court, is that the items allegedly recovered from the accused on 02.09.2014 happens to be of the same description as those mentioned in the newspaper dated 21.07.2014. It is quite strange that the prosecution has failed to mention the registration number of the vehicle from which the accused/ petitioner was arrested. Moreover, they did not associate the driver, conductor, or any one of the passengers of the said bus — nor did they even mention their names in the FIR. Even the detonators were sent for analysis after two days of their alleged recovery at the time of arrest as per the FIR, casting doubt on the prosecution's case.
- ii) It is settled law that where there is even a single circumstance which would create a reasonable doubt in a prudent mind about the accused's guilt, then the benefit of that doubt that would firstly accrue, as of right, in the accused's favour; and secondly, such single factor could be conclusive and form the basis of acquittal. The following paragraph from this Court's judgment in Tariq Parvez's¹ case is relevant:

"The concept of benefit of doubt to an accused person is deep-rooted in our country. For giving him benefit of doubt, it is not necessary that there should be many circumstances creating doubts. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused will be entitled to the benefit not as a matter of grace and concession but as a matter of right."

Muhammad Akram's² case further reiterates the principle of Tariq Parvez (supra) in the following terms:

"It is an axiomatic principle of law that in case of doubt, the benefit thereof must accrue in favour of the accused as matter of right and not of grace."

Conclusion: i) See above analysis No.i
ii) in case of doubt, the benefit thereof must accrue in favour of the accused as matter of right and not of grace.

8. Supreme Court of Pakistan
Muhammad Nasir Butt etc. v. The State etc.
Jail Petitions No.314 & 315/2017 and Crl.P.L.A.576-L/2017
Mr. Justice Jamal Khan Mandokhail, Mr. Justice Musarrat Hilali, Mr. Justice Naeem Akhter Afghan.

https://www.supremecourt.gov.pk/downloads_judgements/j.p. 314_2017.pdf

Facts: The petitioners were convicted for murder and related offenses. The trial court awarded one petitioner the death penalty under Section 302(b) of the Pakistan Penal Code (PPC), while another was sentenced to life imprisonment. The Lahore High Court upheld the convictions but converted the death sentence to life imprisonment. The petitioners challenged their convictions before the Supreme Court, while the complainant sought enhancement of the sentence.

Issues: i) What is the effect of dishonest improvements in statements of witnesses?
ii) Whether inconsistencies between the complainant's statement and the site plan undermined the prosecution's case?
iii) Whether lack of independent corroboration for the weapon's recovery rendered such recovery unreliable?
iv) Whether the prosecution's failure to produce the injured passer-by witness weakens its case?

Analysis: i) In their statements recorded at the trial, the complainant and injured have made dishonest improvements for assigning specific role to each accused, which creates serious doubt about the veracity of their testimony and it is not safe to place reliance on their statements. Reliance in this regard is placed on the case of "Muhammad Jahangir v. The State.

ii) The statement of the complainant is also suffering from material contradictions with regard to the standing position of both the injured as compared to the site plan and statements of the other witnesses due to which serious doubt has arisen about the presence of the complainant at the place of occurrence as well as about veracity of his statement.

iii) Due to non-association of any private witness of the locality to attest the recovery of alleged weapon of offence/lack of independent corroboration, the same is disbelieved. Reliance in this regard is placed on the case of ‘Muhamamd Ismail v. The State’.

iv) At the trial, the prosecution has not produced the injured passer-by Shehbaz and Abdul Jabbar who was mentioned to be an eye-witness of the occurrence by the complainant. An adverse inference is drawn under Article 129(g) of the Qanun-e-Shahadat Order, 1984 to the effect that had the above two witnesses been produced by the prosecution at the trial, they would not have supported the version of the prosecution.

- Conclusion:**
- i) Dishonest improvements creates serious doubt about the veracity of their testimony.
 - ii) See above analysis No ii.
 - iii) See above analysis No iii.
 - iv) Non production of the injured passer-by witness creates an adverse inference under Article 129(g) of the Qanun-e-Shahadat Order, 1984.

9. Supreme Court of Pakistan
Hashim Khan and others v. Mst. Musarat Begum and others
C.P.L.A.No.625-P of 2024
Mr. Justice Irfan Saadat Khan, Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._625_p_2024.pdf

Facts: The predecessor of the petitioner instituted a civil suit for declaration against the respondents, leading to ex parte proceedings. After recording ex parte evidence, an ex parte decree was issued. Respondents No. 1 to 3 then applied to set aside the ex parte judgment and decree, which the trial court accepted. The petitioners, dissatisfied, filed a revision petition with the Additional District Judge, but it was summarily dismissed. Subsequently, the petitioners filed a writ petition in the High Court, which was partially granted. Dissatisfied with the High Court's judgment, the petitioner has now filed the current petition.

Issues:

- i) What are the mandatory requirements for effecting substituted service?
- ii) What factors court should observe while taking up application seeking setting aside ex parte judgment and decree?

Analysis:

- i) Substituted service can only be effected when ordinary summons cannot be served or defendant deliberately avoids to receive summons of the Court and the Court is satisfied that service could not be effected through ordinary modes of service and that satisfaction can be achieved by recording statement of the process

server but as stated above nothing as such was undergone by the learned trial Court.

ii) The trial Court seized of the matter, while taking up application seeking setting aside ex parte judgment and decree, was right in observing that the process of issuance of proclamation without fulfilling the mandatory requirement is nullity in the eye of law; therefore, the superstructure built thereon would automatically collapse. Even, it is settled principle of law as well as demand and mandate of law that one should not be condemned unheard and every litigant(s) should be provided with fair opportunity to plead and defend his/her case by adhering to the principle of Audi Alteram Partem and technicalities should and ought to be avoided.

Conclusion: i) See above analysis No.i
 ii) Mandatory requirements should be fulfilled before process of issuance of proclamation, no one should be condemned unheard, every litigant(s) should be provided with fair opportunity to plead and defend his/her case and technicalities should and ought to be avoided.

10. Lahore High Court
Syed Hassan Murtaza v. Mariya Bano Khan and other.
Writ Petition No.78185/2023
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2024LHC6486.pdf>

Facts: The petitioner and respondent No.1 (mother) are Pakistani citizens who married and had three sons. The family resided in the UAE until 2020, after which they moved to Canada as permanent residents. In the year 2021, respondent No.1 allegedly abducted the children and brought them to Pakistan violating Ontario Court order. Petitioner invoked the constitutional jurisdiction of the High Court through this Petition and sought the recovery of the children alleging that respondent No.1 obtained the Guardianship Certificate and then permission to take the children abroad from the Family Court despite the fact that the children were in Canada.

Issues: i) Which is the core provision of the U.N. Convention on the Rights of the Child (CRC) and what does it obligate the States?
 ii) What are the dimensions of the concept of “best interests of the child” in light of General Comment No.14 (2013) and what do they have repercussions?
 iii) Under what circumstances can the High Court exercise its habeas corpus jurisdiction under Article 199 of the Constitution in matters involving the custody of minors?
 iv) What is the legal effect of a foreign custody order on custody proceedings in Pakistan?
 v) How does the welfare of the child’s principle under the Guardian and Wards Act, 1890, influence the court’s decision on interim and permanent custody?

- vi) What is the scope and limitation of the doctrine of election of remedies in custody disputes involving parallel proceedings before the Family Court and the High Court?
- vii) How does the non-enforceability of the Hague Convention between Pakistan and certain countries affect the adjudication of international child abduction cases?
- viii) To what extent can the High Court direct law enforcement agencies to recover minors in custody-related matters under its constitutional jurisdiction?
- ix) What is the significance of the concept of habitual residence in determining the jurisdiction and custody rights in international child abduction cases?

Analysis:

- i) The U.N. Convention on the Rights of the Child (CRC) is the most comprehensive international instrument safeguarding children's rights across all facets of their lives. At its core lies Article 3, which asserts that the best interests of the child must be the paramount consideration in all matters concerning them. This provision obligates States to ensure the protection and well-being of children under all circumstances, serving as a fundamental principle guiding policy and practice globally.
- ii) In General Comment No.14 (2013), the Committee on the Rights of the Child (the "CRC Committee") has stated that the concept of "best interests of the child" has three dimensions: (a) a substantive right, (b) a fundamental interpretative legal principle, and (c) a rule of procedure. The "substantive right" entitles the child to have their best interests assessed and prioritized whenever decisions affecting them are made. This right imposes an inherent obligation on States to ensure its implementation, which can be invoked directly before a court. As a "fundamental interpretative legal principle", the concept mandates that if a legal provision is open to more than one interpretation, the construction which most effectively serves the child's best interests should be chosen, guided by the rights enshrined in the Convention and its Optional Protocols. As a "rule of procedure", it requires that whenever a decision is to be made that will affect a specific child, an identified group of children, or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child requires procedural guarantees.
- iii) The Supreme Court of Pakistan has consistently maintained that the High Court's jurisdiction under Article 199(1)(b)(i) of the Constitution (and section 491 Cr.P.C.) should be sparingly invoked for the custody of minor children and only under specific circumstances. In *Nadia Perveen v. Almas Noreen and others* (PLD 2012 SC 758), the Supreme Court ruled that the High Court may entertain matters related to the custody of minor children while exercising its habeas corpus jurisdiction if the following conditions are met. Firstly, the children involved must be of very tender age. Secondly, they should have quite recently been snatched away from lawful custody. Lastly, there must be a real urgency in the matter. The Supreme Court further stated that even if these conditions are fulfilled, the High

Court may only regulate interim custody of the children, leaving the matter of final custody to be determined by the Family Court. It highlighted that the Family Court has ample powers to recover minor children and regulate their interim custody.

iv) In *McKee v. McKee*, [1951] AC 352, has had a lasting impact on the development of family law, especially in international disputes involving child custody (...) the Privy Council ruled that the order of a foreign court would yield to the welfare and happiness of the child. The comity of the courts demanded not its enforcement but its grave consideration. Even before Pakistan acceded to the Hague Convention, the country's courts consistently held that the decisions of foreign courts did not, by their own force, bar the filing of the application for the custody of minors, particularly when circumstances changed. A foreign court's order was one of the factors to be considered by the Family Court, but it was not conclusive of the controversy.

v) As adumbrated, the overarching principle in cases involving the question of custody is the determination of the welfare of the child, as enshrined in section 17 of the GWA. This provision explicitly directs courts to prioritize the child's well-being in accordance with relevant laws. Section 17(3) allows courts to consider the preferences of mature minors.

vi) The High Court's jurisdiction under Article 199(1)(b)(i) of the Constitution (and under section 491 Cr.P.C.) and the jurisdiction of the Family Court under the GWA are fundamentally distinct and serve different purposes (...) Given the above, the High Court's jurisdiction to issue a writ of habeas corpus is not affected by the pendency of the guardianship matter before a Family Court.

vii) Article 38 of the Hague Convention stipulates that any State may accede to the Convention. However, the accession will have effect only as regards the relations between the acceding State and those Contracting States that have accepted the accession (...) When a country accedes to the Convention, it does not automatically form a partnership with all the countries that have ratified or acceded to it. Instead, countries must accept another country's accession to the Convention according to the conditions described in the Convention before a binding treaty comes into being (...) Pakistan and Canada are both signatories to the Hague Convention. However, they have yet to reciprocally acknowledge each other's accession. Consequently, the Convention is not enforceable between them (...) Therefore, courts in Pakistan must differentiate between Convention and non-Convention cases when dealing with international child abduction cases.

viii) A writ of habeas corpus is not to be issued as a matter of course, particularly when it is sought against a parent for the custody of a child. There must be clear and compelling reasons for issuing such a writ. The Supreme Court criticized the tendency of High Courts to unhesitatingly involve law enforcement agencies in family matters, particularly when there is no criminal element involved and the child is under the lawful custody of a parent. The Supreme Court noted that such actions could cause unnecessary trauma and harassment to the affected parent, especially if the parent is the biological mother. Therefore, the High Court should

proceed with great care, caution, and restraint. It may exercise its constitutional jurisdiction only in exceptional circumstances, where all other measures have failed, and criminal actions such as forced removal, kidnapping, or abduction of the child are apparent.

ix) The determination of habitual residence is crucial in cases involving international child abduction because, as discussed above, it has a direct link with the question of child's welfare. Hence, it has been the subject of extensive judicial interpretation (...) According to Article 4, the Convention applies to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights (...) The underlying principle is that the most appropriate jurisdiction for custody disputes is typically the child's habitual residence before the abduction. This ensures that long-term decisions regarding their upbringing are made in the environment most familiar to them and by a court having access to the most relevant information.

- Conclusion:**
- i) The U.N. Convention on the Rights of the Child (CRC) obligates States to ensure the protection and well-being of children under all circumstances, serving as a fundamental principle guiding policy and practice globally
 - ii) There are three dimensions of the concept of the best interests of the child in General Comment No.14 (2013) and those are (a) a substantive right, (b) a fundamental interpretative legal principle, and (c) a rule of procedure.
 - iii) The High Court's habeas corpus jurisdiction under Article 199 should only be exercised in exceptional circumstances, primarily for interim custody, while final custody remains within the Family Court's domain.
 - iv) Foreign custody orders are not binding but are entitled to due consideration by Pakistani courts, with the child's welfare being the paramount consideration.
 - v) The welfare of the child is the overriding principle under section 17 of the Guardian and Wards Act, 1890, guiding both interim and permanent custody decisions.
 - vi) The High Court's constitutional jurisdiction and the Family Court's jurisdiction under the Guardian and Wards Act are distinct and can operate concurrently without excluding one another.
 - vii) The Hague Convention is not enforceable between Pakistan and Canada due to the lack of reciprocal acceptance, requiring Pakistani courts to treat such cases as non-Convention matters.
 - viii) The High Court must exercise great caution in custody-related habeas corpus petitions, intervening only in cases involving exceptional circumstances such as criminal conduct.
 - ix) Habitual residence is a significant factor in international child abduction cases, but it can be displaced by the need to protect the child from serious harm...
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11. Lahore High Court
Kakakhail Traders v. Province of Punjab and others
Writ Petition No.3661 of 2024
Mr. Justice Jawad Hassan
<https://sys.lhc.gov.pk/appjudgments/2025LHC183.pdf>

Facts: The petitioners, along with other bidders, participated in the pre-qualification process for the procurement of livestock under the "Livestock Asset Transfer to Rural Women in South Punjab" scheme for the financial year 2024-2025. Out of nine firms, only two secured the required 70% qualifying marks. The petitioners challenged their disqualification, alleging violations of the Punjab Procurement Rules, 2014, due to the issuance of a corrigendum that altered evaluation criteria. Whereas the respondents objected that the petitioners failed to meet the qualification criteria and did not exhaust alternative remedies before filing the petition.

Issues:

- i) Whether assumption of jurisdiction is a prerequisite for a court before adjudicating on the merits of a case?
- ii) Whether the allocation of cases to High Court Benches is regulated by predefined territorial limits and procedural rules?
- iii) Whether a High Court Bench can assume jurisdiction solely based on the petitioner's addresses, despite the cause of action arising elsewhere?
- iv) Whether a court can exercise jurisdiction or grant relief beyond the specific matters explicitly raised in the petition?

Analysis:

- i) The Supreme Court of Pakistan in its Judgment reported as "Government Of Sindh Through Secretary Education And Literacy Department And Others Versus Nizakat Ali And Others" (2011 SCMR 592) has held that every Court prior to taking cognizance and adjudicating upon an issue should first resort to the question of assumption of jurisdiction of the Court and if it comes to the conclusion that jurisdiction can be assumed only then it can adjudicate upon the issue.
- ii) In terms of Article 198(3) of the Constitution of Islamic Republic of Pakistan, 1973, Bahawalpur, Multan and Rawalpindi Benches of the Lahore High Court are constitutionally constituted Benches with the area assigned to them under Article 198(6) of the "Constitution". This exercise is undertaken in accordance with the Lahore High Court (Establishment of Benches) Rules 1981, Rule 3 whereof regulates the distribution of matters to be filed and heard by each Bench within the area assigned to it respectively.
- iii) The matter could not be entertained at the Rawalpindi Bench of the Lahore High Court merely because of addresses of the Petitioners at Rawalpindi and Islamabad. Since the subject matter of the titled petitions relates to the "Scheme" for South Punjab and all related ancillary activities in respect of procurement in question was also carried out by the Livestock Department of South Punjab; hence, these petitions cannot be adjudicated at Rawalpindi Bench of Lahore High Court.

iv) It is observed that these petitions were filed with a vague and unclear prayer. As mandated by Article 199(1)(1A) of the “Constitution”, introduced through Section 16 of the Constitution (Twenty-sixth Amendment) Act (the “Twenty-sixth Amendment”) on 21.10.2024, this Court cannot exercise jurisdiction or issue directives beyond the matters explicitly raised in these petitions.

Conclusion: i) Court prior to taking cognizance and adjudicating upon an issue should first resort to the question of assumption of jurisdiction.
 ii) See above analysis No ii
 iii) See above analysis No iii.
 iv) Court cannot exercise jurisdiction or issue directives beyond the matters explicitly raised in these petitions.

12. Lahore High Court
Muhammad Khalid Waseem v. Govt. of Punjab, etc.
Writ Petition No.72110 of 2024.
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC161.pdf>

Facts: The petitioner challenged the reference sent by office of the Registrar, Cooperative Societies, Punjab, transferring a case to the Anti-Corruption Establishment instead of conducting proceedings as directed by the NAB Court. The petitioner contended that the Registrar lacked such authority and that the case should be adjudicated under the provisions of the Cooperative Societies Act, 1925.

Issues: i) What is the procedure for inquiry and prosecution under the Cooperative Societies Act, 1925?
 ii) What are the offences and penalties prescribed under the Cooperative Societies Act, 1925?
 iii) Are offences under the Cooperative Societies Act, 1925, liable to a ‘penalty’ by the Registrar or ‘punishable’ by the court?
 iv) Is cognizance of offences under the Cooperative Societies Act, 1925, dependent on a complaint by the Registrar?
 v) Are officers of a cooperative society considered public servants, and what are the categories of Public Servants?
 vi) What is the appropriate judicial forum for trying offences under the Cooperative Societies Act, 1925?
 vii) Did the Registrar, Cooperative Societies, Punjab, have the authority to refer the case to the Anti-Corruption Establishment?

Analysis: i) On receiving a complaint, the Registrar, Cooperative Societies, can inquire into matters for appropriate actions under the law or for prosecution of offences. The course of complaint is mentioned in section 43 of the Cooperative Societies Act 1925. During such inquiry, Registrar while exercising powers under section 44, 44A, 44B can inspect books and properties of the society and recommend other

actions including removal of officers of society under section 44C, appropriate directions to Society under section 44D or taking of special measures under section 44E(...) such an exhaustive mechanism, which authorizes the Registrar to take down the entire society and protect and preserve the rights of claimants, is enough to achieve the necessary objectives, the Grievance Redressal provision in section 44F acts as a safeguard against the Registrar's powers that can be used arbitrarily. Even the Registrar has the power to order society to wind up, and then appointment of liquidator as authorized under section 47 to 53 of CSA 1925. A solution through arbitration pursuant to section 54 and onward is also in place in the CSA 1925.

ii) Above penal provisions reflect that maximum punishment is prescribed as five years' imprisonment with fine for offence under clause (i) of section 60, as ordained under section 61A of CSA 1925 (...) As per section 62A, penalty to imprisonment of six months with fine for contravening the provisions of sub-section 3 of section 44C or violation of any direction given by the Registrar under section 44-D; imprisonment to three years (not less than six months) with fine on contravention of order passed under section 44E, have been prescribed in CSA 1925. No punishment or penalty has been prescribed for offences under Clauses (a) to (h) of section 60 of CSA 1925, and it is mentioned in section 61 above that every officer or member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided in this Act shall be liable to a penalty not exceeding rupees one million. Similarly, every society guilty of an offence under this Act for which no penalty is expressly provided shall be liable to a penalty not exceeding rupees ten million. Section 61, sub-section (2) says that the Registrar or a person duly authorized by him shall be empowered to impose such penalty after affording an opportunity of hearing to the concerned. As per section 62, sub-section (2), whoever contravenes the provisions of such section, shall be punishable with fine which may extend to fifty thousand rupees and in the case of a continuing offence with further fine of five hundred rupees for each day on which the offence is continued after conviction therefor.

iii) Analysis of above penal provisions reflects that the offences under above Act are either liable to 'penalty' or 'punishable'; the two terms differ to each other in the sense that power of imposing penalty has been given to the Registrar or person authorized by him under the Act, whereas power to punish lies with the Court. Offences under section 60, clauses (a) to (h) are liable to 'penalty' only, whereas offences under sections 60, Clause (i), as well as under sections 62 & 62A are 'punishable'.

iv) As per section 63 of CSA 1925, cognizance of all offences punishable under the Act is subject to the complaint in writing to be made by the Registrar or by a person duly authorized by him for the purpose. However, for offences under section 62A, sub-section (2), cognizance was also kept open otherwise than on complaint by Registrar.

v) Section 65B of the Cooperative Societies Act, 1925, declares officers of a cooperative society as public servants as defined under Section 21 of the Pakistan

Penal Code, 1860. Officers include Chairman, Secretary, Treasurer, member of committee or other person empowered under the rules or under the by-laws of a society to give directions in regard to the business of such society, as defined under section 3(d) of the Act (...) I have focused on the definition of public servant defined in section 21 of Pakistan Penal Code 1860 which counts eleven broad categories including numerous other categories such as “every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty”. Explanation 1 of such section says persons falling under any of the above descriptions are public servants, *whether appointed by the Government or not*. This section clearly creates two broad categories of public servants; one who are on pay role of the Government means government servant or government employee, and others who have simply been assigned a public duty.

vi) It was year 1966 when Section 65B was inserted by the Co-operative Societies (Second Amendment) Ordinance, 1966 (XVII of 1966), neither the schedule of West Pakistan Anti-Corruption Ordinance 1961 nor the Pakistan Criminal Law (Amendment) Act 1958 was amended so as to encompass offences under CSA 1925, because it was a special Act dealing with those public servants who were not on the pay role of the government. In the same year however, for regulating the official conduct of government servants, the Punjab Civil Servants (Conduct) Rules 1966 were also framed. Members of a society are not the servant or employees of Government or the Registrar Cooperative nor they are dependent upon him for their pay or other emoluments, so as to expose them for departmental inquiries, because it is the duty of Anti-Corruption Establishment either to prosecute or recommend for departmental inquiries against the public servants with framed charge sheet as mentioned in the respective Disciplinary Rules and ancillary instructions, but no such indication is mentioned in CSA 1925, and inquiry under such Act can only be initiated by the Registrar at his own pursuant to section 43 on the complaint through the persons mentioned therein (...) but for members of a society, special penal provisions have been introduced through CSA 1925, and simultaneously a power of inquiry into the affairs of society also vests in the Registrar therefore, neither matters of cooperative societies can be inquired into nor prosecuted by the Anti-Corruption Establishment before the Special Judge supra because schedule attached to West Pakistan Anti-Corruption Establishment Ordinance 1961 & Pakistan Criminal Law (Amendment) Act 1958 does not contain offences under CSA 1925. In section 63 of CSA 1925, no Court is mentioned for trial of offence under such Act. Thus, to settle the anomaly that when no Court is mentioned in the respective special law, what Court should have jurisdiction, I have found section 29 of Code of Criminal Procedure 1898(...) Thus, offences under CSA 1925 can either be tried by the High Court or by any Court mentioned in the second schedule of Cr.P.C. The maximum sentence for offences under CSA 1925 is five years which according to second schedule of Cr.P.C. under the head, “Offences Against Other Laws” is triable by Magistrate first Class. Thus, for offences under CSA 1925

Registrar shall file complaint before the Court of Magistrate concerned. In the attending circumstance and the discussion made above, Anti-Corruption Establishment would have no authority to inquire or investigate the offences under CSA 1925. However, if any person is aggrieved of any act of members of Management Committee or Officers of society which is an offence under Pakistan Penal Code 1860 or under any other law relating to public servants provided such offences shall also be included in the Schedule attached to Pakistan Criminal Law (Amendment) Act, 1958, he can file a direct complaint before Special Judge appointed under said Act and the Special Judge if considers it appropriate can direct for investigation by any police officer in whose jurisdiction the offence was wholly or partly committed, as mentioned in section 5, sub-section (6) of Pakistan Criminal Law (Amendment) Act 1958(...) If during investigation it surfaces that besides scheduled offences, some offences under CSA 1925 have also been committed, the Special Judge can also try such offences as authorized by section 5, sub-section 7 of Pakistan Criminal Law (Amendment) Act 1958 but not without the sanction of Registrar Cooperative societies.

vii) In the light of above discussion, Registrar had no authority to send the case to Anti-Corruption Establishment for indirect transmission to the Court of Special Judge, rather pursuant to direction of NAB Court shall initiate the process for imposing penalty upon the petitioners or trial of offences punishable under the CSA 1925. Likewise in such situation Anti-Corruption Establishment was also not authorized to initiate the inquiry into the matter on the impugned reference of Registrar.

- Conclusion:**
- i) The inquiry and prosecution procedure under CSA 1925 are vested in the Registrar.
 - ii) See Above Analysis No.ii
 - iii) Certain offences under CSA 1925 are punishable while others are only subject to penalties.
 - vi) Cognizance of offences under CSA 1925 requires a complaint by the Registrar except for offences under section 62A, sub-section (2),
 - v) See Above Analysis No.v.
 - vi) Offences under the Cooperative Societies Act, 1925, are triable by a Magistrate First Class.
 - vii) The Registrar had no authority to refer the case to the Anti-Corruption Establishment.

13. Lahore High Court
Erum Shahzadi & another v. Additional District Judge, Sialkot & 04 others
W. P. No. 9573 / 2024
Mr. Justice Abid Hussain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC151.pdf>

Facts: The facts of the case are that a minor was given to his paternal relatives for adoption at birth with the consent of his biological parents. The biological mother

later claimed she was coerced into the arrangement and sought custody, arguing that the adoptive parents had wrongfully registered the child under their parentage. The lower courts ruled in favour of the biological mother, emphasising the welfare of the minor and the legal principle that an adopted child's parentage cannot be altered.

- Issues:**
- i) Is adoption permissible under Islamic law, and do biological parents have a preferential right to custody over adoptive parents?
 - ii) Do Muhammadan Law and Islamic principles prioritise biological parents over custodial parents in child custody matters?
 - iii) Is adoption permissible only when biological parents are unavailable, with child welfare as the prime consideration?
 - iv) Is there a need for legislation to regulate adoption in Pakistan?

- Analysis:**
- i) There is no cavil to the proposition that adoption is permitted under the principles of Islamic Law but compelling circumstances under which adoption was necessary are required to be established. It is well settled that Real Parents have preferential right qua custody of their child unless the welfare of the child demands otherwise. (...) Therefore, welfare of the Minor was compromised when a dubious arrangement of adoption was undertaken.
 - ii) Paras 352 and 354 of the Muhammadan Law confer the custody of a child to his natural parents on the touchstone of welfare, particularly, the mother who is bestowed with inbuilt and inherent love and affection for her child more than anyone else in the world. There is no reason to deprive the Minor from his entitlement to be raised by his Real Parents alongwith his siblings. Such an act is precisely according to the principles enunciated by Islam which does not treat custodial parents as the same or equal in contrast to biological parents.
 - iii) In cases where biological parents of a child are not available for any reason, whatsoever, naturally custody of such child has to be assumed by someone else in order to raise the child and it is in this context that adoption of the child is permissible. However, in any event, the fundamental and cardinal principle of welfare of the Minor remains the guiding principle to decide custody matters depending upon the facts and circumstances of each case.
 - iv) The facts of this case also underscore absence of any statutory dispensation qua adoption in Pakistan and corresponding need for regulating the law of adoption. There may be innumerable cases where adoption is imperative, therefore, it is necessary that a law is promulgated by the legislature spelling out the circumstances under which adoption of a child can take place, the procedure for adoption and the rights and obligations of the adopted child and the custodial parents so that questions regarding adoption can be regulated and adjudged, accordingly. The PD&NC Act falls short to achieve this objective due to its limited scope.

- Conclusion:**
- i) Adoption is allowed but does not override biological parents' custody rights.

- ii) Muhammadan Law prioritizes biological parents, especially the mother, in custody matters.
- iii) Adoption is justified only if biological parents are absent, with child welfare as the key factor.
- iv) Pakistan needs legislation to regulate adoption and define related rights.

14. Lahore High Court, Lahore
Gabriel Francis v. The Registrar, Lahore High Court, Lahore
Service Appeal No. 02 of 2020
Mr. Justice Muhammad Sajid Mehmood Sethi, Mr. Justice Rasaal Hasan Syed, Mr. Justice Abid Hussain Chattha,
<https://sys.lhc.gov.pk/appjudgments/2025LHC209.pdf>

Facts: Appellant preferred this Service Appeal against the impugned Decision and Notification whereby, the respondent while reconsidering its earlier decision of removal from service imposed the penalty of dismissal from service upon the appellant who granted post arrest bail to the accused in Narcotic case while relying on fake report of Chemical Examiner upon which disciplinary proceedings were initiated against the appellant on the charge of misconduct and the Inquiry Officer recommended imposition of major penalty of dismissal from service upon him.

Issues:

- i) Whether judicial orders are entitled to protection under the law, and to what extent such protection is available when allegations of mala fide intent or extraneous considerations are established?
- ii) Whether an officer can be compulsorily retired based on a general reputation of corruption, even in the absence of specific proven allegations in disciplinary proceedings, to uphold integrity and efficiency in public service?
- iii) Whether the imposition of a major penalty of dismissal from service is justified when an officer deviates from prescribed procedure, acts with mala fide intent for extraneous considerations, and has a general reputation of corruption?

Analysis:

- i) There is no cavil to the proposition that judicial Orders are sacrosanct and are accorded due protection under the Act, 1850 and under Section 75 of CNSA as well as other provisions of law. The principle of according protection to judicial Orders is well entrenched in our jurisprudence provided that are passed in good faith without an element of mala fide. However, there is no concept of complete and absolute immunity if extraneous considerations are vividly established. The principle was articulated by the Supreme Court of Pakistan in case titled, “Government of Sindh and others v. Saiful Haq Hashmi and others” (1993 SCMR 956)
- ii) There were undeniable facts through which it is established that the Appellant had acquired a general reputation of being corrupt. In cases where general reputation of corruption is attributed to an officer, the superior Courts have leaned in favour of imposing the penalty of compulsory retirement. This Tribunal in its recent Judgment in case titled, “Muhammad Afzal Zahid, Ex-Additional District

& Sessions Judge v. Lahore High Court, Lahore through its Registrar” (2025 LHC 123) after analyzing the Judgments passed by the Supreme Court of Pakistan and that in the Indian jurisdiction, expressed the view that in cases where specific allegations qua corruption in disciplinary proceedings against an accused officer are not proved but the general reputation of such officer of being corrupt is established, the punishment of compulsory retirement can be validly inflicted. The principle is based on the rationale that in order to maintain honesty and integrity among service personnel, improve efficiency in administration of justice and restore public confidence in State institutions, officers of doubtful integrity or suspected of corruption can be compulsorily retired where sufficient evidence is not available to dismiss or remove them from service after considering the employee’s length of service, the nature of offence and the context surrounding misconduct.

iii) In the instant case, however, three elements have conjoined i.e. the Appellant passed a judicial Order in deviation of prescribed procedure in the Circular and express mandate of CNSA; the Appellant passed judicial Order with mala fide intent for extraneous considerations which was proved on record in terms that the Appellant was in close contact with the accused persons who were beneficiary of bail granting Order; and the Appellant had acquired a general reputation of being corrupt. These elements taken together proved the charge against the Appellant and swayed the Authority to impose the major penalty of dismissal from service upon him.

Conclusion: i) See above analysis No. i
 ii) An officer can be compulsorily retired based on a general reputation of corruption, even in the absence of specific proven allegations in disciplinary proceedings, to uphold integrity and efficiency in public service
 iii) see above analysis No iii.

15. Lahore High Court.
Abdul Ghaffar v. Umar Farooq
R.F.A. No. 27 of 2020
Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC175.pdf>

Facts: The appeal challenges a decree passed in a summary suit under Order XXXVII of the Code of Civil Procedure, 1908, where the defendant, despite being granted leave to defend, failed to file a written statement, leading to an ex-parte judgment in favor of the plaintiff.

Issues: i) Can the contents of a leave to defend application be treated as a written statement under the Code of Civil Procedure, 1908?
 ii) What is the legal consequence of a defendant’s failure to file a written statement after being granted leave to defend in a summary suit?

Analysis: i) The learned counsel for appellant has referred to some cases where leave

application is treated as written statement, however, most of the said decisions are under special enactments, where legislature has specifically permitted to treat the contents of application, upon grant of leave, as written statement. Whereas, Rule 7 of Order XXXVII of the Code provides that save as provided by this Order, the procedure shall be the same as the procedure in suits instituted in the ordinary manner.

ii) Order VIII, rule 10 C.P.C. empowers the Court to pronounce judgment against the defendant or make such order in relation to the suit as it thinks fit where the party fails to file written statement within the time fixed by the Court. Rule 10 of Order VIII, C.P.C. is penal in nature and it is within the discretion of the Court to announce judgment even without recording evidence. In case of *Sh. Abdus Saboor and Brothers v. Ganesh Flour Mills Ltd.* (PLD 1967 Lahore 779) it was observed: 'Under rule 10, the Court has been given the discretion to 'pronounce judgment against' the defendant. It does not mean at all that the Court is to take any further steps to ascertain the truth of the contentions raised in the plaint. In the phrase 'pronounce judgment against him' the words 'pronounce' and 'against him' are significant. Once the Court decides to exercise the discretion under rule 10, it has to pronounce the judgment against the defendant.

Conclusion: i) No, the contents of a leave to defend application cannot be treated as a written statement unless explicitly provided by specific legislation or if it fulfills the requirements under Order VIII of the Code.
ii) The failure to file a written statement after being granted leave to defend can result in the court pronouncing judgment against the defendant without requiring further evidence.

LATEST LEGISLATION/AMENDMENTS

1. The Digital Nation Pakistan Act, 2025 was promulgated on 29-01-2025 for transformation of Pakistan into a digital nation, enabling a digital society, digital economy, and digital governance.
2. Vide The Prevention of Electronic Crimes (Amendment) Act, 2025 dated 29-01-2025, amendments in sections 2, 30D, 43, 43A, 51 & 55, insertion of chapters 1A, 1B, & 1C, 50A, 51A and substitution of section 30 are made in The Prevention of Electronic Crimes Act, 2016.
3. Vide The Punjab Protected Areas (Amendment) Act, 2025 dated 27-01-2025, amendments in sections 2, 17, 20, 26, 28 and insertion of section 3A and omission of section 4 & 28 are made in The Punjab Protected Areas Act, 2020.
4. Vide The Punjab Wildlife (Protection, Preservation, Conservation and Management) (Amendment) Act, 2025 dated 27th January 2025, amendments are made in sections 2, 5, 20, 21, 22, 38, substitution of sections 3, 10, omission of sections 4, 31, 32, 34, 35, 36 and insertion of sections 10-A, 10-B,

- 22-A to 22-D, 30-A to 30-I and 44-B are made in The Punjab Wildlife (Protection, Preservation, Conservation and Management) Act, 1974.
5. Vide The Punjab Alternate Dispute Resolution (Amendment) Act, 2025 dated 29-01-2025, amendments in sections 11, 21 & 21-A are made in The Punjab Alternate Dispute Resolution Act, 2019.
 6. Vide The Punjab Prohibition of Kite Flying (Amendment) Act, 2025 dated 29-01-2025, amendments in sections 2 to 5, omission of sections 4-A, 4-B, 4-C and 8-D are made in The Punjab Prohibition of Kite Flying Ordinance 2001.
 7. Vide The Probation of Offenders (Amendment) Act, 2025 dated 29-01-2025, amendments in sections 1, 2, 5, 7 and insertion of section 5-A are made in The Probation of Offenders Ordinance, 1960.
 8. The Punjab Education, Curriculum, Training and Assessment Authority Act, 2025 was promulgated on 29-01-2025 to transform, innovate and raise educational standards.
 9. The Punjab Water and Sanitation Authority Act, 2025 was promulgated for establishment of the Punjab Water and Sanitation Authority.
 10. Vide The Defence Housing Authority Rawalpindi (Amendment) Act, 2025 dated 29-01-2025, amendments in sections 1, 2, 3, 5, 6, 10, 11 and substitution of section 20 was made in The Defence Housing Authority Rawalpindi Act, 2013.
 11. The Punjab Establishment of Special Courts (Overseas Pakistanis Property) Act, 2025 was promulgated on 29-01-2025 for adjudication of petition in respect of immovable properties of overseas Pakistanis.
 12. Vide The Punjab Tianjin University of Technology Lahore (Amendment) Act, 2025 dated 29-01-2025, amendments in sections 3 & 4 are made in The Punjab Tianjin University of Technology Lahore Act, 2018.
 13. Vide The Mir Chakar Khan Rind University of Technology Dera Ghazi Khan (Amendment) Act, 2025 dated 29-01-2025, amendments in sections 3 & 4 are made in The Mir Chakar Khan Rind University of Technology Dera Ghazi Khan Act, 2019.
 14. Vide The Punjab University of Technology Rasul (Amendment) Act, 2025 dated 29-01-2025, amendments in Act XXIII of 2018, sections 3 & 4 are made in The Punjab University of Technology Rasul Act, 2018.
 15. Vide notification No.HP-II/9-11/2018(P-II) dated 16-01-2025, amendment is made in the schedule III OF The Punjab Border Military Police and Baluch Levy Service Rules, 2009.
 16. Vide notification No.SO(CAB-I)2-1/2025(ROB) dated 16-01-2025, amendments are made in first and second schedule in The Punjab Government Rules of Business, 2011.
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SELECTED ARTICLES

1. MANUPATRA

<https://articles.manupatra.com/article-details/INTERPRETATION-OF-STATUTES-FUNDAMENTAL-PRINCIPLES-AND-JUDICIAL-APPROACHES>

Interpretation of Statutes: Fundamental Principles and Judicial Approaches By Vijeeta Bhatia

This article discusses statute interpretation and its basic principles. Before understanding the basic principles of interpretation, it is important to understand the meaning, objective, and necessity of interpretation. In India, the legislature enacts the law with a definite purpose. A statute is therefore the formal expression of the will of the Legislature. Quite often, we find courts and lawyers busy unfolding the meaning of ambiguous words and expressions and resolving inconsistencies. The statute's language is to be understood in its true sense as the courts have to administer justice. Hence, it becomes necessary to ascertain the true meaning of the words used in the statutes. Interpretation therefore is defined as the process of ascertaining the true meaning of writings or intent of the framers of the statutes. Salmond defines it as "the process by which the courts seek to ascertain the meaning of the Legislature through the medium of authoritative forms in which it is expressed".

2. Lawyers Club India

<https://www.lawyersclubindia.com/articles/can-a-patient-sue-a-nurse-for-injuries-17419.asp>

Can a Patient Sue a Nurse for Injuries? By Yaksh Sharma

Patients sometimes wonder about their rights regarding injuries that occur during medical care. In certain circumstances, a patient can sue a nurse for injuries if negligence can be established. This may involve demonstrating that the nurse failed to provide the standard of care expected in their profession, leading to harm. The legal landscape surrounding medical malpractice is complex. Various factors, including the nature of the injury, the specific actions of the nurse, and the healthcare setting, influence the viability of a lawsuit. Understanding these elements is crucial for anyone considering taking legal action against a healthcare professional. In addition to medical records and evidence of the alleged injury, patients must also consider the role of hospital policies and oversight. Navigating these waters requires not only knowledge of health law but also guidance from legal professionals who specialize in medical malpractice cases.

3. MANUPATRA

<https://articles.manupatra.com/article-details/Gig-Economy-Challenges-and-Indian-Legal-Perspective>

The Gig Economy and Indian Law: Current Challenges and Opportunities By Tushar Kumar and Insha Afreen

The gig economy is an emerging sector that signifies a substantial shift from traditional employment models. It operates as a free-market system where businesses or individuals hire independent workers for a limited period to complete specific tasks. The term "gig" historically referred to short-term jobs undertaken by artists but now encompasses a broad spectrum of temporary work arrangements. This economy has gained prominence through the rise of digital platforms, which act as intermediaries, connecting workers with clients who seek their specialized skills. These platforms effectively bridge the gap between workers and employers, creating opportunities for short-term engagements. Under the Code of Social Security, 2020 (Section 2[35]), a gig worker is defined as someone engaged in tasks or work arrangements and earning money independently. This definition spans a wide array of roles, including food delivery personnel, freelance writers, rickshaw drivers, graphic designers, and other professionals offering project-specific expertise. The gig economy not only promotes flexibility and autonomy but also reshapes the conventional understanding of employment, paving the way for a dynamic labor market.

4. Lawyers Club India

<https://www.lawyersclubindia.com/articles/how-long-do-i-have-to-report-a-workplace-injury-17417.asp>

How Long Do I Have to Report a Workplace Injury? By Yaksh Sharma

Navigating the complexities of workers' compensation can be a daunting task for both employees and employers. In Georgia, the workers' compensation system is designed to provide crucial support to workers who are injured on the job, ensuring they receive necessary medical care and financial assistance during their recovery. This blog aims to demystify the intricacies of Georgia's workers' compensation laws, offering valuable insights and practical advice for those seeking to understand their rights and responsibilities. Whether you're an employee looking to file a claim or an employer aiming to stay compliant, this guide will provide you with the essential information you need to navigate the system effectively.

5. MANUPATRA

<https://articles.manupatra.com/article-details/The-Rise-of-Artificial-Intelligence-in-Arbitration-Exploring-the-Potential-and-Pitfalls-of-AI-Arbitrators>

The Rise of Artificial Intelligence in Arbitration: Exploring the Potential and Pitfalls of AI Arbitrators By Shreya Tiwari, Md. Almas Ahmar

Given the current state of technological development, this article evaluates the potential for artificial intelligence (AI) to function as an arbitrator. Acknowledging the lack of a unified AI definition, the study explores whether AI can fully replace human arbitrators or to what extent it can participate in arbitration processes. The research reviews issues arising from AI implementation in courts, assesses current AI models used in arbitration,

and provides a stage by-stage evaluation of AI integration in the arbitration process. It considers legal, ethical, and practical implications, addressing challenges such as fairness, transparency, accountability, data privacy, and algorithmic bias. The paper also weighs potential benefits like increased efficiency and cost-effectiveness. By incorporating these findings, the study highlights the necessity of continuing research, ethical standards, and regulatory oversight in this developing field and provides a fair evaluation of AI's present and future role in arbitration. It also offers a structure for the responsible integration of AI into the field of arbitration.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*

Volume - VI, Issue - IV

16 - 02 - 2025 to 28 - 02 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

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

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

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

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

Issues:

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

Analysis:

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

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

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

- Conclusion:**
- i) See above analysis No.i
 - ii) Workplace harassment and sexual harassment are deeply interconnected.
 - iii) See above analysis No.iii
 - iv) The Act provides a robust framework to combat harassment and promote safe, inclusive work environments.

2. Supreme Court of Pakistan
Oil & Gas Regulatory Authority, Islamabad v. Gas & Oil Pakistan Limited, Lahore and another
C.R.P.540/2023, C.M.A.5277/2023
Mr. Justice Munib Akhtar, Mr. Justice Jamal Khan Mandokhail, Mrs. Justice Ayesha A. Malik
https://www.supremecourt.gov.pk/downloads_judgements/c.r.p. 540 2023.pdf

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

Issues:

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

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

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

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

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

ii) See analysis No. ii.

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

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

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

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

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

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

- v) In what circumstances the de novo inquiry may be ordered?
- vi) In case of de novo inquiry, whether the Court or the authority can refer to or rely on conclusion or outcome of previous decision of inquiry?

Analysis:

- i) The powers of the Inquiry Officer and Inquiry Committee are accentuated under Rule 7 of the E&D Rules. For the purpose of an inquiry, the Inquiry Officer and the Inquiry Committee both have been conferred the powers of a Civil Court trying a lawsuit under the Code of Civil Procedure, 1908, in respect of (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) issuing commissions for the examination of witnesses or documents.
- ii) The proceedings under the E&D Rules are deemed to be judicial proceeding within the meaning of Sections 193 and 228 of the Pakistan Penal Code, 1860.
- iii) It is quite strange to note that even to prove or defend the charge of gross negligence and mismanagement, no opportunity was provided to the petitioners during the inquiry proceedings to conduct cross-examination of such witnesses who deposed against them which is a sheer violation of the principles of natural justice and due process of law.
- iv) A mere statement of any witness has no legal value unless he is subjected to cross-examination which cannot be envisaged as a concession. On the contrary, in fact, it is a vested right and a fundamental limb of the dogma of fair trial. During a regular inquiry, it is an unavoidable obligation of the inquiry officer to provide a fair opportunity of cross-examining the witnesses, without which it was not possible to fix responsibility for the charges of misconduct.
- v) These are directed in matters where, on the face of it, there are some serious procedural lapses and irregularities floating on the surface of the record in the trial of cases by the Courts or Tribunals or in the disciplinary proceedings/inquiries or the inquiries conducted under different laws, in which the well-enshrined principles of natural justice seem to have been violated, the findings are inappropriate or misdirected or based on surmises or conjectures, due to which it is not discernable whether the charges of misconduct are proved against the delinquent in the disciplinary proceedings triggered against him. In all such contingencies, the de novo trial or enquiry may be ordered or directed in order to meet the ends of justice and due process of law and further to ensure strict observance of the conditionality envisioned for fair trial under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973.
- vi) In a de novo trial or de novo disciplinary proceedings, the Court or the competent authority is not required to refer to or rely on any conclusion or outcomes of previous decisions or adjudications of courts or authorities that had earlier seized the matter referred for the de novo trial or inquiry.

Conclusion:

- i) See above analysis No.i
- ii) The proceedings under the E&D Rules are judicial proceedings.

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

4. Supreme Court of Pakistan
Bashir Ahmed Anjum v.
Province of Punjab thr. Chief Minister Punjab, Lahore & others
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 2013 2022.pdf

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

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

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

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

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

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

Issues:

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

Analysis:

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

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

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

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

6. Supreme Court of Pakistan
Commissioner Inland Revenue, Lahore v. M/s Azam Textile Mills Limited, Lahore
C.P.L.A.1369-L/2022
Mr. Justice Munib Akhtar, Mr. Justice Athar Minallah, Mr. Justice Shahid Waheed
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1369_1_2022.pdf

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

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

Issues:

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

Analysis:

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

Conclusion:

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

7.

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

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

Issues:

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

Analysis:

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

Conclusion:

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion: i) See above analysis No. i

10. Supreme Court of Pakistan
1. Asif Masih 2. Qasim Iqbal 3. Sajid Majeed v. The State
Jail Petition No. 481 of 2019
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 481_2019.pdf

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Conclusion:**
- i) The benefit of Section 14 of the Limitation Act, 1908 cannot be extended without proof of good faith and due diligence.
 - ii) An indolent person cannot be granted discretionary relief as limitation ensures finality in litigation.
 - iii) Delay may be condoned with a plausible and reasonable explanation for each day's delay.
 - iv) The government cannot be treated differently from an ordinary litigant.
 - v) See Above Analysis. v

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

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

- Issues:**
- i) What is duty of the Superintendent Jail under Rule 90 of the Pakistan Prisons Rules, 1894?
 - ii) How should Courts exercise their powers under Section 5 of the Limitation Act, 1908, to ensure technicalities do not obstruct justice?
 - iii) Who is the interested witness?
 - iv) Whether evidence of an eye-witness can be discarded due to relationship with deceased?
 - v) When ocular evidence has to be given preference over medical evidence, and whether the same alone is sufficient to maintain conviction of an accused?
 - vi) Who would be sufferer, if prosecution fails to prove the motive?
- Analysis:**
- i) Under Rule 90 of the Pakistan Prisons Rules, 1894, it is the duty of the Superintendent Jail concerned to facilitate the appellant in filing appeal within the prescribed period of limitation.
 - ii) The technicalities should not hamper the court of justice and the powers regarding condonation under Section 5 the Limitation Act, 1908, and should be liberally exercised to ensure administration of justice in its true spirit.
 - iii) An interested witness is one who is interested in the conviction of an accused for some ulterior motive.
 - iv) In absence of any ulterior motive/ animus for false implication of an accused, the confidence inspiring testimony of an eye-witness, whose presence with the deceased at the time and place of occurrence is established, cannot be discarded merely due to his relationship with deceased.
 - v) Where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused.
 - vi) It is by now well settled that once the motive is setup by the prosecution, but thereafter fails to prove the same, then prosecution must suffer the consequences and not the defence.
- Conclusion:**
- i) Under Rule 90 of the Pakistan Prisons Rules, Superintendent Jail 1894 is obliged to facilitate the convict prisoner in filing appeal within the prescribed period of limitation.
 - ii) Courts should exercise their powers under Section 5 of the Limitation Act, 1908, to ensure technicalities do not obstruct justice.
 - iii) See above analysis No.iii).
 - iv) See above analysis No.iv).
 - v) Trustworthy and confidence inspiring ocular evidence is given preference over medical evidence, which alone is sufficient to sustain conviction of an accused.
 - vi) The prosecution must bear the consequences if it sets up a motive but fails to prove it.
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- 14. Supreme Court of Pakistan**
Mst. Saeeda Begum. v. The State and another
Criminal Shariat Review Petition No. 2 of 2016
Mr. Justice Qazi Faez Isa, Mr. Justice Naeem Akhtar Afghan, Mr. Justice Shahid Bilal Hassan, Dr. Khalid Masud, Dr. Qibla Ayaz
https://www.supremecourt.gov.pk/downloads_judgements/crl.sh.r.p._2_2016.pdf

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

Issues:

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

Analysis:

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

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

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

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

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

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

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

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

Conclusion: i) See analysis No.i.

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

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

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

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

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

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

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

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

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

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

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

- ii) The Caretaker Federal Government by invoking jurisdiction under Section 230 of the Elections Act, 2017 and in terms of Section 3(3) & 3(5) of the Ordinance, 2000 amended Rule 7A of Rules, 2020 vide notification dated 13.09.2023 and thereafter appointed Chairman, NADRA with immediate effect and until further orders vide notification dated 02.10.2023... Subsequently, elected Federal Government in terms of Rule 17(1)(b) read with Rule 19(1) of the Rules of Business, 1973 endorsed the insertion of Rule 7(A) in the Rules 2020 and the appointment of Chairman, NADRA... The Caretaker Government, while exercising the powers conferred upon it under Section 230 of the Elections Act, 2017, read with Section 44 of the Ordinance, 2000, made an amendment to the Rules, 2020 by inserting Rule 7-A... The insertion of Rule 7-A in the Rules, 2020, and the appointment of Respondent No.6 were duly confirmed by the incumbent elected Federal Government through two separate notifications, both dated 28.03.2024, issued in terms of Rule 17(1)(b), read with Rule 19(1) of the Rules of Business, 1973... Both the Caretaker and incumbent elected Government, drawing strength from the aforementioned law, undertook all steps/actions, from the insertion of Rule 7-A in the Rules, 2020 to the issuance of the appointment notification of Respondent No.6 on 28.03.2024. Under the law *ibid*, the Federal Government, being the competent authority, had/has the power to make rules as well as to make appointment of Chairman NADRA.
- iii) Under Section 3(3) & (5) of the Ordinance, 2000, the Federal Government is competent to appoint the Chairman and Members of NADRA... The appointment of Chairman NADRA was made in accordance with these provisions.
- iv) The writ of quo warranto is issued determining the right of a person holding an office and directing him to disclose under what authority he is holding that office. The conditions which are essential for the issuance of writ of quo warranto are that the appointment under challenge must be to a public office and the said appointment has been made without the authority of law or in other words contrary to the relevant statutory provisions/rules.
- v) Judicial overreach occurs when the judiciary starts interfering with the functions of the executive. The learned Single Judge in Chamber, by setting aside Rule 7A of the Rules, 2020 and holding the appointment unlawful, engaged in judicial overreach, which is unwarranted by law.

- Conclusion:**
- i) No, the High Court does not have suo motu jurisdiction under Article 199 of the Constitution.
 - ii) Yes, the Caretaker Government has limited powers under Section 230 of the Elections Act, 2017, allowing short-term appointments.
 - iii) Yes, the appointment of the Chairman NADRA was made under the authority of the Ordinance, 2000.
 - iv) No, a writ of quo warranto cannot be issued as the appointment was made by the competent authority under statutory provisions.
 - v) Yes, interfering in executive function amounts to judicial overreach.
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18. Lahore High Court
Muhammad Riaz v. Arshad Ali, etc.
Civil Revision No.41323 of 2021
Mr. Justice Muhammad Sajid Mehmood Sethi
<https://sys.lhc.gov.pk/appjudgments/2025LHC363.pdf>

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

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

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

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

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

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

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

Issues:

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

Analysis:

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

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

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

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

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

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

- Conclusion:**
- i) Delay in FIR is justified if the complainant prioritizes saving the victim’s life, especially without enmity.
 - ii) See analysis No.ii.
 - iii) Exception-4 applies only to unpremeditated killings in sudden fights without undue advantage.

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

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

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

Issues:

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

Analysis:

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

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

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

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

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

- Conclusion:**
- i) Microfinance is an activity by NBFCs to a poor person having annual income equal to or less than Rs.1200000/-; or microenterprise having permanent work force of 10 or less.
 - ii) NBMFCs are registered as not-for-profit entities regulated SECP. MFBs are regulated by SBP, similar to conventional banks but adopted in the microfinance sector.
 - iii) MIO is a sector-specific law focused exclusively on microfinance institutions

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

iv) See above analysis (iv).

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

21. Lahore High Court

Azra Yasmin v. Judicial Magistrate Sec-30, etc.

Cr. Revision No.1836 of 2025

Mr. Justice Muhammad Waheed Khan, Mr. Justice Farooq Haider

<https://sys.lhc.gov.pk/appjudgments/2025LHC380.pdf>

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

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

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

Conclusion: i) See above analysis No. i

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

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

Issues:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Issues:

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

Analysis:

- i) Section 328 PPC shall only be applicable if the child is under 12 years of age, whereas Section 328A PPC, picks up child of every age under 18 years. Both the offences are cognizable yet offence under section 328 is non-bailable and 328A bailable as per second schedule of Cr.P.C. Section 328 PPC is limited to a situation when father or mother, or any person having care of such child, exposes or leaves such child in any place with the intention of wholly abandoning such child. This section is verbatim of original section 317 of PPC (...) Whereas Section 328A PPC inserted later in year 2016 though accommodates the act of abandoning the child yet it is wider in scope so as to cover assault, ill-treatment, neglect, or an act of omission or commission, that results in or have potential to harm or injure the child by causing physical or psychological injury to him. Thus, stands at different conceptual pedestal than to section 328 PPC.
- ii) In Islam, adulthood (or —Bulughl) is typically determined by the age at which a person reaches puberty, which varies among individuals. The Prophet (ﷺ) emphasized that a child is considered to have reached maturity when they experience signs of puberty, such as:
 - i. The onset of menstruation for girls.
 - ii. The growth of pubic hair or the production of semen for boys.
 Once a person reaches puberty, they are no longer considered a —childl in the Islamic sense, as they are then expected to fulfill the religious obligations such as prayer, fasting, and other duties, yet two laws cited above define the child as one who is under 18 years of age. Section 299 (a) PPC says, an ‘adult’ means a person who has attained the age of 18 years which means under 18 would be a child. PDNCA 2004 under section 3 (1) (e) says that —childl means a natural person who has not attained the age of eighteen years.
- iii) Two enactments are dealing with the offence as described in the FIR, yet Child Protection Court being creation of special law shall conduct the trial of such offence primarily under section 38 of PDNCA 2004 but depending upon the facts

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

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

“He is not one of us who does not have mercy on young children...”

(Hadith – Sahih Muslim)

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

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

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

- Conclusion:**
- i) S. 328 PPC is applicable when child is under 12 years of age and 328A for child of every age below 18. S. 328A is wider in scope even cover the assault, ill-treatment, neglect, or an act of omission or commission, 328A has different conceptual pedestal than s. 328 PPC.
 - ii) The age of puberty is the bottom line of adulthood in Islam; whereas, the law recognizes the majority above the 18 years of age.
 - iii) The Child Protection Court being special court is competent for trial of offences under PDNCA 2004 and applicability of CrPC & QSO is exempted but the Part-VIII (special offences relating to children) of the said Act would be dealt as per the procedure prescribed in the Code.
 - iv) In Islam the parents are responsible to protect their children not only from physical harm but also from spiritual harm. The state is also responsible to protect the vulnerable class of society.

24.

Lahore High Court

Maqbool Ali v. The State etc.

CrI. Misc. No. 3952-B/2025.

Mr. Justice Muhammad Amjad Rafiq

<https://sys.lhc.gov.pk/appjudgments/2025LHC376.pdf>

Facts:

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

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

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

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

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

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

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

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

- vi) Whether the documents produced during the course of proceedings in compliance with order of court, furnish the base of prosecution under section 195 Cr.P.C.?
- vii) Which law prescribes the procedure for declaration of tout?
- viii) Whether merits of the case can be touched upon while deciding pre-arrest bail petition

Analysis:

- i) If any person impersonates others, and in such assumed character becomes bail or security, or does any other act in any suit or criminal prosecution, he can be charged with offence under section 205 PPC.
- ii) For initiation of criminal proceedings and taking cognizance by the Court for such offence, a special procedure has been prescribed under section 195 of Cr.P.C(...) Section 205 PPC is listed in section 195 (1) (b) of Cr.P.C., as cited above, therefore, only the Court concerned can take cognizance of such offence (...) Even proceedings in such situation can also be initiated on the application of concerned Reader or Ahlmad. Even if it is found that bail bonds were forged and produced before the Court then section 195 (1) (c) Cr.P.C. would become operative because it clearly says that if any offence described in Section 463 or punishable under Section 471 PPC, is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, then cognizance is conditional upon the complaint in writing of such Court, or of some other Court to which such Court is subordinate (...) The Supreme Court of Pakistan has held in a case reported as “Ch. FEROUZ DIN Versus DR. K. M. MUNIR AND ANOTHER” (1970 SCMR 10) that Section 195 Cr.P.C clearly provides for the complaint by none other than the “such Court ” before which the document is given in evidence or produced.
- iii) Every document produced for the inspection of Court is called evidence, which qualifies production of bail bonds as well.
- iv) Offences mentioned in section 195 Cr.P.C., deal with administration of public justice which provides a full control and command on the situation to the Court concerned with a connotation that except Court, no other institution can enter into the public justice process for offences which have close nexus with the proceedings of the Court, therefore, sending the case to police for registration of FIR amounts to inviting intrusion into the administration of justice by the Court which runs against the intention of legislature for which section 195 of Cr.P.C was enacted.
- v) By all means, the bail bonds are documents and were produced before the Court in connection with proceedings for bail, therefore, provisions of Section 195, sub-section (1), Clauses (b) & (c) of Cr.P.C., are fully attracted in the matter, and for trial of such offences a special procedure has been prescribed under section 476 of Cr.P.C. (...) Thus, in such situation, registration of FIR was not the proper course.

- vi) Documents which are prepared and procured during the proceedings in compliance with the order of the Court, if found forged, shall fall within the ambit of section 195, sub section (1), Clauses (b) or (c) of Cr.P.C.
- vii) A special procedure for declaring any person as tout was in place as per section 36 of the Legal Practitioners Act 1879 amended by Act XI of 1896 and Act XV of 1926 alongwith rules framed in Chapter 13 of Lahore High Court Rules & Orders Volume-V, but now being regulated through section 59 read with section 2 (m) of the Legal Practitioners and Bar Councils Act, 1973 which prescribes a punishment of three years" imprisonment.
- viii) It has been held by the Supreme Court of Pakistan in the cases reported as "KHAIR MUHAMMAD and another versus The STATE through P.G. Punjab and another" (2021 SCMR 130), "JAVED IQBAL versus The STATE through Prosecutor General of Punjab and another" (2022 SCMR 1424), "MUHAMMAD UMAR WAQAS BARKAT ALI versus The STATE and another" (2023 SCMR 330) and "ABDUL REHMAN alias MUHAMMAD ZEESHAN versus The STATE and others" (2023 SCMR 884) that while dealing with petitions for pre-arrest bail, merits of the case can be touched upon and question of further inquiry can be stretched at this stage as well.

- Conclusion:**
- i) Section 205 PPC prescribes the aspect/situation when a person can be charged for the offence of "false personation for purpose of act or proceedings in suit or prosecution."
 - ii) Under section 195 Cr.P.C, a special procedure has been devised for initiation of criminal proceedings and taking cognizance by the or on the complaint of such court concerned; its Ahlmad or Reader as well.
 - iii) Every document produced for the inspection of Court is considered evidence including bail bonds.
 - iv) Listing of offences in section 195 CrPC is for the administration of public justice, to bar the private complaints for the offences having close nexus to the court proceedings.
 - v) FIR registration is not proper course as section 195(1)(b)(c) and 476 Cr.P.C prescribe a special procedure.
 - vi) Forgery of documents during the court proceedings falls within the ambit of section 195, sub section (1), Clauses (b) or (c) of Cr.P.C.
 - vii) Section 36 of the Legal Practitioners Act 1879 and Chapter 13 of Lahore High Court Rules & Orders Volume-V; section 59 read with section 2 (m) of the Legal Practitioners and Bar Councils Act, 1973, but action against tout is now regulated by section 59 read with section 2 (m) of the Legal Practitioners and Bar Councils Act, 1973.
 - viii) Merits of the case can be touched upon and question of further inquiry can be stretched at this stage as well.
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- 26. Lahore High Court**
The Chief Administrator of Auqaf, Punjab, Lahore and 02 others v. Muhammad Panah Nomani and 20 others
(Writ Petition No. 32834 of 2024)
Mr. Justice Abid Hussain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC259.pdf>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) It is imperative in terms of Regulation 5 of the Regulations 2024 and Rule 8 of the Rules 2014, that annual development plan by each procuring agency with respect to the procurement to be carried out in that fiscal year is devised within one month of the beginning of fiscal year and the same must be made public. This would rule out possibility of tinkering and/or manipulation in any tender at the time of inviting bids;
- (ii) (ii) There is an administrative and executive discretion vested in the procuring agency to formulate and design the procurement plan by grouping and/or splitting the works for the purposes of ensuring widest possible competition and obviating the possibility of favouritism, however, once the said discretion is exercised, through an annual development plan, the procuring agencies are obligated to adhere to the same without splitting and/or regrouping the same in terms of Rule 9 of the Rules 2014;
- iii) Adherence to Rule 8 of the Rules 2014 as to announcement of proposed annual procurement plan in a financial year is a legal obligation which stands as a bar and check upon the procuring agency to arbitrarily split and/or regroup the subject matter of procurement to tailor-make the same to extend favouritism; and
- (iii) A procuring agency should at least, at the planning stage, consider splitting of the work when it is tendering the same that are comprised of different geographical locations and different types of services/activities; and if it still decides to group them together in one contract then it should, at a minimum, state its reasons for doing so. This should be encouraged as a “best practice” amongst the procuring agencies to avoid any such challenges during the procurement process.

- Conclusion:**
- i) In order to prevent arbitrariness or favouritism the judicial review cannot be denied upon exercise of contractual powers of government bodies.
 - ii) The principle of level playing field could be protected by the principle of transparent and open competitive bidding.
 - iii) To ensure the widest possible competition is the core responsibility of the procurement agency.
 - iv) The fundamental right to freedom of trade, business or profession is not

absolute but is subject to qualification and restrictions prescribed by the law.

v) The procuring agencies are not under any statutory obligation for split bidding, splitting or regrouping of works against the annual procurement planning is prohibited.

vi) After scanning international procurement principles, no hard and fast rule could be spelt out, but the decision has to be made on case to case basis.

vii) See above analysis (vii)

28.

Lahore High Court

Sadia Yasmeen v. Zeeshan Ahmed etc.

T.A. No.76469/2024

Mr. Justice Anwaar Hussain

<https://sys.lhc.gov.pk/appjudgments/2025LHC266.pdf>

Facts:

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

Issues:

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

Analysis:

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

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

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

29.

Lahore High Court

Ch. Jang Sher v. Amanat Ali

Civil Revision No.17850/2019

Mr. Justice Anwaar Hussain

<https://sys.lhc.gov.pk/appjudgments/2025LHC354.pdf>

Facts:

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

Issues:

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

Analysis:

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

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

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

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

- Conclusion:**
- i) Filing an appeal does not suspend a conditional decree, the decree holder must still comply if consequences are specified.
 - ii) A decree is generally preliminary but becomes final if it includes a condition with automatic consequences for default.
 - iii) If a decree provides for automatic dismissal upon non-compliance, court intervention is unnecessary, and rescission is not required.
 - iv) An appeal continues the suit, but extending time for deposit depends on the case's specific circumstances.

30.

Lahore High Court

Mst. Tahira Altaf v. Mian Ghulam Dastgeer

Civil Revision No.37990/2024

Mr. Justice Anwaar Hussain

<https://sys.lhc.gov.pk/appjudgments/2025LHC293.pdf>

Facts:

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

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

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

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

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

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

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

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

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

- Conclusion:**
- i) A housewife is not required to prove the execution of a gift by her husband with the same standard of proof as a general donee.
 - ii) See above analysis No ii.
 - iii) A donee is required to prove all the ingredients of valid gift.
 - iv) See above analysis No iv.
 - v) See above analysis No v.
 - vi) See above analysis No vi.
 - vii) A gift, executed in favour of wife by husband would not place the onus on wife with the same standard of proof to prove the gift as is otherwise required from a donee.
 - viii) Under Order VI Rule 4, of the Code of Civil Procedure, 1908, in all cases in which the party pleading relies on fraud etc particulars shall be stated in the pleadings.

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

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

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

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

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

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

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

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

Issues:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Issues:

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

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

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

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

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

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

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

- Conclusion:**
- i) The absence of harm to the prime target casts doubt on the prosecution's version of events.
 - ii) The non-recovery of blood-stained clothes weakens the credibility of the prosecution witness.
 - iii) The failure to associate independent witnesses in the weapon recovery renders it inadmissible under law.
 - iv) Medical evidence alone cannot establish the identity of the assailant in an unwitnessed murder case.
 - v) The presence of a single doubt in the prosecution's case entitles the accused to the benefit of doubt.

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

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

Issues:

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

Analysis:

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

any such allegations, compelling a retired officer to defend official actions taken during service is unwarranted and legally unjustified.

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

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

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

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

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

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

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

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

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

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

- Conclusion:**
- i) Executive instructions cannot take precedence over statute.
 - ii) A mistaken or misleading job advertisement cannot be a ground for bypassing the statutory rules governing recruitment.
 - iii) Mere participation in a selection process does not confer a vested right to appointment.

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

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

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

Issues:

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

Analysis:

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

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

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

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

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

- Conclusion:**
- i) The reverse burden of proof under the CNSA does not exempt the prosecution from its duty to first establish a prima facie case.
 - ii) The prosecution must ensure an unbroken and secure chain of custody for seized contraband, any lapse undermines the reliability of forensic evidence.
 - iii) A break in the chain of custody raises serious doubts about the safe handling and transmission of evidence, weakening the prosecution’s case.
 - iv) The Punjab Police Rules 1934 require strict maintenance of Register No. XIX to record and track seized articles in police custody.
 - v) Even a single reasonable doubt in the prosecution’s case is sufficient to grant the accused an acquittal as a matter of right.

LATEST LEGISLATION/AMENDMENTS

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

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

SELECTED ARTICLES

1. MANUPATRA

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

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

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

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

2. Lawyers Club India

<https://www.lawyersclubindia.com/articles/navigating-the-complexities-of-domestic-violence-cases-17465.asp>

Navigating the Complexities of Domestic Violence Cases by Yaksh Sharma

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

3. MANUPATRA

<https://articles.manupatra.com/article-details/Understanding-Forbearance-to-Sue-Implications-for-Contractual-Rights>

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

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

4. Lawyers Club India

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

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

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

5. MANUPATRA

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

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

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

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

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*

Volume - VI, Issue - V

01 - 03 - 2025 to 15 - 03 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(01-03-2025 to 15-03-2025)

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

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1. **Supreme Court of Pakistan**
Zafar Iqbal & another v. Syed Riaz Hussain Shah & others.
C.P.L.A.3854/2024
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3854 2024.pdf

Facts: The Petitioners filed an eviction petition under Section 15 of the Punjab Rented Premises Act, 2009, asserting that the Respondent was their tenant under a tenancy agreement dated 21.03.2006, which the Respondent denied, alleging the agreement was false and fraudulent. The core dispute revolved around the existence of a landlord-tenant relationship and the proof of the tenancy agreement.

Issues:

- i) Whether a Rent Tribunal is bound to strictly follow the Qanun-e-Shahadat, 1984?
- ii) What legal principles should be followed by Rent Tribunal to ensure Fair trial and due process guaranteed under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973?
- iii) Does relaxed evidentiary procedure in rent matters serves any public policy objective if seen from socio-economic perspective?
- iv) Whether Rent Tribunal is bound to follow Article 17(2) and Article 79 of Qanun-e-Shahadat, 1984 for determining genuineness of the tenancy agreement?
- v) What presumption is drawn about the owner of property and its possessor when there is no evidence to the contrary?
- vi) What would be the period of tenancy when tenancy agreement does not fix any term?
- vii) What is the yardstick to determine bona fide requirement of landowner for personal use of property?

Analysis:

- i) It may be noted at the outset that a Rent Tribunal under the Act, like the Rent Controller under the West Pakistan Urban Rent Restriction Ordinance 1959, acts in a quasi-judicial capacity and does not function as a court of law in the strict sense of the term. Similarly, although Article 1(2) of the Qanun-e-Shahadat provides that it applies to all judicial proceedings in or before any Court, including a court-martial, tribunal, or other authority exercising judicial or quasi-judicial powers or jurisdiction, its applicability to proceedings before a Rent Tribunal under the Act is expressly excluded by Section 34 of the Act. Consequently, the provisions of the Qanun-e-Shahadat do not stricto sensu apply to proceedings before a Rent Tribunal under the Act, as the special law (the Act) prevails over the general law (the Qanun-e-Shahadat).
- ii) ... despite the non-applicability of the provisions of the Qanun-e-Shahadat to proceedings under the Act, a Rent Tribunal may, rather should, invoke the general principles of the law of evidence codified in the Qanun-e-Shahadat concerning relevancy, admissibility or weight of evidence when admitting and appraising evidence to decide disputed facts. Since a Rent Tribunal adjudicates upon civil rights and obligations in eviction proceedings, the parties thereto are entitled to a fair trial and due process under Article 10A of the Constitution of the Islamic

Republic of Pakistan. A fair trial and due process require that no material that does not constitute evidence should be relied upon. No fact in dispute may be established through material that is not testified by a competent witness. Likewise, where a document is produced in evidence, the fundamental question that arises is whether it is genuine. Therefore, even though the provisions of the Qanun-e-Shahadat may not strictly apply to proceedings under the Act, it will be unfair if a Rent Tribunal could rely on inadmissible material, such as hearsay, or base its decision on copies of documents without producing and satisfactorily proving the originals when they exist. This underscores the necessity for a Rent Tribunal to invoke and apply the general principles of the law of evidence codified in the Qanune-Shahadat to ensure fairness and due process in determining the civil rights and obligations of the parties in eviction proceedings. However, applying the general principles of the law of evidence does not mean that a Rent Tribunal must enforce all the provisions of the Qanun-e-Shahadat, as doing so would render Section 34 of the Act redundant and frustrate the legislative objective behind the very enactment of the Act—namely, the expeditious disposal of rent matters.

iii) From an economic and social perspective, relaxed evidentiary procedure serve critical public policy objectives. They reduce litigation costs, making the process more accessible to individuals who may lack the resources to comply with stringent evidentiary requirements. This, in turn, encourages investment in rental housing by providing landlords with a reliable mechanism to address disputes swiftly. At the same time, these rules protect tenants from unjust eviction and homelessness, thereby maintaining housing stability and social harmony. By addressing the inherent power imbalances between landlords and tenants, relaxed evidentiary rules promote equity and fairness, ensuring that the legal process does not become a tool for oppression or undue advantage. In sum, the relaxation of evidentiary procedure in rent proceedings is not merely a procedural convenience but a necessary measure to uphold the principles of justice, economic efficiency, and social welfare.

iv) In light of the above principles of law, when we examine Articles 17(2)(a) and 79 of the Qanun-e-Shahadat, it becomes evident that they do not embody general principles of the law of evidence but rather enact special provisions therein. A Rent Tribunal was, therefore, in no way bound to invoke and apply these provisions for the purpose of determining the genuineness of the tenancy agreement. Accordingly, we answer the question in the terms that a disputed tenancy agreement is not required to be proved in a proceeding before the Rent Tribunal under the Act, in accordance with the provisions of Articles 17(2)(a) and 79 of the Qanun-e-Shahadat.

v) As this Court has held in several cases, in the absence of any evidence to the contrary, the owner of a property, by virtue of his title, is presumed to be the landlord, and the person in possession is presumed to be the tenant of that property.

vi) As for Issue No. 2, we find that the tenancy agreement does not specify a fixed term. In such a situation, under Section 106 of the Transfer of Property Act 1882, the tenancy is deemed to be from month to month, terminable, on the part of either landlord (lessor) or the tenant (lessee), by fifteen days notice expiring with the end of a month of tenancy.

vii) As held by this Court in *Jehangir Rustom*, the statement of a landlord on oath—if consistent with the averments made in the eviction petition and neither shaken in cross-examination nor disproved in rebuttal—is sufficient to establish that the landlord’s requirement for personal use is bona fide.

- Conclusion:**
- i) The provisions of the Qanun-e-Shahadat do not stricto sensu apply to proceedings before a Rent Tribunal.
 - ii) See above analysis No. (ii)
 - iii) The relaxation of evidentiary procedure in rent proceedings is not merely a procedural convenience but a necessary measure to uphold the principles of justice, economic efficiency, and social welfare.
 - iv) A Rent Tribunal is not bound to apply Articles 17(2)(a) and 79 of the Qanun-e-Shahadat for the purpose of determining the genuineness of the tenancy agreement.
 - v) The owner of a property is presumed to be the landlord, and the person in possession is presumed to be the tenant of that property.
 - vi) In such a situation, under Section 106 of the Transfer of Property Act 1882, the tenancy is deemed to be from month to month.
 - vii) See above analysis No. (vii)

2. Supreme Court of Pakistan
Muhammad Nasir Ismail v. Government of Punjab through Secretary Law and Parliamentary Affairs Division, Lahore, etc.
C.P.L.A. 3062/2022
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3062 2022.pdf

Facts: On the charges pertained to wilful absence from duty, inefficiency, and misconduct, Disciplinary proceedings were initiated against petitioner under Section 5 of the PEEDA Act. Pursuant to a regular inquiry, a recommendation was made for his removal from service; however, he was instead awarded the major penalty of compulsory retirement by the competent authority. Aggrieved, the petitioner preferred an appeal before the appellate authority, which was dismissed vide impugned order. Thereafter, the petitioner assailed the impugned order by invoking the constitutional jurisdiction of the Lahore High Court, Lahore, through a writ petition, which was dismissed vide impugned judgment. Hence, the instant petition for leave to appeal.

Issues:

- i) What is the effect of the “proviso” on the general discretion of the competent authority to impose any one or more of penalties under Section 4, including in cases of absence from duty for less than a year?

- ii) Can the competent authority impose major penalty for absence from duty of less than one year, and what constraints apply?
- iii) What is the object of the principle of proportionality?
- iv) What is the test of assessing Proportionality?

Analysis:

- i) What is therefore the effect of the “proviso” on the general discretion of the competent authority to impose any one or more of penalties under Section 4, including in cases of absence from duty for less than a year? A “proviso” serves to qualify, restrict, or except a particular case from the generality of the main provision.³ Ordinarily, a proviso limits the scope of the principal provision.⁴ The second proviso to Section 13(5)(ii) restricts discretion of the competent authority when imposing a penalty in cases of prolonged absence (exceeding one year). In such cases, the competent authority must impose one of the three major penalties i.e., compulsory retirement or removal or dismissal from service—whichever it deems fit—if the charge stands proved against the officer. The proviso restricts and limits the general discretion of the competent authority under Section 13(5)(ii) only in case where there is a charge of absence from duty for a period of more than one year. The proviso has no application in other cases including cases of absence from duty for a period of less than one year, where the competent authority continues to enjoy its general discretion under Section 13(5)(ii) to impose any one or more of the penalties under Section 4 of PEEDA Act. Nonetheless, the exercise of such discretion must be structured, reasoned, and supported by cogent justification in accordance with the principles of proportionality and administrative fairness.
- ii) We, therefore, concur with the interpretation rendered by the High Court that the second proviso to Section 13(5)(ii) does not restrict the authority of the competent authority in imposing any of the three major penalties, even where the period of absence from duty is less than one year. However, where the competent authority elects to impose a major penalty in cases of absence from duty for less than a year, it must do so in accordance with the principle of proportionality.
- iii) The principle of proportionality, in the context of structured discretion, mandates that the exercise of discretionary power must be reasonable, balanced, and commensurate with the objectives sought to be achieved. It serves as a check against arbitrariness and excess, ensuring that disciplinary action remains fair, just, and legally sustainable.
- iv) Proportionality is assessed through a structured three pronged test⁵: First, whether the measure in question is suitable and bears a rational connection to the legitimate objective it seeks to achieve. Second, whether the measure is necessary, meaning no less restrictive or less onerous alternative exists to accomplish the same purpose. Third, whether the measure maintains a fair balance between the public interest and the rights of the individual, ensuring that the burden imposed is neither excessive nor oppressive in relation to the intended benefit.

Conclusion: i) The major penalty is required only for absence over one year, for shorter

absence the authority retains discretion but must justify its decision.

ii) A major penalty in cases of absence from duty for less than a year are allowed and must follow principle of proportionality.

iii) To check against arbitrariness and excess, ensuring that disciplinary action remains fair, just, and legally sustainable

iv) See above analysis No. iv.

- 3. Supreme Court of Pakistan**
Abdul Shakoor(deceased)through legal heirs v. Muhammad Hanif (deceased) through legal heirs, etc.
C.P.L.A. No.1808-L/2015
Mr. Justice Munib Akhtar, Mrs. Justice Ayesha A. Malik
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1808_l_2015.pdf

Facts: In first round of litigation, suit for deceleration was filed to get cancel the sale deed which was executed through attorney after the death of principal. The first suit was decreed and sale deed was cancelled. The appeal was also dismissed. In second round of litigation, the legal heirs of one of the defendant of first suit, filed suit for specific performance of pre-existing agreement to sell, which was decreed and appeal was failed. Resultantly, the revision was filed in the High Court by the present leave petitioner, which was dismissed. Hence, this leave to appeal before the Supreme Court.

Issues: i) What is effect and scope of an assignment?

Analysis: i) An assignment and a sale of immoveable property are not the same thing. The leave petitioner derived his claimed interest (which would, as a matter of law, be the title) through the sale of the land to him by the aforementioned Shafi during the pendency of the second suit. If at all valid, this was not an assignment but would be a sale, i.e., a divestment by Shafi of the whole of his claimed interest (which itself, as a matter of law, would be the title) in the suit land... To accept the leave petitioner as an assignee of an interest on the basis of the sale to him by Shafi in such circumstances would be to, in effect, recognize the creation of assignments in what could be (effectively) an endless chain, with each link being a attenuated claim than the one before it. The finding that Shafi was not a bona fide purchaser without notice set up an insuperable barrier which the leave petitioner could not surmount.

Conclusion: i) See analysis Para No. i.

- 4. Supreme Court of Pakistan,**
The Government of Balochistan through, Additional Chief Secretary Development, P&D Department, Quetta and another v. Muhammad Akhtar and others
Civil Petition No. 100-Q of 2023
Mr. Justice Amin-ud-Din Khan, Mr. Justice Muhammad Ali Mazhar,
Mr. Justice Syed Hasan Azhar Rizvi.

https://www.supremecourt.gov.pk/downloads_judgements/c.p. 100 q 2023.pdf

- Facts:** The respondents succeeded in a recruitment process but were not issued appointment letters. They filed a Constitution Petition, alleging the department intended to appoint others unlawfully. The High Court ruled in their favor, directing the department to issue appointment orders as recommended by the Selection Committee. The petitioner now seeks leave to appeal, challenging the High Court's decision.
- Issues:**
- i) Whether Selection/Recruitment Committee can subtract or add any post in the selection process?
 - ii) What is the mandate of the Selection Board or Recruitment Committee for recruitments and whether it can deviate from the terms and conditions of the advertisement published for the information of the general public?
 - iii) What are the key responsibilities of the Recruitment Committee?
 - iv) How the appointments are to be made under The Baluchistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979?
 - v) What is the precondition for appointment under The Baluchistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979?
- Analysis:**
- i) Neither can it subtract any post nor add any post in the selection process, but it is obligated to adhere to the terms of reference and conduct the recruitment process strictly for the sanctioned posts allowed to be included in the written test and interview by the candidates.
 - ii) The Selection Board or Recruitment Committee can only recommend the candidates for issuing offer or appointment letters who are strictly selected on merit for the sanctioned posts, without deviating from the terms and conditions of the advertisement published for the information of the general public.
 - iii) The key responsibilities of the Recruitment Committee are to first determine how many positions have been advertised for inviting applications; to scrutinize all applications for shortlisting; and to examine whether all required antecedents and credentials have been attached and vetted for the purposes of the initial shortlisting of applications; whether the applicant joined the competitive process and qualified the written test, if any such conditions is required to be complied with, then to assess the marks on merits; and subsequently, conduct the interview according to the merit list, awarding interview marks. The Recruitment Committee may also consider granting additional marks for additional/value added qualifications or experience as mentioned in the advertisement inviting applications.
 - iv) The Baluchistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979, framed pursuant to Section 25 of the Baluchistan Civil Servants Act, 1974, manifestly elucidate under Rule 3 that the appointments to posts shall be made by the method of promotion or transfer or by initial appointment.
 - v) The precondition is that the method of appointment and the qualifications and other conditions applicable to a post shall be as laid down by the Department

concerned in consultation with the Services and General Administration Department (“S&GAD”). This means that the Recruitment Committee must undertake the recruitment process according to the conditions outlined by the concerned department, in consultation with the S&GAD and they are bound to strictly follow the criteria fixed for appointments with the required number of posts, and they are obligated to complete the process and send recommendations without deviating from or departing from the benchmarks to achieve the goal.

- Conclusion:**
- i) Selection/Recruitment Committee cannot subtract or add any post in the selection process.
 - ii) See above analysis No.ii
 - iii) See above analysis No.iii
 - iv) See above analysis No.v.
 - v) See above analysis No.vi.

5. Supreme Court of Pakistan
Federation of Pakistan through Secretary Finance, Islamabad v. Muhammad Atiq-ur-Rehman and others
Civil Petition No. 687 of 2022
Mr. Justice Amin-ud-Din Khan, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 687 2022.pdf

Facts: The respondent was appointed through proper channel in a federal government department but was denied pay protection for prior service in an autonomous body. The Federal Service Tribunal allowed his claim for pay protection, which was challenged before the Supreme Court.

Issues:

- i) Whether an employee of an autonomous body, upon subsequent appointment in government service, is entitled to pay protection under Fundamental Rule 22?
- ii) Whether the benefit of pay protection can be claimed by employees of autonomous organizations that do not follow Basic Pay Scales (BPS)?
- iii) Whether a judgment rendered on technical grounds without deciding a question of law can operate as a precedent for similar cases?

Analysis:

- i) The appellant was an employee of the statutory autonomous body having switched over to Government Service is a different creed of employees and cannot claim the benefit of F.R.22 and F.R.22 (a)(i) or (ii) of 1992 which is applicable to Civil Servants on their appointment subsequently to another post as a Civil Servant.
- ii) In fact, as per policy, the employees of such autonomous organizations, established through a resolution are extended the benefit of fixation of pay in the manner set out in FR 22 on their subsequent appointment in the government service if they have adopted government pay scale scheme in totality. Furthermore, the employees of Atomic Energy Commission of Pakistan have SPS, therefore, they were not entitled for protection of pay in terms of policy

guidelines issued vide Finance Division's O.M.No.4(2)R-2/96 dated 12-08-2002.

iii) Even it failed to consider the five member judgment of this Court but only relied on its earlier judgment passed in Appeal No.1730(R)CS/2015, which was challenged in this Court but the civil petition was dismissed on technical grounds and no question of law was decided, rather this Court merely dismissed the petition due to non-availability of certain papers/notifications on record, which order in our view cannot be treated an order or judgment in rem but on the face of it an order in personam.

- Conclusion:**
- i) No, an employee of an autonomous body is not entitled to pay protection under Fundamental Rule 22 upon appointment in government service.
 - ii) No, employees of autonomous bodies that do not adopt Basic Pay Scales (BPS) are not entitled to pay protection on appointment in government service.
 - iii) No, a judgment rendered on technical grounds without deciding a question of law does not operate as a precedent.

6. Supreme Court of Pakistan
Adamjee Insurance Company Limited Petitioner(s) (In both cases) v. Techno International and others
Civil Petitions 202-L and 203-L of 2022
Mr. Justice Munib Akhtar, Mr. Justice Athar Minallah
https://www.supremecourt.gov.pk/downloads_judgements/c.p._202_1_2022.pdf

Facts: The petitioner-company filed two separate recovery suits by adopting the summary procedure provided under Order XXXVII of the Code of Civil Procedure 1908. The respondents filed applications for grant of leave to appear and defend the suits, trial court granted leave to appear and defend in two separate suits, subject to furnishing surety equivalent to the claimed amount; which orders were assailed but the Hon'ble High Court dismissed the civil revisions and upheld the trial court's orders. The petitioner-company has sought leave under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, to challenge the judgment passed by the Hon'ble High Court.

- Issues:**
- i) Essential contents and procedural requirements under Rule 3 of Order XXXVII of the Code of Civil Procedure.
 - ii) Whether the court have absolute discretion to impose conditions while granting leave to defend under Rule 3 of Order XXXVII of the Code of Civil Procedure?
 - iii) How has the court interpreted the principles governing the grant of leave to defend under Order XXXVII in light of the decision in Fine Textile Mills (PLD 1963 SC163)?
 - iv) Under what circumstances is the court justified in granting leave to defend in a suit under Order XXXVII, and what conditions may be imposed if the defence appears vague or doubtful?
 - v) Whether the court have unfettered discretion in imposing conditions while granting leave to defend under Order XXXVII, or are there guiding principles for its exercise?

- vi) What factors should the court consider while exercising discretion to impose conditions on leave to defend under Order XXXVII?
- vii) At what stage is the defendant required to substantiate their defense with evidence in a suit under Order XXXVII?
- viii) What grounds justify the grant of leave to defend under Order XXXVII?
- ix) Does the court have absolute discretion in granting conditional or unconditional leave to defend under Order XXXVII?
- x) When can the court grant only conditional leave to defend under Order XXXVII?
- xi) Does the court have exclusive discretion in deciding the form of security while granting conditional leave to defend under Order XXXVII?

Analysis:

- i) Rule 3 of Order XXXVII provides that the court shall, upon application by the defendant, give leave to appear and defend the suit, upon affidavits which disclose such facts as would make it incumbent on the holder to prove consideration, or such other facts as the court may deem sufficient to support the application. Sub-rule (2) of Rule 3 explicitly provides that leave to defend may be given unconditionally or subject to such terms as payment into court, giving security, framing and recording issues or otherwise as the court thinks fit
- ii) The leave to appear and defend the suit may be given unconditionally or the court in its discretion may impose conditions by way of subjecting the leave to appear and defend to such terms as payment in the Court or giving security in some other form. The grant of leave to appear and defend the suit, whether unconditionally or subject to condition, falls within the exclusive discretion of the court and it has to be exercised on the basis of the facts and circumstances of each case.
- iii) The principles regarding the exercise of discretion by a trial court in the context of granting leave to appear and defend the suit unconditionally or conditionally, as the case may be, have been enunciated by this Court in the case of *Fine Textile Mills*. This Court has observed that the principles upon which the provisions of Order XXXVII should be applied are not dissimilar to the principles which govern the exercise of the summary power of giving liberty to sign final judgment in a suit filed by a specially endorsed writ of summons under Order XIV of the Rules of the Supreme Court in England.
- iv) In a suit in the nature of one instituted under Order XXXVII where the defendant discloses upon his affidavit facts which may constitute a plausible defence or even show that there is some substantial question of fact or law which needs to be tried or investigated into, then the court would be justified to grant leave to appear and defend the suit...even if the defence set up by the defendant is vague or unsatisfactory or there is any doubt as to its genuineness, leave should not be refused altogether but, rather, the defendant should be required either to furnish security or to deposit the amount claimed in the court.
- v) No hard and fast rule can be laid down for determining the question as to how the discretion vested in the court to subject the order for grant of leave to defend

to conditions ought to be exercised as this question depends on the facts and circumstance of each case...laying down a rule for the exercise of powers in matters of discretion vesting in a court would be improper since the legislature itself has not placed fetters on how the discretion has to be exercised under sub-rules 2 of Rule 3 of Order XXXVII of the CPC.

vi) While exercising discretion it was necessary for the court to take into consideration the scope and object of the summary procedure of suit provided under Order XXXVII. If the Court is of the opinion that the defendant is attempting to prolong the litigation and impeding a speedy trial, then it would be justified to impose conditions.

vii) It has been further observed that it would be an improper exercise of discretion to impose conditions merely because the defendant at the leave stage has not been able to adduce his evidence on the pleas raised in his defense. The proper stage for substantiating and taking evidence would not be the leave granting stage but the subsequent trial proceedings.

viii) Where a fact disclosed by the defendant in the affidavit makes out a case for shifting the onus on the plaintiff to prove consideration of the instrument, then leave to defend ought to be granted. The leave could also be granted on any other ground or facts which the court considers sufficient to support the application for grant of leave to appear and defend the suit... ordinarily, leave would not be declined even in cases where the defence appears to be very weak or a sham one, because in such cases the grant of leave by a court can be made conditional.

ix) The grant of conditional or unconditional leave has been held to be a matter within the discretion of the court which is to be exercised keeping in view the facts and circumstances of each case and that no hard and fast rule could be laid down as to how it should be exercised by the court.

x) However, where the defense disclosed by the defendant in the affidavit is found to be illusory, or lacking bona fides, or is intended to delay the proceedings or is based on allegations of a vague and general nature relating to misrepresentation, fraud and coercion, without any supporting material, then leave may be granted conditionally i.e. by way of deposit of the amount claimed in the suit in the court or on furnishing of security for the same or on such other terms and conditions which the court may think fit.

xi) The nature of security which a court may order falls within its exclusive discretion and it has to be exercised on the basis of facts disclosed in the affidavits supporting the applications. No hard and fast rule can be applied in order to compel a court to order a particular form of security.

- Conclusion:**
- i) See above analysis No i.
 - ii) The grant of leave to appear and defend the suit, whether unconditionally or subject to condition, falls within the exclusive discretion of the court
 - iii) See above analysis No iii.
 - iv) See above analysis No iv.
 - v) See above analysis No v.

- vi) While exercising discretion it was necessary for the court to take into consideration the scope and object of the summary procedure provided under Order XXXVII.
- vii) The proper stage for substantiating and taking evidence would not be the leave granting stage but the subsequent trial proceedings.
- viii) See above analysis No viii.
- ix) The grant of conditional or unconditional leave has been held to be a matter within the discretion of the court.
- x) See above analysis No x.
- xi) The nature of security which a court may order falls within its exclusive discretion.

7. Supreme Court of Pakistan.
Aamir Akbar v. Additional Superintendent of Police, Bahawalpur, and others
Civil Petition No. 921-L of 2017
Mr. Justice Amin-ud-Din Khan, Mr. Justice Muhammad Ali Mazhar,
Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 921 1 2017.pdf

Facts: The petitioner was dismissed from service after a regular inquiry on allegations of misconduct. The departmental representation and service appeal met the dismissal.

Issues:

- i) What is the step by step procedure of inquiries under the Punjab Civil Servants (Efficiency & Discipline) Rules, 1999 (E&D Rules)?
- ii) What is the underlying aspiration of conducting departmental inquiries?
- iii) Whether a discreet inquiry could be equated with regular inquiry?

Analysis: i) Though the E&D Rules provide the procedure for conducting an inquiry, for better understanding, help, and assistance of the Inquiry Officer/Committee, the aforesaid guidebook has incorporated a step-by-step procedure to ensure that a fair and impartial inquiry may be conducted without any procedural lapses. The guidelines for the procedure to be abided by the Inquiry Officer/Committee are as under:

- “1) No party to any proceedings is to be allowed to be represented by a lawyer.
- 2) Where any witness is produced by one party, the other party must be allowed to cross-examine that witness.
- 3) If the accused fails to submit his explanation within the period prescribed in the charge sheet the inquiry officer/inquiry committee shall proceed with the inquiry and hear the case on day-to-day basis.
- 4) No adjournment can be given except for reasons to be recorded in writing.
- 5) Every adjournment has to be reported to the authority and normally no

adjournment shall be of more than a week.

6) If the inquiry officer/inquiry committee finds that the accused is hampering the proceedings it should administer a warning and if even that is disregarded, the inquiry should be completed in such manner as the inquiry officer/inquiry committee may think best in the interest of justice.

7) Absence from the inquiry on medical grounds. Unless medical leave is applied and is sanctioned on the recommendations of the Medical Board, absence from the enquiry proceedings shall be considered tantamount to hampering the progress of inquiry. The authority is, however, empowered to sanction medical leave up to 7 days without recommendations of the Medical Board.

8) In conducting an enquiry, the enquiry officer/committee exercises judicial or quasi-judicial functions. The enquiry officer/enquiry committee must act in a judicial spirit and manner in conformity to well recognized principles of natural justice without fear, favour or bias.

9) The enquiry officer/enquiry committee should not refuse to summon and examine the witnesses enlisted by the accused. All witnesses should be examined in the presence of the parties, enabling one party to cross-examine the witnesses of the other.

ii) The underlying aspiration of conducting departmental inquiry is to determine whether a case of misconduct is made out and whether the accused is found guilty by the Inquiry Officer/Committee. As a fact-finding forum, the learned Service Tribunal is obligated to ascertain whether due process of law or the right to a fair trial, as envisaged under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973, was followed. A regular inquiry cannot be considered or labelled a regular inquiry unless fair opportunity is provided to defend the charges.

iii) The learned Tribunal also failed to note some inherent defects in the inquiry, which are manifest in the report, and it hardly seems to be a regular inquiry. Even the letter dated 11.06.2015, whereby the major punishment of dismissal from service was imposed upon the petitioner, reflects that the Inquiry Officer conducted a discreet inquiry. It is evident from this disclosure that the department intended to hold a discreet inquiry rather than a regular inquiry, but without affording a proper opportunity, the petitioner was found guilty in an injudicious and heedless manner.

- Conclusion:**
- i) As per a guidebook compiled by S&GAD and assimilated in the Punjab Estacode, 2013, there are 09 step procedures for inquiries under E&D Rules, 1999.
 - ii) The underlying aspiration of conducting departmental inquiry is to determine whether a case of misconduct is made out and whether the accused is guilty.
 - iii) Discreet inquiry could not be a substitute of regular inquiry.
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8. **Supreme Court of Pakistan.**
Rashid and others v. The State
Criminal Appeal No. 282-L/2020
The State v. Talha
Criminal Petition 461-L/2015
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan,
Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 282_1_2020.pdf
- Facts:** The leave was granted by the august Supreme Court to look into the capital punishment confirmed by the Hon'ble High Court in a trial conducted by the Anti-Terrorism court.
- Issues:** i) What are legal requirements and relevant rules to conduct the identification parade of suspects?
- Analysis:** i) In our view, for proper dispensation of justice while carrying out identification parades, the parameters as enshrined under Article 22 of the Qanun-e-Shahadat Order, 1984 read with the High Court (Lahore) Rules and Orders Volume III, Chapter 11, Part C and Rule 26.32 of the Chapter 26, Volume 3 of the Police Rules 1934, have to be fulfilled. It was held by this Court in the case of Kanwar Anwaar Ali (PLD 2019 SC 488) that identification parades have to be held within the shortest possible period, whereas in the instant matter, admittedly, the said parade took place two months after the occurrence (as is evident from deposition of Rafla Atta, PW-9). Reliance is also placed upon a judgment of this Court titled Subha Sadiq vs The State (2025 SCMR 50) (authored by one of us namely Athar Minallah, J) in which it was expounded in an elaborate manner the parameters required for a proper procedure to be adopted while conducting identification parade.
- Conclusion:** i) The identification parades are to be conducted in line with the guidelines provided by the apex court in 2025 SCMR 50, PLD 2019 SC 488 and the Lahore High Court, Rules & Orders Volume III, Chapter 11, Part C and Rule 26.32 of the Chapter 26, Volume 3 of the Police Rules 1934.
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9. **Supreme Court of Pakistan**
Tariq Mehmood v. The State
Criminal Appeal No. 29 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. 29_2023.pdf
- Facts:** The appellant was convicted and sentenced to death for a double murder based on a judicial confession and recovery of weapon during investigation. The High Court upheld the conviction and confirmed the death sentence, which was challenged before the Supreme Court.

Issues:

- i) Whether recovery of crime weapon and forensic matching, when conducted contrary to law, can be considered valid evidence?
- ii) Whether a judicial confession without reflection time and verification of voluntariness is admissible for conviction?
- iii) Whether conviction can be sustained when the prosecution fails to prove motive for the alleged offence?

Analysis:

- i) Though, it was averred by the prosecution that after arrest, the accused led the police party to the designated place from-where the crime weapon, matching with the empties recovered from the crime spot, however, equal true is the fact that the empties and the crime weapon were sent together to the FSL, which is contrary to the law.
- ii) It is also an admitted position that though the confessional statement was recorded before the Judicial Magistrate on 26.06.2004 however, the replies in the memorandum were recorded without giving any extra time to the accused to think over the matter before confessing his guilt. It is also an admitted position that Muhammad Asif Khan, Additional Sessions Judge, who recorded the confession statement of the accused did not examine the accused physically to check whether he was tortured by the police or not.
- iii) The most crucial aspect of the case, in our view, being that the prosecution has miserably failed to prove any motive in the instant matter. It has nowhere been stated as to what prompted the accused to kill the two brothers as neither was there any enmity alleged to be between the parties nor there was any report with regard to any scuffle which took place between them prior to the incident.

Conclusion:

- i) No, weapon recovery and forensic evidence obtained through an unlawful process cannot be considered valid evidence.
- ii) No, a judicial confession without reflection time and verification of voluntariness is inadmissible for conviction.
- iii) Non-proving a motive cast doubt on the prosecution case

10. Supreme Court of Pakistan
Mst. Humaira Wazir v. Muhammad Faisal and others
Civil Petition No. 344-P/2022
Mr. Justice Yahya Afridi, Mr. Justice Irfan Saadat Khan

https://www.supremecourt.gov.pk/downloads_judgements/c.p. 344 p 2022.pdf

Facts: Petitioner sought restitution of conjugal rights and recovery of dower, dowry articles, gold ornaments, a share in a house, maintenance allowance, and a loan amount; Family Court granted partial relief, ordering the defendant to provide a house, pay Rs. 2 lac, return dowry items, and pay maintenance. On appeal, the Appellate Court upheld most findings and additionally granted 25 tolas of gold and a Shari share in the ancestral property. The High Court later ruled that the snatching of gold was unproven but upheld the petitioner's right to her Shari

share, maintenance, and dowry items. The petitioner now seeks leave to appeal against this judgment.

Issue: Whether petitioner's claim for a specific share in property, as dower under the Nikahnama, is legally enforceable?

Analysis: It also remains an admitted fact, that neither at the time of Nikah nor after its culmination, any objection was raised by the petitioner with regards to the entry made in column No.16 of the Nikahnama on the basis that it was vague and that there was no mention of any particular house or address in the said entry. She also admitted in her deposition, that she never demanded or asked from the respondent, that in which ancestral property did he have his share, so as to entitle the petitioner to claim her right in that property. Therefore, the High Court was correct in observing that columns No.13 and 16 of the Nikahnama entitles the petitioner to have shari share in the ancestral property, which the respondent was bound to provide her, without any exception.

Conclusion: Petitioner's claim for a specific share in property, as dower under the Nikahnama, is legally enforceable.

11. Supreme Court of Pakistan
M/s Muhammad Faisal Prop, F.A. Traders, Lahore v. Commissioner Inland Revenue, Zone-II, RTO-11, Lahore
Civil Petition No. 2100/2024
Mr. Justice Yahya Afridi, CJ, Mr. Justice Irfan Saadat Khan
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2100 2024.pdf

Facts: The petitioner, a dealer/distributor of a manufacturing company, was subjected to tax proceedings after failing to disclose certain purchases. The High Court upheld the orders of the tax authorities, leading to the petitioner challenging the decision.

Issues:

- i) Whether the High Court was required to adjudicate upon the issue of limitation before deciding the matter on merits?
- ii) Whether an appeal suffering from defects that are not removed within the limitation period becomes time-barred?
- iii) Whether a court can imply condonation of delay in the absence of an express order?

Analysis:

- i) Though the High Court has passed the order on the merits of the case but it could not be denied that it has failed to discuss the averments of the CMA with regard to the limitation by specifying whether the same was allowed or rejected; which the High Court ought to have decided as a preliminary issue, duly raised by the petitioner in his objections to the said CMA.
- ii) It is a settled proposition of law that if objections raised by the office of the Court were not removed within the time specified by the office and in the meantime limitation for filing the appeal stands expired, the appeal would be rendered as time barred.

iii) We also do not agree with the Department, that the CMA was impliedly allowed by the High Court, as it is a trite principle of law that a vested right can only be taken away through express legislation and not by implication.

Conclusion: i) The Court should have expressly ruled on the issue of limitation before deciding on the merits of the case.
 ii) Since the defects in the appeal were not remedied within the limitation period, the appeal was rendered time-barred.
 iii) The High Court could not imply condonation of delay without an explicit decision addressing the matter.

**12. Supreme Court of Pakistan,
 Rana Muhammad Yameen and another v. Muhammad Jamil (decd.)
 through L.Rs. and others
 Civil Appeal No.151-P of 2013 & C.M.A.Nos.11-P of 2014, 213-P of 2017,
 530-P of 2018 & 2570 of 2024.
 Mr. Justice Shahid Waheed, Mr. Justice Shahid Bilal Hassan,
 Mr. Justice Aamer Farooq.
https://www.supremecourt.gov.pk/downloads_judgements/c.a._151_p_2013.pdf**

Facts: Respondents No.1 to 6, claiming to be the legal heirs of the original allottee, who died while migrating to Pakistan in 1947, filed a suit for declaration of ownership through inheritance and nullification of the land transfer, alleging that respondent No.7 fraudulently transferred the land to the appellants and respondent No.8 using a fake power of attorney. The suit was dismissed by the trial court, and the appeal also failed. However, the High Court, upon accepting the revision petition, decreed the suit in favor of the respondents. Now the appellants have filed this appeal under Article 185(2)(d) of the Constitution of Pakistan, 1973 challenging the said judgment and decree.

Issues: i) What is the legal requirement for proving claims made in pleadings?
 ii) Under what circumstances can the High Court interfere with concurrent findings in revision?

Analysis: i) It is an established principle of law that mere taking a stance and pleading a fact in the plaint or written statement is not sufficient, rather the same has to be proved by leading unimpeachable, confidence inspiring and solid evidence, direct or secondary (after obtaining permission by moving application in this respect).
 ii) Though the High Court has ample powers to undo and disturb the concurrent findings of the trial Court and first appellate Court in exercise of revisional jurisdiction under section 115, Code of Civil Procedure, 1908, but, if the same are found to be based on any illegality or irregularity and wrong exercise of jurisdiction.

Conclusion: i) Pleadings must be proved with unimpeachable, confidence-inspiring, and solid evidence.

ii) The High Court can interfere in concurrent findings in revision only in cases of illegality, irregularity, or jurisdictional error.

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- 13. Supreme Court of Pakistan**
Muhammad Ehsan Shah v. The State through A.G. Islamabad and another
Criminal Petition No.231/2021
Mr. Justice, Muhammad Hasham Khan Kakar, Mr. Justice Ishtiaq Ibrahim.
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 231 2021.pdf
- Facts:** The petitioner through this Criminal Petition has called in question the validity of judgment of High Court.
- Issues:**
- i) What is the role of medical evidence in a criminal case, and why is it considered only a corroborative piece of evidence?
 - ii) Whether recovery of the crime weapon in absence of blood- stains and Chemical Examiner's report is helpful for the prosecution?
 - iii) Whether a single reasonable doubt arising from the prosecution evidence, is sufficient for the acquittal of the accused?
- Analysis:**
- i) It is also by now a settled law that medical evidence is just a corroborative piece of evidence which does not identify the assailant. At the most medical evidence is a supporting piece of evidence because it may confirm the ocular account evidence with regards to the receipt of injury, its locale, kind of weapon used for causing the injury, duration between the injury and the death but it would not tell the name of the assailant.
 - ii) The alleged recovery of crime weapon from the room of the petitioner is also not helpful for the prosecution as the same was not stained with blood and as such no report of Chemical Examiner and Serologist is available on the record.
 - iii) It is well established principle of Criminal justice that there is need of so many doubts in the prosecution case rather any reasonable doubt arising out of the prosecution evidence pricking the judicial mind is sufficient for acquittal of the accused.
- Conclusion:**
- i) Medical evidence is merely corroborative, confirming injury details but not identifying the assailant.
 - ii) See above analysis No.ii.
 - iii) A single reasonable doubt arising from the prosecution evidence is sufficient for the acquittal of the accused.
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- 14. Supreme Court of Pakistan**
Syed Muhammad Ali Jaferi v. The State and another
Criminal Petition No. 94/2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 94 2025.pdf

Facts: Petitioner filed the petition under Article 185(3) of the Constitution as High Court denied his post-arrest bail on the allegation that he hacked complainant's Gmail

account, accessed private images, and disseminated them on social media to blackmail and intimidate her and family.

- Issues:**
- i) Whether the petitioner's continued incarceration in a marital dispute serves the interest of justice or constitutes legal harassment?
 - ii) Whether the petitioner is entitled to bail when the alleged offenses fall outside the prohibitory clause of Section 497 Cr.P.C. and no exceptional circumstances exist for refusal?

- Analysis:**
- i) In cases involving marital disputes, the court must balance the interests of justice with the need to ensure that the legal process is not used as a tool for harassment. The allegations in this case, while serious, arise from the private dispute between the parties, and the petitioner's continued incarceration may not serve the interest of justice.
 - ii) The offences alleged in the FIR fall outside the prohibitory clause of section 497 Cr.P.C, the maximum punishment of imprisonments whereof are five years and three years respectively. The petitioner is behind the bars for the last 2/3 months. Grant of bail in suchlike cases is a rule and refusal is an exception. No exceptional circumstances have been pointed out to refuse the concession of bail to the petitioner.

- Conclusion:**
- i) Petitioner's continued incarceration may not serve the interest of justice and cannot be used as a tool for harassment in a marital dispute.
 - ii) See analysis No. ii.

15. Supreme Court of Pakistan
Tanvir Hussain v. The State.
Jail Petition No. 235 of 2021
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.m.a. 714 2023.pdf

Facts: The petitioner was convicted under Section 302(b) PPC for murder and sentenced to death, later modified to life imprisonment by the High Court. He sought leave to appeal before the Supreme Court, the court also reviewed a compromise deed submitted during the proceedings.

- Issues:**
- i) Whether minor contradictions in witness testimonies affect their credibility?
 - ii) Whether the occurrence in broad daylight among known parties affects the possibility of mistaken identity?
 - iii) Whether the share of minor legal heirs in Diyat remains protected despite a compromise by other legal heirs?
 - iv) Whether a convict unable to pay the Diyat amount due to financial constraints has any legal remedies under the law?

Analysis: i) They remained consistent on each and every material point. The minor

contradictions and discrepancies are not helpful to the defence because with the passage of time such discrepancies are bound to occur.

ii) The parties are known to each other and the occurrence took place in broad daylight, so there was no chance of mistaken identity or substitution.

iii) It would be relevant to mention here that it is now well settled that the share of minor legal heirs in Diyat shall remain protected under all circumstances, regardless of whether a compromise has been reached by all legal heirs of the deceased.

iv) So far as the issue of inability of convict to pay the amount of Diyat due to weak financial resources is concerned, in the case of *Government of Punjab v. Abid Hussain* (PLD 2007 SC 315) this Court issued directions to the Federal Government to frame rules on this matter. Consequently, the Rules i.e. Diyat, Arsh and Daman Fund Rules, 2007, were framed by the Federal Government under the mandate of section 338-G PPC. These rules provide four types of remedies for convicts/inmates unable to pay the amounts of Diyat, Arsh, or Daman subject to the terms and conditions specified therein, namely; (i) provisions of Soft Loans, (ii) grant out of the Fund, (iii) release on Parole, and (iv) facilitation for Jobs. In such view of the matter, the petitioner is at liberty to approach the administrative committee constituted under the Rules for the management of the Fund.

- Conclusion:**
- i) Minor contradictions do not affect witness credibility if they are consistent on key points.
 - ii) A broad daylight occurrence among known parties leaves no chance of mistaken identity.
 - iii) The share of minor legal heirs in Diyat remains protected irrespective of any compromise by other legal heirs.
 - iv) See Above analysis. iv

16. Supreme Court of Pakistan
Muhammad Abid Hussain v. The State and another
Crl. Misc. No. 10324-B/2024
Mr. Justice Muhammad Hashim Khan Kakar, Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p.146.2025.pdf

Facts: The petitioner while invoking the jurisdiction of this Court under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 has questioned the order of the Lahore High Court, Lahore, whereby his application for bail after arrest in FIR for the offence under section 9(1)6(c) of the Control of Narcotic Substances Act, 1997 ("Act of 1997 was dismissed. Upon receipt of spy information, the petitioner was apprehended by the police and the complainant recovered "Heroin" weighing 1100 grams, which the petitioner kept in his possession for the purpose of sale; hence this case.

Issue: i) What should be the standard of proof of recovery and guilt in criminal cases reported under the Control of Narcotic Substances Act, 1997 ("Act of 1997")?
 ii) Whether use of modern devices during recovery proceedings is mere a procedural formality?

Analysis: i) The standard of proof required to establish guilt must be correspondingly high. The prosecution must demonstrate beyond reasonable doubt that the petitioner was in possession of narcotics substance and that it was intended for sale In the cases of stringent punishments, the prosecution must present clear, cogent and reliable evidence to prove the accused's guilt beyond a reasonable doubt. In the absence of video evidence and independent witnesses, the prosecution's case relies heavily on the testimony of the police officers involved in the raid, which is insufficient to meet the required standard of proof.
 ii) The use of modern devices during recoveries is not merely a procedural formality but a crucial safeguard to protect innocent persons from potential police atrocities. It provides an objective and unbiased account of the recovery process, reducing the risk of false implications and ensuring that the rights of the accused are protected.

Conclusion: i) See above analysis No. i
 ii) The use of modern devices during recoveries is not merely a procedural formality but a crucial safeguard to protect innocent persons from potential police atrocities.

17. Supreme Court of Pakistan
Ameeruddin v. The State
Criminal Appeal No. 198/2023
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Saddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._198_2023.pdf

Facts: The Trial Court convicted the appellant for the offence of committing murder of the complainant's father, relatives and sentenced him to life imprisonment on four counts under section 302(b) PPC. He preferred appeal before High Court which was dismissed. Through this appeal, the appellant, has impugned the judgement of the High Court.

Issues: i) Whether the human eye has limitations in resolving fine details at a great distance?
 ii) What is the legal standard for assessing eyewitness credibility based on distance?
 iii) Can witness testimony be accepted if other accused with similar role has been acquitted?

- Analysis:**
- i) The human eye has limitations in resolving fine details at a great distance. Even with 6 x 6 vision, the ability to identify specific actions or individuals diminishes significantly as the distance increases. In evaluating the reliability of eye witnesses' testimony, it is crucial to consider how the distance between the witness and the perpetrator can affect identification accuracy. A recent study by Nyman, Lampinen, Antfolk, Korkman, and Santtila (2019), published in the credible Journal of Law and Human Behavior, states that even a person with 20 x 20 vision or average eyesight can only accurately recognize facial features up to a maximum of 40 meters.
 - ii) The law is clear on cases involving witness testimony, the prosecution must establish the credibility and reliability of its witnesses. The distance from which the witnesses claim to have observed the incident with graphic details is critical in assessing the truthfulness and the ability of their accounts. The general rule is that at a distance of 500 meters (half a kilometer), even individuals with excellent visual acuity would struggle to discern specific details of an event, particularly when the incident involves rapid movement, or if it occurs in an area that is not well lit or has obstructions that could hinder vision. Furthermore, a man's eyesight, even under optimal conditions, is not designed for sustained observations of minute details at such a distance.
 - iii) The law is settled that if the eyewitnesses have been disbelieved against some accused persons who were attributed effective roles, then the same eyewitnesses cannot be believed against another accused person attributed a similar role unless such eyewitnesses received independent corroboration from the other accused person.

- Conclusion:**
- i) See Above analysis no.i
 - ii) See Above analysis no.ii
 - iii) The same eyewitnesses cannot be believed against another accused person attributed a similar role unless such eyewitnesses receive independent corroboration from the other accused person.

18. Supreme Court of Pakistan
Imtiaz Naeem etc. v. The State
Jail Petition No. 438/2018
Justice Muhammad Hashim Khan Kakar, Justice Salahuddin Panhwar,
Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p._438_2018.pdf

Facts: Petitioners were convicted of abduction and murder of a minor and sentenced to death, which was later reduced to life imprisonment by the High Court. Their conviction was challenged on grounds of insufficient and unreliable evidence.

- Issues:**
- i) Whether a conviction can be sustained on the basis of voice recognition evidence without corroboration?
 - ii) Whether a retracted judicial confession without corroborative evidence can form the basis for conviction in cases involving capital punishment?

iii. Whether the absence of medical, forensic, and discovery evidence impacts the validity of conviction on a capital charge?

- Analysis:**
- i) The claim of the complainant in respect of recognizing the voice of the petitioner during a ransom demand made over the telephone, particularly in high stakes scenarios, is fraught with significant risks of error, bias and misinterpretation; secondly, unlike fingerprints or DNA evidence, voice recognition lacks a standardized scientific framework for verification; thirdly, telephone calls, especially those made under duress, may suffer from poor audio quality, background noise or distortions, making it difficult to accurately identify the speaker; and, fourthly, in the absence of additional corroborative evidence (e.g., call records, witness testimony, or forensic analysis), relying solely on voice recognition is inherently unreliable. The irreversible nature of the death penalty or life imprisonment necessitates that evidence be unequivocal and incontrovertible. Any doubt, no matter how small, must weigh in favour of the accused because convicting an individual based on unreliable evidence violates the principle of due process and fair trial, which are fundamental to justice.
 - ii) A retracted confession, especially when it stands as the sole basis for conviction, raises significant legal, ethical and practical concerns. When coupled with the dismissal of oral evidence furnished by the complainant, relying on a retracted confession to secure a conviction becomes even more precarious.
 - iii) The record depicts that the place from where the dead body was recovered was already in the knowledge of investigating agency and due to the decomposition of the dead body, there is no medical evidence to corroborate the said confessional statement of petitioner Naeem. There is no evidence of recovery and discovery, legally incriminating in nature to connect the necks of the petitioners with the crime in question, as such, such a confession in the peculiar circumstances of the case could not be made basis for conviction and that too on a capital charge entitling death penalty.

- Conclusion:**
- i) No, conviction cannot be sustained on uncorroborated voice recognition evidence.
 - ii) No, a retracted confession without corroboration cannot solely sustain a conviction in capital cases.
 - iii) Yes, it is unsafe to base conviction on a capital charge in the absence of such evidence.

19. **Supreme Court of Pakistan**
Commissioner Inland Revenue, Corporate Zone RTO Peshawar v. M/s Flying Kraft Paper Mills (Pvt.) Limited, Charsadda and another
Civil Appeal No. 316 of 2022
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 316 2022.pdf

Facts: The appellant issued show cause notice to the respondent-company on the alleged inadmissible input tax adjustment paid towards electricity and gas bills supplied to the residential colony of the factory within factory premises; the adjustment was questioned. The show cause notice was contested. It was originally decided via order-in-original against the respondent. The respondent filed an appeal before the Tribunal, which was allowed and decided in favour of respondent and the impugned order-in-original was set aside. Being aggrieved, the appellant filed Sales Tax Reference before High Court, which was also dismissed. This civil appeal is against these concurrent findings of Tribunal and reference jurisdiction of High Court.

Issues

- i) What is input and output tax?
- ii) Whether a registered person or tax-payer cannot be vexed twice?
- iii) What is effect and impact of residential colony which is part of one manufacturing unit?
- iv) What facility is provided under the provisions of section 7(1) of the Sales Tax Act, 1990

Analysis:

- i) Input tax is a tax paid by the registered person on the purchases while output tax is calculated on the sale of goods so it requires a legitimate nexus between the two.
- ii) The provisions of section 7(1) of the Act provides the facility to the registered person as a legal right to deduct tax paid on purchases from the tax calculated on the sale of its taxable supplies, so that the said registered person may not be vexed twice and the taxpayer is saved from unnecessary hardship.
- iii) The residence of labour and work place is shown as “one unit” and is also registered as “one manufacturing unit”. The residence is provided to the workers to ensure smooth and unhindered work by labour engaged in the process of manufacturing of the taxable goods. Consequently, the consumption of electricity and gas by the labour/workers in their accommodation is directly connected with the taxable activity of the respondent-company and the entire unit is considered as a manufacturing unit, and hence considered to be a direct manufacturing expenditure in relation to the cost of goods.
- iv) The provision of section 7 of the Act is to be interpreted liberally. In terms of the case of Sheikhoo Sugar Mills Ltd. and others v. Govt. of Pakistan and others (PTCL 2001 CL 331), it provides a facility to the registered person to adjust input tax at the time of making payment of output sales tax.

Conclusion:

- i) See above analysis No. i
- ii) The registered person may not be vexed twice
- iii) See above analysis No.iii
- iv) It provides a facility to the registered person to adjust input tax at the time of making payment of output sales tax

- 20. Supreme Court of Pakistan**
Sultan Mahmood and another v. Munir Ahmad
Civil Appeal No. 550-L of 2009
Mr. Justice Shahid Waheed, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 550 l 2009.pdf

Facts: A suit for declaration, possession, and specific performance based on a mortgage deed, was decreed ex-parte. The appellants filed an application to set aside the ex-parte decree. During the appellants' evidence stage, one appellant, acting as an attorney for the other, offered a special oath, leading to the dismissal of the application. On appeal, the Additional District Judge remanded the case for evidence recording. However, the High Court upheld the Civil Judge's decision, relying on the special oath.

Issues: Whether a special oath can be administered to decide an application under Order IX Rule 13 of the CPC when the ex-parte judgment is a past and closed transaction?

Analysis: Perusal of the record of the trial court also reveals that the instant offer of special oath triggered when an application under Order IX rule 13 of the CPC for setting aside ex-parte order was fixed for evidence of the respondent while the applicant's partial evidence in this regard was already recorded. It was at this stage when such offer was made. If at all the special oath could have been offered, it could only be to the extent of deciding the pending application under Order IX rule 13 of the CPC. The procedure requires in terms of Article 163 of the Qanun-e-Shahadat Order, 1984 read with sections 8 and 9 of the Oaths Act, 1873 does not contemplate a decision of a dispute which has already been rendered ex-parte. Decision on oath no doubt is one of the prescribed ways of disposal, but at the same time courts were bound to handle such cases with great care. The ex-parte judgment and decree was a past and closed transaction and it could only be open once an application under Order IX rule 13 of the CPC could have been allowed and not otherwise. The corpus before the trial court was a miscellaneous application and not the main suit.

Conclusion: A special oath cannot be administered to decide an application under Order IX Rule 13 of the CPC when the ex-parte judgment is a past and closed transaction.

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- 21. Supreme Court of Pakistan**
Muhammad Israr v. Jehanzeb and others
Civil Appeal No. 156-P of 2013
Mr. Justice Shahid Waheed, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 156 p 2013.pdf

Facts: Appellant filed suit for declaration to be declared him owner of gifted suit property whereas respondent filed suit for declaration-cum-possession via

partition, which were later on consolidated; the trial court dismissed the appellant suit and decreed suit of respondent; the appellate court reversed the decision, decreeing the suit of respondent and dismissed the appellant suit, this led to a civil revision before the High Court which restored the findings of trial court.

Issues: i) Whether thirty years old deed, can be presumed genuine under the Qanun-e-Shahadat Order, 1984, despite concerns regarding its execution, proper custody, and the credibility of the party producing the document?
ii) What are the powers of revisional court?

Analysis: i) The dower deed which is more than thirty years old claimed to have presumption of genuineness but that presumption is always rebuttable by the party questioning genuineness thereof. Indeed the unsuspicious character of a document, its proper custody and other circumstances are the foundation to raise presumption of its execution, however, if prima-facie, the dispute to its execution and proper custody is raised then it becomes the duty of the court to determine the question of its genuineness. The presumption is thus discretionary and not mandatory in terms of the case of Allah Ditta v. Aimna Bibi (2011 SCMR 1483). The presumption of correctness of a document available under the Qanun-e-Shahadat Order, 1984 in respect of thirty years old document, subject to above, is only in respect of a signature and every other part thereof in handwriting of a particular person. Rest of the contents which are not in the handwriting would then become the subject matter of proof. The other aspect of the matter which germane to the requirement of law is that the subject document should be produced by person having proper custody in terms of Article 100 of the Qanun-e-Shahadat Order, 1984. Production of document purported or proved to be thirty years old from “proper custody” was the condition precedent; until and unless such condition is met, no presumption as to the signature, contents or any part of such document to be duly executed/attested, would arise.
ii) It was within the competence of the revisional court to see whether (i) the courts below had exercised jurisdiction not vested in it or (ii) the courts below have failed to exercise jurisdiction so vested or (iii) the courts below have acted in the exercise of its jurisdiction illegally or with material irregularity.

Conclusion: i) The presumption of correctness of a document is available to thirty years old document, in respect of signature and handwriting of a particular person and if it produces by person having proper custody in terms of Article 100 of the Qanun-e-Shahadat Order, 1984.
ii) See analysis No.ii.

22. **Supreme Court of Pakistan**
Commissioner Inland Revenue, (Special Zone for Builders and Developers) Regional Tax Office, Islamabad v. Khudadad Heights, Islamabad.
Civil Petition No. 862 of 2024.
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 862 2024.pdf

Facts: In the instant Civil petition the question proposed is about ‘definite information’ required for the amendment of the assessment under section 122 of the Income Tax Ordinance, 2001 (‘the Ordinance’). It started via notice under subsections 1, 5 and 9 of section 122 of the Ordinance, 2001 issued to the assessee for the tax year 2006, finalized under section 120 of the Ordinance by accepting a declared version. The cause is a bank statement alone, on the basis of which proceedings commenced. The explanation provided by the taxpayer was found unsatisfactory and the assessing officer re-assessed the net income of the taxpayer. Being aggrieved of such treatment, the taxpayer filed an appeal before the Commissioner Inland Revenue (Appeals-I), Islamabad (‘the Commissioner’) and was able to successfully established his response to some extent. The Commissioner decided the appeal from which both the department and the taxpayer found themselves aggrieved of the order so they filed appeal/cross-appeal before the Appellate Tribunal Inland Revenue Islamabad Bench-I, Islamabad (‘the Tribunal’). The Tribunal heard the appeals and accepted the appeal of the taxpayer, whereas, the departmental appeal was rejected. The Income Tax Reference was then preferred by department before the Islamabad High Court, Islamabad.

Issue:

- i) What is the comparative analysis of the two *pari material* provisions of Income Tax Ordinance 1979 and income tax ordinance, 2001 regarding procedure prescribed for amending assessment?
- ii) What is meant by the phrase “definite information” mentioned in the text of Income Tax Ordinance 1979 and Income Tax ordinance, 2001?
- iii) How the effect of definite information can be noticed and what statements and entries disclose definite information?

Analysis:

- i) The procedure prescribed for amending assessment under the repealed law was not the same as in the present law. Indeed, the procedural aspects have been distinguished but with commonality of object of ‘definite information’. Earlier for a ‘definite information’ the Deputy Commissioner was saddled with responsibility if such definite information came into his possession and if he had obtained the approval of the Inspecting Additional Commissioner, whereas, in the regime of 2001 Ordinance the ‘definite information’ was either left to the audit analysis which may allow Commissioner to adjudge the following, i.e., (i) any income chargeable to tax has escaped assessment; or (ii) total income has been under-assessed, or assessed at too low a rate, or has been the subject of excessive relief or refund; or (iii) any amount under a head

of income has been mis-classified. Certainly there is no audit claim and even no notice under section 111 of the Ordinance is issued and similarly statement of account alone cannot be a basis to form any of the three routes provided in the later part of section 122(5).

ii) “Definite information” is information so definite that it suffices in engendering a reasonable or definite belief without the need for such information to be subjected to further analysis, scrutiny or logical deduction.

iii) The effect of ‘definite information’ is to be noticed on a case to case basis and the source of information would then consequently decide as to the information being definite or otherwise. The re-assessment proceedings triggered on the basis of bank statement of the taxpayer. All transactions therein not necessarily demonstrate the income of the taxpayer/assessee hence unless it is established that these statements and/or entries therein disclose information of income which is ‘definite’, the subject instrument cannot be applied as being one having ‘definite information’

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

23. Supreme Court of Pakistan
Mehboob v. The State and others
Criminal Petition No. 344 of 2018
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 344 2018.pdf

Facts: The petitioner killed his sister and a male relative after finding them in a compromising position. He did not attempt to flee and surrendered to the police along with the weapon. The trial court convicted him and sentenced him to life imprisonment, which was upheld by the High Court. Hence; this criminal petition.

Issues: i) What is the judicial approach in determining the effect of sudden provocation on sentencing?
ii) What is the legal impact of sudden provocation on the classification of Qatl-i-Amd under section 302 PPC?

Analysis: i) The cases of State vs. Muhammad Hanif and 5 others¹ and Ali Muhammad vs. Ali Muhmmad² seem to be the most relevant case to understand the consequences of sudden provocation and the events discussed. In the later case, this Court observed that the High Court was not right in holding that the accused had not committed any offence and was not liable to any punishment on account of sudden provocation/self-defence.
ii) A situation cannot be ruled out that one of the deceased provided the situation of sudden provocation as to the cases falling under clause (c) of section 302 of the PPC; the law maker has left it to the court to decide on a case to case basis

depending upon the gravity and intensity of provocation and the time taken for the reaction. In the instant case it was spontaneous.

- Conclusion:** i) Sudden provocation affects punishment but does not absolve liability.
ii) Courts assess provocation case to case under section 302(c) PPC.

24. Supreme Court of Pakistan.
Province of Punjab through District Collector/ District Officer (Rev), Lahore & others (in CA No. 119-L/ 2022), Malik Abdul Latif Amar (in CA No. 3952/2022) v. Malik Abdul Latif Amar (in CA No. 119-L of 2022), Land Acquisition Collector Highway Department, Lahore & others (in CA No. 3952/2022).
Civil Appeals No. 119-L of 2022 & 3952 of 2022,
Mr. Justice Shakeel Ahmad, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 119 1 2022.pdf

Facts: Punjab Highway Department acquired land for the construction of an overhead bridge and awarded certain amount of compensation. The land owner approached the referee court, which enhanced the amount of compensation vide impugned judgment.

Issues: i) What would be the effect of office objections on period of limitation?
 ii) What factors are to be considered in determining the compensation for the land acquired?
 iii) What is the difference between potential value and market value, which would be awarded?
 iv) How the delay in announcement of award would affect the determination of compensation?

Analysis: i) It is an admitted position that the objections were not addressed within the stipulated time and the appeal was re-submitted after the removal of the objection on 09.12.2021, well beyond the period prescribed for removing the objection. Accordingly, the High Court while rightly placing reliance on “Asad Ali & Others vs. The Bank of Punjab & Others” (PLD 2020 SC 736) held the appeal to be time-barred as the Appellants failed to remove the deficiencies pointed out by the office within the period prescribed. When confronted with these legal and factual aspects of the case, the learned counsel failed to furnish a satisfactory response.
 ii) A perusal of Section 23 of the Act reflects that various factors are to be taken under consideration while determining compensation, with market value being just one such factor as reiterated in “The Province of Sindh v. Ramzan and Other” (PLD 2004 SC 512). Furthermore, it is pertinent to note that compensation is a very wide term, indicating that the land owners, for various reasons, are to be compensated and not merely paid the price of the land which is just an interaction of supply and demand fixed between a willing buyer and a willing seller. Additionally, although, mere classification or nature of land, can be taken as a relevant consideration for the purposes of determining compensation, it is not an

absolute one. Factors such as location, neighbourhood, potentiality or other benefits could not be disregarded either. Indeed, the place and situation of the acquired land are paramount considerations that must be accorded due and thoughtful attention in the fair assessment of compensation.

iii) In this regard, reference may be made to the case reported as “Malik Aman & Others v. Land Acquisition Collector & Others” (PLD 1988 SC 32) wherein this Court had explained the concept of ‘potential value’ and differentiated it from the term ‘market value’. It was held that market value was normally to be taken as the one existing on the date of notification under Section 4 (1) of the Act, based on the principle of a willing buyer and a willing seller. In contrast, the potential value was explained to be one to which similar lands could be put to any use in future. Furthermore, factors for determining the compensation of the land are not restricted only to the time of the notification, but, can also relate to the period in future, and that is why in a large number of cases the potential value has been held to be a relevant factor.

iv) It is also noteworthy that there is an unreasonable delay of four years in the announcement of the Award and issuance of notification under Section 4 of the Act. Obviously, any escalation in the value of the property during such period constitutes the potential value of the land, which was rightly taken into consideration by the Courts below while determining the compensation.

- Conclusion:**
- i) The appeal would be barred, if the office objections are not removed within the given time and presented again after limitation.
 - ii) Factors such as location, neighbourhood, potentiality or other benefits could not be disregarded either alongwith the market value.
 - iii) Market value is determined on the principle of a willing buyer and a willing seller. The potential value was explained to be one to which similar lands could be put to any use in future. It is potential value to be awarded.
 - iv) Any escalation in the value of the property during such period constitutes the potential value of the land and is to be considered.

25. **Supreme Court of Pakistan**
Muhammad Azam v. The Stat etc.
Criminal Appeal No. 297 of 2023
Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 297_2023.pdf

Facts: Appellant was convicted for abduction and rape of a minor girl along with committing theft, which conviction was upheld by the High Court. The appellant challenged the conviction and sentence through the present appeal.

Issues:

- i) Whether conviction can be sustained when the prosecution story is found to be improbable and irrational?
- ii) Whether delay in lodging the FIR without plausible explanation affects the prosecution case?

- iii) Whether non-production of material witnesses amounts to withholding best available evidence attracting adverse presumption?
- iv) Whether medical evidence alone, without unimpeachable corroborative evidence, is sufficient to sustain conviction for rape?

Analysis:

- i) Prosecution's story being foundation on which the entire superstructure of the case is built, occupied a pivotal status, it should, therefore, stand to reason and must be natural, convincing and free from any inherent improbability as it would neither be safe to believe the prosecution's story which did not meet the said requirements nor the prosecution's case based on improbable story could sustain conviction. In the instant case we have noticed that the prosecution's story from its every inception is improbable and irrational as the same did not appeal to reason.
- ii) The complainant has failed to furnish any explanation, much less a plausible one, for such significant delay in reporting a matter of grave nature, involving the alleged abduction and sexual assault of his minor daughter. It is indeed surprising and contrary to the natural conduct of a prudent father that when his minor daughter was allegedly abducted, he remained silent for a period of seven days without approaching the law enforcement agencies. Such an unexplained and unreasonable delay in lodging the First Information Report casts serious doubts on the veracity of the prosecution's case and suggests that the possibility of deliberation, consultation, and fabrication before lodging the FIR cannot be ruled out. It is a settled principle of law that delay in setting the criminal machinery into motion, when not reasonably explained, erodes the credibility of the prosecution's case and makes it unsafe to rely upon without independent and unimpeachable corroboration.
- iii) Non-production of ... material evidence, amounts to withholding of best available evidence, therefore an adverse inference within the meaning of Article 129(g) of the Qanun-e-Shahadat Order, 1984 would be drawn against the prosecution.
- iv) The testimony of lady doctor, in absence of any other evidence of unimpeachable character would not be sufficient to prove that the sexual intercourse was committed with the victim girl by the appellant. Besides, the vaginal swabs taken from the victim girl were sent to the Chemical examiner after a delay of three weeks for which no explanation, much less, plausible, has been furnished by the prosecution.

Conclusion:

- i) Conviction cannot be maintained when prosecution evidence is improbable and suffers from material contradictions.
- ii) Unexplained delay in lodging FIR fatally affects the prosecution case.
- iii) Non-production of material witnesses amounts to withholding best evidence and attracts adverse presumption against the prosecution.
- iv) Medical evidence alone, without credible corroboration, is insufficient to sustain conviction for rape.

26. **Supreme Court of Pakistan**
Muhammad Ramzan v. The State
Jail Petition No.95 of 2022
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p._95_2022.pdf

Facts: Petitioner was sentenced to death as Ta'azir under section 302(b) PPC and to pay rupees two lacs, as compensation to legal heirs of the deceased within the meaning of section 544-A Cr.P.C. and in default of payment thereof to further undergo six months simple imprisonment, which judgment was maintained by Islamabad High Court. Petitioner being discontented from conviction and sentence, assailed the same through instant jail petition.

Issue:

- i) What is evidentiary value of FIR registered on information supplied by accused, wherein accused admits the commission of such occurrence?
- ii) Whether the FIR in itself is a substantive piece of evidence?
- iii) Is there any exception to the settled law that FIR is not a substantive piece of evidence?
- iv) What is the presumption against non-production of material witness by the prosecution?
- v) What are legal consequences of non-associating private witnesses in residential area?
- vi) Whether medical evidence in a criminal case can identify the assailant?

Analysis:

- i) It could be considered as confession before police which is inadmissible evidence within the meaning of Article 38 of the Qanun-e-Shahadat Order, 1984.
- ii) It is settled law that FIR by itself is not a substantive piece of evidence unless its contents are affirmed on oath in the witness box by its maker and its maker is subjected to the test of cross examination. In view of Articles 140 and 153 of the QSO, FIR being a previous statement can only be used for contradicting its maker but unless the same is not proved through its maker, cannot be used as a substantive piece of evidence in favour of the prosecution's case.
- iii) FIR is not a substantive piece of evidence unless proved by its maker by deposing on oath in the witness box in support thereof except recorded on the report of a person who is near to die. In such eventuality, the FIR is commonly known as "dying declaration", and is admissible evidence under Article 46 of the QSO.
- iv) An adverse inference is drawn under Article 129(g) of the Qanun-e-Shahadat Order, 1984 to the effect that had the above witness been produced by the prosecution at the trial, they would not have supported the version of the prosecution.
- v) Due to non-association of any private witness of the locality to attest the recovery memo lacks independent corroboration, thus, the same is disbelieved.
- vi) It is by now well settled that medical evidence is a type of supporting

evidence, which may confirm the prosecution version with regard to receipt of injury, nature of the injury, kind of weapon used in the occurrence but it would not identify the assailant.

- Conclusion:**
- i) Confession before police is inadmissible evidence.
 - ii) FIR by itself is not a substantive piece of evidence.
 - iii) FIR registered on the dying declaration is admissible evidence under Article 46 of QSO.
 - iv) An adverse inference is drawn under Article 129(g) of the Qanun-e-Shahadat Order, 1984 for non-production of material witnesses.
 - v) Non-association of any private witness in recovery proceedings is fatal.
 - vi) Medical evidence in itself cannot identify the assailant.

27. Supreme Court of Pakistan
Zarin Khan, etc. v. The Chairman, Evacuee Trust Property Board, Lahore, etc.
C.A.No.613 of 2020 (Against the judgment dated 05.03.2020 of the Peshawar High Court, Peshawar passed in C.R. No.647-A of 2009) and C.M.A. No.3760 of 2022
Mr. Justice Shahid Waheed, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 613 2020.pdf

Facts: An auction was conducted for the sale of a piece of land, wherein the highest bid was matched by the appellants. However, the approval of the competent authority was not granted for their bid. Subsequently, the auction was cancelled, and the land was ordered to be re-auctioned, leading to a legal dispute over the appellants' entitlement to ownership. The civil suit of the appellant's was dismissed and appeal was allowed but the revision of the respondents was allowed.

Issues:

- i) Whether a bid at an auction creates a legal right in favour of the bidder in the absence of confirmation or approval by the competent authority?
- ii) Whether the competent authority has an unfettered right to cancel an auction without assigning any reason?
- iii) Whether the rejection of a highest bid and the decision to re-auction violates principles of natural justice?
- iv) Whether an auction bid subject to approval or confirmation by the competent authority results in a concluded contract prior to such approval?

Analysis:

- i) A bid at an auction is only an offer and without confirmation or approval does not create any right in the property in favour of the successful bidder. By matching the bid of the highest bidder, the appellants merely stepped into their shoes. Their status upon exercising the option would be no different from the highest bidder.
- ii) There is no denying the fact that in terms of clause 8 of the terms and conditions of the auction, ETPB was given the right to cancel the auction without assigning any reason.

iii) In the case of Javed Iqbal Abbasi & Company Vs. Province of Punjab (1996 SCMR 1433), it was held inter alia that where the highest bid was rejected and re-auction was ordered which afforded equal opportunity to persons whose bid had been rejected, then the principles of natural justice would not be deemed to have been violated.

iv) It is also well settled that where the acceptance of the highest bid is subject to the approval or confirmation by the competent authority, then unless and until such approval is granted or confirmation is made there is no concluded contract vesting the highest bidder with an interest in the property subjected to auction.

- Conclusion:**
- i) A bid is just an offer; no rights arise without confirmation.
 - ii) The authority can cancel it without reason.
 - iii) Equal opportunity ensures no injustice.
 - iv) Approval is essential for rights to vest.

28. Supreme Court of Pakistan
Syed Uzair Shah & others v. Mst. Surriya Begum (decd.) thr. L.Rs & others
C.A.1779/2024
Mr. Justice Shahid Waheed, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1779_2024.pdf

Facts: Through the instant appeal, the appellants have called into question the judgment passed by High Court, whereby civil revision filed by the predecessor of the private respondents against the judgment and decree dated passed by the learned appellate Court, was allowed and the judgment and decree passed by the learned civil Court decreeing the suit for declaration filed by the predecessor of the private respondents to challenge the inheritance mutation as their gifted land was devolved on all the legal heirs, was restored.

Issues:

- i) Whether a declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms?
- ii) Is it necessary for the completion of a valid gift under Islamic law to put minor donee in actual physical possession of the gifted property where the donor is the minor's guardian?

Analysis: i) A declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms. True, that such gift was not incorporated in the revenue record, and after Syed Noor Ahmed Shah's demise, inheritance mutation No.9,660 was attested on 07.12.1994 showing Syed Noor Ahmed Shah's entire land including the land gifted to Mst. Surriya Begum to have devolved on all his legal heirs. However, at no material stage did Syed Noor Ahmed Shah in his lifetime revoke the declaration made by him on 13.04.1959 before the Land Reforms Authorities. This declaration was infact an admission by him as to the gift made by him in favour of his daughter.

ii) The High Court has recognized the well settled principle that where the donee is a minor and the donor is the minor's guardian, it is not necessary for the completion of a valid gift under Islamic law to put such donee in actual physical possession of the gifted property. In the case of *Kaneez Bibi Vs. Sher Muhammad* (PLD 1991 SC 466), this Court held inter alia that in cases where the father is the donor for a daughter and / or a minor living with him, strict proof by the donee of transfer of physical possession, as in other type of cases, is not insisted upon. Furthermore, in the case of *Riaz ullah Khan Vs. Asghar Ali* (2004 SCMR 1701), this Court held the objection as to the non-delivery of possession of the gifted property by a person to a wife or to a ward to be immaterial.

Conclusion: i) A declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms.
ii) See analysis No. ii.

29. Supreme Court of Pakistan
Chairman Water and Power Development
Authority, Pakistan Lahore and others v. Haji Abdul Rehman and others
Civil Appeal No.1612 of 2018
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 1612 2018.pdf

Facts: By way of this appeal, the appellants being officers of the acquiring department have impugned the judgment and decree of the High Court, whereby their RFA was dismissed maintaining the order of the Executing Court.

Issues: i) What is the basic criteria for determination of the market value of the land to be acquired?

Analysis: i) The market value of the land to be acquired prevailing at the date of publication of the notification under Section 4(1) is to be considered and it is the basic criteria for determination of the market value.

Conclusion: i) Market value prevailing at the date of publication of the notification under Section 4(1) is the basic criteria.

30. Lahore High Court
Zafar Iqbal alias Ilam Din v. The State, etc.
Crl. Appeal No.27878-J of 2022
Muhammad Rafique v. The State, etc.
Crl. Appeal No.27874 of 2022
Muhammad Rafique v. Zafar Iqbal alias Ilam Din, etc.
Crl. Rev. No.27876 of 2022
Ms. Justice Aalia Neelum Chief Justice
<https://sys.lhc.gov.pk/appjudgments/2025LHC607.pdf>

Facts: The appellant was accused of trespassing into the complainant's house along with others and attacking the complainant's minor son. When the complainant's

relative intervened, the appellant allegedly struck him on the head with a brick, leading to fatal injuries who succumbed to injuries. The trial court convicted the appellant and acquitted respondents No.2 to 5. Hence; these criminal appeals and revision.

- Issues:**
- i) Whether the delay in lodging the FIR affects the prosecution's case and creates doubt regarding its genuineness?
 - ii) What is the legal effect of non-production of injured witnesses and lack of medical evidence?
 - iii) What is the evidentiary value of a recovered weapon if it is not produced before the trial court?
 - iv) What is the standard for interference with an acquittal order in appellate jurisdiction?

- Analysis:**
- i) The first information report was lodged with considerable delay, for which the prosecution's explanation is not plausible. The witnesses' conduct in keeping quiet and not reporting the matter immediately is most unnatural when police were with them soon after the incident and remained with them till the death of Bilal at General Hospital, Lahore. (...) In the light of the entire prosecution evidence and circumstances, they influenced the court's mind that there had been some wrangling about the time of the case's registration. This breeds serious doubts regarding the prosecution story's genuineness, including the offenders' names and eyewitnesses.
 - ii) The fact that the accused persons, including the appellant, gave a beating to the family members of Muhammad Rafique (PW-1)-the complainant, and Muhammad Ashraf (PW-2) has not been proved. The injured witnesses were not produced in court, and the prosecution could not provide evidence regarding their injuries, which shows that the prosecution's story is false. Having scrutinized the evidence on record, I am not satisfied that the prosecution has proved its case beyond reasonable doubt. In any event, the appellant is entitled to the benefit of the doubt.
 - iv) Production of the recovered piece of blood-stained brick is necessary to corroborate the expert report with the recovery. There is no evidence on record that the brick was produced before the learned trial court. The learned DPG cannot show any evidence on record that the piece of blood-stained brick was produced in the court, which creates serious infirmity and doubt about the existence of the piece of brick. The irresistible conclusion that emerges from scanning, perusing, and dissecting the prosecution evidence is that the prosecution has failed to prove its case beyond reasonable doubt.
 - iv) I have also taken note of the settled principle of criminal jurisprudence, which states that unless it can be shown that the lower court's judgment is perverse or that it is completely illegal, No other conclusion can be drawn except the guilt of the accused or misreading or non-reading of evidence, resulting in a miscarriage of justice. Even otherwise, when a court of competent jurisdiction acquits the accused persons, the double presumption of innocence is attached to his case. The

acquittal order cannot be interfered with, whereby an accused earns double presumption of innocence.

- Conclusion:**
- i) The delayed FIR and police presence soon after the incident create serious doubts about the prosecution's case.
 - ii) The absence of injured witnesses and medical evidence weakens the prosecution's claim, granting the appellant the benefit of the doubt.
 - iii) Failure to present the recovered brick in court raises doubts about its existence and weakens the prosecution's case.
 - iv) Acquittal stands unless proven perverse or illegal, as the accused benefits from a double presumption of innocence.

31. Lahore High Court
Ali Akbar, etc. v. The State, etc.
Crl. Appeal No.31052 of 2023
Crl. Rev. No.43674 of 2023
Muhammad Yousaf v. Ali Akbar, etc.
Ms. Chief Justice Aalia Neelum
<https://sys.lhc.gov.pk/appjudgments/2025LHC585.pdf>

Facts: The appellants through this appeal have challenged their conviction in a private complaint and the complainant through criminal revision seeks the enhancement of punishment for life imprisonment awarded to the appellants.

Issues:

- i) What is the effect of not mentioning the names of witnesses in the inquest report?
- ii) What is the time period during which the human blood disintegrates?

Analysis:

- i) Non-mentioning the names of prosecution witnesses in the inquest report (Ex. CW-2/D) creates doubt about their presence at the place of occurrence.
- ii) I noted that the recovered daggers were analyzed on 16.04.2020, forty-three days after the occurrence. Human blood was not compared with Muhammad Ali's blood. It was not possible to determine the origin of the blood on "daggers", as blood disintegrated after one month of the occurrence and in this regard, case of "FAISAL MEHMOOD. Vs. THE STATE" (2017 Cr.LJ 1) can be referred.

Conclusion:

- i) Non-mentioning the names of witnesses in inquest report makes their presence doubtful.
- ii) Blood disintegrated after one month of the occurrence

32. Lahore High Court
Bilal Muzaffar alias Heera, etc. v. The State etc.
Crl. Appeal No.62458-J of 2020
Hon'ble Chief Justice Ms. Aalia Neelum
<https://sys.lhc.gov.pk/appjudgments/2025LHC717.pdf>

- Facts:** The learned trial court convicted the appellants with imprisonment for life upon the allegations of murder.
- Issues:**
- i) What is the effect of unexplained delay in lodging FIR and postmortem examination, upon the prosecution case?
 - ii) Under what circumstances a court can allow the party calling a witness, to ask questions to him?
 - iii) Whether the mere absconsion is sufficient proof of guilt of accused?
- Analysis:**
- i) A delay in lodging the first information report often results in consultation and deliberation, which is a creature of afterthought. The prosecution failed to explain the delay in reporting the incident as well as the delay in conducting a post-mortem examination on the dead bodies of Safdar Iqbal, Ghulam Murtaza alias Gogi Cheema, and Ali Raza, the deceased persons. Hence, these circumstances raised considerable doubt regarding the veracity of the case, and it was held that it was not safe to base a conviction on it. The unexplained delay in reporting the incident in lodging the first information report and the delay in conducting postmortem examination on the dead bodies of the deceased persons prove fatal to the case of the prosecution.
 - ii) A court can permit a party calling a witness to put questions under Article 150 of the Qanun-e-Shahadat Order, 1984, only in the examination-in-chief of the witness. Article 150 does not, in terms or by necessary implication, confine the exercise of the power by the court before the examination-in-chief is concluded or to any stage of the examination of the witness. A clever witness in his examination-in-chief deposes what he stated earlier to the police or in the committing court, but in the cross-examination introduces statements subtly, contradicting in effect what he stated in the examination-in-chief. If his design is evident during his cross-examination, the court, therefore, can permit a person, who calls a witness, to put questions to him which might be put in the cross-examination at any stage of the examination of the witness, provided it takes care to allow the accused to cross-examine him on the answers elicited which do not find place in the examination-in-chief.
 - iii) In the instant case, medical evidence conflicts with the ocular account, and only one thing goes against the appellants No.2 & 3 i.e. their abscondence for the considerable period. In such cases, the accused also abscond with fear of arrest as well as due to torture by the police. However, even if established, the factum of abscondence could only be used as corroborative evidence and was not substantive. It is an established principle of law that mere absconsion is not proof of guilt of the accused.
- Conclusion:**
- i) The unexplained delay in reporting the incident in lodging the first information report and the delay in conducting postmortem examination on the dead bodies of the deceased persons prove fatal to the case of the prosecution.
 - ii) If a clever witness after deposing in terms of his earlier stance but introduces statement subtly, contradicting his examination-in-chief with ulterior design. The

court can permit the party calling him to ask questions which might be put in cross-examination.

iii) Abscondence even if established is corroboratory only, not substantive evidence and could not be basis of conviction.

- 33. Lahore High Court**
Malik Abdul Rauf v. Malik Abdul Razzaq (deceased) through L.Rs., etc.
Civil Revision No. 2363 of 2012.
Mr. Justice Shujaat Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC526.pdf>

Facts: The parties instituted multiple civil suits against each other five in total, for declaration alongwith permanent as well as mandatory injunction and for partition of property. The learned trial court through consolidated judgment decreed the suit of petitioner and dismissed the other four. Whereas, the learned appellate court dismissed the suit of the petitioner, which resulted the instant revision.

Issues:

- i) Whether the principle of Res Judicata is applicable to appeals?
- ii) Whether a main case could be decided pending the miscellaneous applications?
- iii) How the omissions as to description of property in gift deed would affect the case of beneficiary?
- iv) What are essential ingredients of a valid gift?
- v) Whether a gift could be accepted by anybody else on behalf of the donee?
- vi) Whether registration of a document with Sub-Registrar is a proof of its authenticity?
- vii) How the authenticity of a written document could be proved and by whom?
- viii) What is status of constructions upon joint property by a co-sharer and effect of electricity connection over the ownership?
- ix) What is effect of non-appearance of a person, filing conceding written statement?
- x) When presumption attached to a registered document evaporates?

Analysis: i) The Apex Court of the country in the case of *Khair Muhammad v. Muhammad Hussain and others* (PLD 2006 SC 577), while dealing with a question as to whether appeal can be rejected while pressing into service the principle of *res-judicata* on the ground that all decrees drawn pursuant to a consolidated judgment have not been appended, has *inter-alia* concluded as under: -

“15. From perusal of the above precedent cases, it is clear that preponderance of opinion has been in favour of the view taken by the learned Full Bench of the Lahore High Court in Mt. Lachhmi's case. We are of the opinion that in the facts and circumstances of the case, one appeal against the decree passed in the suit of the respondents was sufficient to get rid of the adjudication made by the single judgment and the unappealed decree did not operate as res judicata. It is also

held that the decree passed in appeal by the learned first Court of appeal shall have precedence over the decree passed by the trial Court in Suit No.55-A. ”

If the authenticity of the objection raised by learned counsel for the petitioner is adjudged in the light of the afore-referred judgment of Hon’ble Supreme Court of Pakistan, the same does not hold any water and is accordingly spurned.

ii) If a forum decides to dispose of the main case without deciding the miscellaneous application(s) its decision cannot sustain, however, when the matter stands decided conclusively, the decision of the said forum cannot be held non-maintainable. Reliance in this regard is placed on *Silver Star Insurance Company Limited, Lahore through Chief Executive v. Messrs Kamal Pipes Industries, Lahore and another* (2023 CLD 1342) ...If the fate of the objection of learned counsel for the petitioner against decision of the main appeal without disposing of the miscellaneous application filed by respondent No.1, seeking dismissal of the appeal in view of principle of *res-judicata*, is seen in the light of the afore-quoted judgment of a learned Division Bench of this Court, there leaves no doubt that when the appeal filed by respondent No.1 was decided by the learned Appellate Court after dilating upon all *pros and cons* of the case, the said omission cannot be considered fatal especially when the petitioner has miserably failed to prove execution of valid gift in his favour.

iii) the exact description of the property, subject matter of the gift deed, has not been mentioned. Though, no Khewat number, Khasra number or Khatooni Number has been mentioned in the Gift Deed but while filing suit, the petitioner incorporated details of the suit house which were not part of the gift deed. The omission of said important antecedent in the gift deed raises serious objection against its veracity.

iv) The three essential ingredients for a valid gift have been described under Para 149 of the D.F. Mullah’s Principles of Mohammadan Law. As per the referred Para, there should be an offer by the donor and its acceptance by or on behalf of the donee and delivery of possession.

v) There is no cavil with the fact that gift can be accepted by anybody else on behalf of the donee but non-production of said person in the evidence put serious dent to the authenticity of the gift deed.

vi) mere registration of a document with Sub-Registrar concerned, *per se* cannot be considered as a proof regarding its authenticity rather the said fact can only be used to treat a document as public one...registration of a document with the relevant authority can be considered for registration purposes only but the said fact cannot be used to prove its authenticity especially when credibility of said document has been challenged by the opposite side.

vii) It is important to mention over here that as per Article 79 of Qanun-e-Shahadat Order, 1984, a written document must be attested by two witnesses. Further, in the event of any dispute regarding authenticity of said document, beneficiary of said document is bound to produce its marginal witnesses in addition to the scribe.

viii) It is well established by now that if a co-sharer raises construction on a land, jointly owned by different persons, he does so at his own risk and cost. Likewise, the installation of utility apparatuses and payment of utility bills also cannot be considered as proof of ownership as held by the Hon'ble Supreme Court of Pakistan in its recent decision, dated 13.01.2015, rendered in Civil Petition No.4389/2023, titled *Umar Gul v. Dr. Hafiza Akhtar and others* (2025 SCP 23)

ix) It is well settled by now that mere filing of a conceding Written Statement, without examination of the relevant defendant in the witness box, cannot be used in favour of a plaintiff as held by the Hon'ble Supreme Court of Pakistan in the case reported as *Muhammad Ejaz and 2 others v. Mst. Khalida Awan and another* (2010 SCMR 342).

x) In the cases of *Muhammad Siddique (deceased) through L.Rs and others* and *Anjuman-e-Khuddam-ul-Qur'an, Faisalabad through President Qur'an Academy* (supra) Hon'ble Supreme Court of Pakistan has highlighted that presumption of correctness is attached to a document which has been registered by the public functionaries in discharge of their routine duties. Firstly, the said presumption becomes rebuttable when anybody challenges the sanctity of the registered document and secondly the said presumption evaporates when the beneficiary fails to prove its execution.

- Conclusion:**
- i) when decrees are drawn pursuant to a consolidated judgment, the appeal is not hit by Res Judicata.
 - ii) When the matter stands decided conclusively, pendency of miscellaneous would have no bar.
 - iii) The omission of important antecedent in the gift deed raises serious objection against its veracity.
 - iv) An offer by the donor and its acceptance by or on behalf of the donee and delivery of possession, are the essentials of a valid gift.
 - v) A gift could be accepted by anybody else on behalf of the donee.
 - vi) Mere registration of a document is not a per se proof of its authenticity.
 - vii) The beneficiary is to prove a written document in terms of Article 79 of the QSO and recording its scribe as well.
 - viii) Raising constructions at a joint property by a co-sharer is at one's own risk and cost, similarly, electricity connection is not a proof of ownership.
 - ix) Mere filing of a conceding Written Statement, without examination of the relevant defendant in the witness box, cannot be used in favour of a plaintiff.
 - x) The said presumption becomes rebuttable when anybody challenges the sanctity of the registered document and secondly the said presumption evaporates when the beneficiary fails to prove its execution.

34.

Lahore High Court

Khadim Hussain Chaudhry v. Punjab Cooking Oil Private Limited & others
Civil Revision No.76005 of 2019

Mr. Justice Shujaat Ali Khan

<https://sys.lhc.gov.pk/appjudgments/2025LHC568.pdf>

- Facts:** This civil revision has been filed against concurrent findings of courts below, wherein suit instituted by the petitioner seeking declaration to the effect that he did not remain member of the Punjab Cooking Oil Private Limited, however, treating him as director of the company by Securities and Exchange Commission of Pakistan and the act of the Customs authorities putting his property to auction was illegal and void ab initio was rejected by courts below under order VII rule 11 C.P.C.
- Issues:**
- i) Who can apply to the court for rectification of register of directors?
 - ii) Which court has jurisdiction to deal the matters relating to addition/deletion of the name of a person from register of directors of a company?
 - iii) Whether the civil court established under civil procedure code, 1908 can adjudicate matters relating to Company Act, 2017?
 - iv) Whether the civil courts established under civil procedure code, 1908 have jurisdiction to try all the suits of civil nature?
 - v) Whether the court while deciding application under order VII rule 11 CPC can see into the contents of the plaint alone?
- Analysis:**
- i) if the name of any person is entered in or omitted from the register of directors of a company fraudulently or without any sufficient cause, the person aggrieved or the company may apply to the court for rectification of register of directors.
 - ii) The term court has been defined under Section 2(23) of the Companies Act, 2017 in the following words:- “Court” means a Company Bench of a High Court having jurisdiction under this Act.(...) No other forum except the Company Bench of this Court can deal with a matter relating to addition/deletion of the name of a person from the register of directors of a company.
 - iii) As per section 4 of the Companies Act 2017, the said enactment has overriding effect over other laws, Memorandum of Articles of Association of a Company. Moreover, according to Section 5(2) of the Act 2017, the jurisdiction of Civil Court has expressly been ousted (...) As any matter relating to addition/deletion of the name of a person from the register of directors is exclusively amenable to the Company Bench of this Court in terms of sections 197(5) ibid, the jurisdiction of the civil court, working under Civil Procedure Code 1908, had no jurisdiction to try the suit.
 - iv) It is well established by now that when a matter is covered under special law, the application of general law is totally ousted (...) The courts, established under the Civil Procedure Code 1908, have the jurisdiction to try all suits of civil nature but they cannot take cognizance of a matter wherein their jurisdiction is expressly or impliedly barred.
 - v) Before taking cognizance of a matter, the forum concerned is bound to decide the question relating to its jurisdiction in the first instance and then to proceed further in the matter. Further, a court cannot be bound down to decide application for rejection of the plaint only on the basis of the contents of the plaint rather, it

can also take into consideration other available material while dealing with such application.

- Conclusion:**
- i) Rectification of the register of directors can be sought by aggrieved person or company.
 - ii) Only the Company Bench of the High Court has jurisdiction over such matters.
 - iii) The Companies Act, 2017, overrides other laws, ousted civil courts.
 - iv) Special law prevails over general law, excluding civil court jurisdiction.
 - v) A court must determine jurisdiction first and can consider all other relevant material.

35. Lahore High Court
Palwasha Nageen v. The State
Criminal Appeal No.589 of 2024
Mr. Justice Sadaqat Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC563.pdf>

Facts: Appellant being juvenile has been tried by the trial Court in private complaint offences under Sections 302, 109, 148 & 149 PPC arising out of case FIR, with the allegation of murder of her husband and was convicted and sentenced.

Issues: i) Whether for giving benefit of doubt there should be many circumstances creating doubt?

Analysis: i) It is settled principle of law that for giving benefit of doubt, it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in the prudent mind about the guilt of the accused, then he would be entitled to its benefit not as a matter of grace or concession but as of right.

Conclusion: i) Many circumstances do not require for giving benefit of doubt.

36. Lahore High Court
Malik Shoukat Ali Awan v. Ghulam Hussain (deceased) through LRs. etc.
CR No.516/D of 2022
Mr. Justice Sadaqat Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC558.pdf>

Facts: The plaintiff filed a suit for possession through pre-emption and alleged that he made the required immediate demand (*Talb-i-Muwathibat*) upon having knowledge of the sale. He also claimed to send a formal notice (*Talb-e-Ishhad*) to confirm his intention to pre-empt. The trial court decreed the suit in his favour. However, the lower appellate court reversed the decision and dismissed the suit. The plaintiff then filed this civil revision.

Issues: i) Whether date of attestation of mutation trigger the limitation period under Section 30 of the Punjab Pre-emption Act, 1991?

- ii) What are the mandatory requirements for valid performance of *Talb-e-Ishhad* under the Punjab Pre-emption Act, 1991?
- iii) Does mere signing and sending of notice fulfill the requirements of *Talb-e-Ishhad* under Section 13(3) of the Punjab Pre-emption Act, 1991?

Analysis:

- i) Date of attestation of mutation can be considered for filing suit of pre-emption within four months (Section 30 of the Act).
- ii) Section 13(3) of Punjab Pre-emption Act, 1991 (**“the Act”**) provides mode of making of “Talb-e-Ishhad”... To establish “Talb-e-Ishhad”, four formalities; (a) written notice (b) attested by two truthful witnesses (c) sent under registered cover (d) acknowledgement due, if facility of post office is available as in present case are to be fulfilled being mandatory provision of law [13(3)]. Plaintiff had also to prove through solid evidence that notice was personally served upon the vendee.
- iii) Non performance of “Talb-e-Ishhad” in accordance with law is fatal to the case of the plaintiff... “Talb-e-Ishhad” is confirmation of intention to exercise a right of pre-emption... In present case, petitioner being plaintiff and his witnesses have simply stated before the trial Court that notice in writing attested by them was sent to defendant but have not stated that plaintiff had confirmed his intention to exercise right of pre-emption which was requirement of Section 13(3) of the Act... mere signing and sending of notice cannot be held to be a substantive compliance with the provisions of Section 13(3) of the Act. In view of the above, plaintiff has failed to substantiate “Talb-e-Ishhad”. (PLJ 2014 SC 787) “Muhammad Zahid Vs. Dr. Muhammad Ali”.

Conclusion:

- i) See above analysis No i.
- ii) See above analysis No ii.
- iii) Mere signing and sending of notice cannot be held to be a substantive compliance with the provisions of Section 13(3) of the Act.

37. Lahore High Court
Manzur-ul-Haq v. The Federation of Pakistan and others
ICA No.155 of 2024.
Mr. Justice Shams Mehmood Mirza, Mr. Justice Abid Hussain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC443.pdf>

Facts: The appellant challenged the imposition of capital gains tax on the disposal of securities, arguing that a vested right to exemption had accrued before the legislative amendments. The learned Single Judge in Chambers dismissed the constitutional petition, prompting the present Intra-Court Appeal.

Issues:

- i) Does an amendment in fiscal statutes have retrospective effect in the absence of clear legislative intent?
- ii) Can a proviso in a tax statute nullify the substantive provision it modifies?
- iii) Does the imposition of different tax rates on similar transactions constitute discrimination under the law?
- iv) How should tax statutes imposing liabilities be interpreted?

- Analysis:**
- i) It is a cardinal principle that where an amendment is brought about in fiscal statutes it shall not be given a retrospective construction by applying to past transactions unless the intention is expressed with irresistible clearness... It is nonetheless a clear position of law and one that is supported by a long chain of respectable authority that clear and unambiguous words are required before a statutory provision will be construed as displaying a legislative intent to abolish or modify rights.
 - ii) A proviso is a legislative technique by the draftsman to qualify the generality of the main provision by adding an exception to and for taking out from the main clause, a part of it which, but for the proviso, would fall within the main clause.
 - iii) Notwithstanding the above changes brought about in Division VII, the legislature through Finance Act, 2024 again revived 0% rate of tax on disposal of securities acquired between 01.07.2022 and 30.06.2024 where the holding period exceeded six years. Even more significantly, the disposal of securities acquired before 01.07.2013 were again held liable to 0% tax as per the second proviso to the table of Division VII. These amendments completely nullified the effect of the offending proviso added through Finance Act, 2022. This lends credence to the allegation of discrimination by the appellant. Keeping in view the amendments made in Division VII up to the year 2021 and in the year 2024, there does not appear to be any rational basis for giving a different treatment to the disposal of securities acquired before 01.07.2013 through the amendments made in Division VII through Finance Act, 2022. The policy for imposition of a tax ought not to concern the Courts. Similarly, the classification of persons who are made liable to pay different rates of tax cannot be impugned on account of the fact that the tax burden from such classification is unequal. There must, however, be some rational criteria for such classification and if a similar property in the hands of similar persons is imposed different rates of tax at different periods, the law may be struck down on the ground of discrimination. The reintroduction of 0% tax on disposal of securities acquired prior to 01.07.2013 makes the imposition of capital gain tax on the appellant discriminatory.
 - iv) It is well settled that tax laws are to be construed strictly particularly the provisions which levy tax to avoid imposing any liabilities that are not explicitly outlined by law.

- Conclusion:**
- i) No, a fiscal amendment does not have retrospective effect unless explicitly stated.
 - ii) No, a proviso cannot nullify the substantive provision it modifies.
 - iii) Yes, the differential tax treatment of similar transactions amounts to discrimination.
 - iv) Tax laws imposing liabilities must be strictly interpreted to prevent unstated obligations.
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38. Lahore High Court
Choudhry Muhammad Nisar and 2 others v. Waqar Ali Khan and another
F.A.O. NO.121 of 2014
Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC669.pdf>

Facts: The facts of the case are a dispute among business partners operating a registered firm. Due to differences, one party sought court intervention to refer the matter to arbitration, to which the opposing party initially consented. An arbitrator was appointed, and an award was submitted, but objections were raised which were turned down and award was made rule of court.

Issues: i) Whether a formal reference from the court is a sine qua non for arbitration proceedings under Section 20(4) of the Arbitration Act, 1940?
 ii) Whether an arbitration award can be made rule of the court in the absence of a formal reference under Section 20(4) of the Arbitration Act, 1940?

Analysis: i) It clearly manifests from the bare perusal of the above noted provision of law that before referring the matter to the arbitrator an order of reference by the court is sine qua non.
 ii) The above discussion leads me to an irresistible conclusion that framing of reference in terms of Sub-Section (4) of Section 20 of the Act, 1940 and referring it to the arbitrator is a necessary corollary and pre-condition for the arbitrator to start the arbitration proceedings. Thus, leaving aside the worth and credence of the objections to the award, it is observed that when the very basis of the arbitration proceedings are suffering with patent illegalities, the superstructure built thereupon would automatically crumble. The trial court thus has erred in law while making award rule of the court.

Conclusion: i) A court reference is mandatory before arbitration.
 ii) Without a court reference, the arbitration award is invalid.

39. Lahore High Court
Board of Intermediate and Secondary Education Rawalpindi through its Chairman, Morgah Road, Rawalpindi v. Sadia Iqbal and another
Civil Revision No.124-D of 2022
Mr. Justice Mirza Viqas Rauf.
<https://sys.lhc.gov.pk/appjudgments/2025LHC739.pdf>

Facts: This petition, along with the connected petitions stems from suits filed by students of institutions under the Board of Intermediate and Secondary Education, seeking corrections in their date of birth or name. Several students obtained favorable decrees, others were denied relief due to jurisdictional objections. The Board has challenged these decrees through revision petitions, while some students have also appealed their unsuccessful claims. The primary issue before the Court is

whether the civil court has the jurisdiction to decide such matters, a question considered in some cases but overlooked in others.

Issues:

- i) Is statutory bar ousting civil court jurisdiction absolute?
- ii) Under what circumstances can civil courts exercise jurisdiction despite a statutory bar?
- iii) Why is the question of jurisdiction crucial in determining the legality of court proceedings and when it must be settled?

Analysis:

- i) It is trite law that even if there is any bar in the statute ousting the jurisdiction of civil court, it cannot operate as absolute.
- ii) Civil courts are courts of ultimate jurisdiction and unless jurisdiction is either expressly or impliedly barred, the final decision with regard to a civil right, duty or obligation, shall be that of the civil courts, where allegation of *mala fide* action has been made in the plaint, the civil court despite the bar placed on the relevant statute can examine acts on account of being tainted with *mala fide*, *coram non judice* or void.
- iii) Needles to mention that question of jurisdiction is always pivotal because if a court or tribunal having no jurisdiction proceed with a matter and decide it, the entire proceedings would be illegal and *coram non judice*. It is thus obligatory for the court or tribunal to settle the question of jurisdiction at the very outset.

Conclusion:

- i) Bar in the statute ousting the jurisdiction of civil court does not operate as absolute.
- ii) See above analysis No.ii
- iii) See above analysis No.iii

40. Lahore High Court
Commissioner Inland Revenue, Zone-VIII, Regional Tax Office-II, Lahore v. M/s Sika Paint Industries (Pvt.) Ltd.
STR No.256 of 2015
Mr. Justice Shahid Karim, Mr. Justice Muhammad Sajid Mehmood Sethi
<https://sys.lhc.gov.pk/appjudgments/2017LHC5929.pdf>

Facts: A show cause notice was issued to the taxpayer for alleged tax evasion based on a contravention report spanning 2007-08 to 2013-14. The assessing officer confirmed the liability, which was partially upheld by the CIR(Appeal). However, the Appellate Tribunal later set aside the order. Hence; this reference application filed by the tax department.

Issues:

- i) Does the Sales Tax Act, 1990 require adherence to the search procedures outlined in the Code of Criminal Procedure, (CrPC) 1898?
- ii) Whether non-appearing of two witnesses on recovery memo as required under Section 102 & 103 of CrPC is not a procedural / technical infirmity?
- iii) Do the amendments introduced through the Finance Acts 2004 aim to regulate and limit the powers of sales tax authorities to prevent taxpayer harassment?

- Analysis:**
- i) Section 40 of the Act of 1990 authorizes an Officer of Inland Revenue to enter a place, after obtaining a warrant from a Magistrate, to search any documents or items, that in his opinion may be useful or relevant to any proceedings under the Act. The use of word “shall” in subsection (2) of Section 40 of the Sales Tax Act, 1990, makes the procedure outlined in the Criminal Procedure Code, 1898 as mandatory. (...) All searches made under the Act of 1990 are to be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898. The procedure regarding search has been provided in Sections 96, 98, 99-A and 100 of the Cr.P.C. whereby firstly, a search warrant is to be obtained from the Illaqa Magistrate when search of the premises is to be conducted.
 - ii) The provisions of Section 103 Cr.P.C. require that a search be conducted in the presence of two or more respectable inhabitants of the locality (...) In accordance with the Section 103 of the Cr.P.C., it is mandatory to involve two or more respectable inhabitants of the locality in which the place to be searched is situated to attend and witness the search and a list of all articles taken into possession shall be prepared and a copy thereof shall be delivered there and then.
 - iii) Needless to observe, Section 38-A (inserted through the Finance Act, 2004), Section 40 (substituted through the Finance Act, 2004) and Section 40-A (omitted by the Finance Act, 2006) are meant to curtail and monitor the unlimited and unbridled powers of the sales tax authorities, which were resulting in undue harassment and humiliation of taxpayers.

- Conclusion:**
- i) A Magistrate’s warrant and Cr.P.C. procedures are mandatory for searches.
 - ii) Searches require two local witnesses, and a seizure list must be provided.
 - iii) Finance Act amendments limit sales tax authorities’ powers to prevent harassment.

41. Lahore High Court
Rana Aamir Ijaz v. The State and others
Criminal Revision No. 187/2023.
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2024LHC6532.pdf>

Facts: In a trial under Anti-Corruption law learned Special Court struck off the right to cross examination due to default in payment of diet money imposed.

- Issues:**
- i) Whether the accused could be burdened with the diet money or travel expenses of prosecution witnesses?
 - ii) Who is to bear the expenses of witnesses in criminal cases?
 - iii) Whether the court could refuse compensation to victim or legal heirs u/s 544 CrPC, without assigning valid reasons?
 - iv) The compensation awarded u/s 544 CrPC, how to be disbursed?
 - v) What is the importance of cross examination in the administration of justice?
 - vi) What is the way out, if the accused fail to cross examine the prosecution witnesses?

Analysis:

- i) The Code of Criminal Procedure does not contain any provision that allows the court to close an accused's right to cross examine a prosecution witness if the accused fails to pay the witness's diet money or travel expenses. Reference in this regard may also be usefully made to *Ghulam Nabi and others v. Shaukat Ali and another* (PLD 2007 Lahore 368). The statutory framework governing diet money in criminal trials ensures that financial burdens do not obstruct an accused's right to a fair defence.
- ii) Section 244(3) states that the magistrate may, before summoning any witness on such an application, require that the witness's reasonable expenses incurred in attending the trial be deposited in court. However, the accused is not required to deposit such expenses if he is charged with an offence punishable with imprisonment exceeding six months... Section 544 Cr.P.C. provides that, subject to any rules made by the Provincial Government, any criminal court may, if it deems appropriate, order the government to pay the reasonable expenses of any complainant or witness attending an inquiry, trial, or other proceeding before the court under the Code of 1898.
- iii) It is pertinent to point out that the Code allows the court to impose fines or order compensation to the victim while convicting an accused. Section 544-A(1) Cr.P.C. mandates that when a person is convicted of an offence that results in death, harm, injury, mental anguish, or psychological damage to another person or causes damage, loss, or destruction of property, the court must, at the time of conviction, order the convict to pay compensation to the victim or their heirs, unless it gives reasons in writing for not doing so. The amount is determined based on the circumstances of the case.
- iv) Section 544-A(3) Cr.P.C. further states that this compensation is in addition to any sentence imposed for the offence. Section 545(1) Cr.P.C. provides that whenever a criminal court imposes or confirms a fine, it may direct that the recovered fine be used for (a) covering the proper expenses of prosecution, (b) compensating any person for loss, injury, mental anguish, or psychological damage caused by the offence, if such compensation could be recoverable in a civil court, or (c) compensating a bona fide purchaser of stolen property when the offender is convicted of theft, misappropriation, breach of trust, cheating, or receiving stolen property, and the property is returned to its rightful owner.
- v) The concept of a fair trial is central to the administration of justice, and the right to cross-examine witnesses is a component of the right to a fair trial. Cross-examination is "the greatest legal engine ever invented for the discovery of truth."⁷ In an adversarial legal system, it is a "primary evidentiary safeguard",⁸ an acid test of the truthfulness of a statement made by a witness on oath in examination-in-chief.
- vi) An accused cannot be permitted to abuse the legal process or obstruct court proceedings. If they deliberately fail to bring their lawyer, the court must appoint a defence counsel at state expense and proceed with the trial. In *Abdul Ghafoor v. The State* (2011 SCMR 23), a murder case, the prosecution examined 13

witnesses, including two eyewitnesses. The accused-appellant failed to produce his counsel for their cross-examination despite repeated opportunities. In the circumstances, the trial court required him to cross-examine the witnesses himself and then proceeded to decide the case. The Supreme Court held that it is the primary duty of a trial court to ensure the discovery of truth and the fair administration of justice. If the accused's counsel repeatedly sought adjournments and failed to appear, the court should have either appointed a defence counsel at State expense or provided the accused a final opportunity to arrange legal representation, failing which the trial could proceed. Since the trial court failed to follow these steps and unexpectedly required the accused to cross-examine witnesses despite his lack of legal expertise, the Supreme Court ruled that this approach led to a miscarriage of justice and allowed the accused another opportunity for cross-examination.

- Conclusion:**
- i) No, an accused could be burdened with the diet money or travel expenses of prosecution witnesses.
 - ii) any criminal court may, if it deems appropriate, order the government to pay the reasonable expenses of any complainant or witness attending an inquiry, trial, or other proceeding.
 - iii) The court must award compensation to victim or legal heirs u/s 544 CrPC, unless assigning valid reasons for otherwise.
 - iv) See above analysis (iv)
 - v) Cross-examination is “the greatest legal engine ever invented for the discovery of truth.
 - vi) The court must appoint a defence counsel at state expense and proceed with the trial.

42.

Lahore High Court

Fauji Cement Company Limited v. Govt. of Punjab etc.

W.P.No.2838/2024

Mr. Justice Jawad Hassan

<https://sys.lhc.gov.pk/appjudgments/2025LHC685.pdf>

Facts:

The petitioner received a show-cause notice from the Punjab Revenue Authority under Section 52 of the Punjab Sales Tax on Services Act, 2012, for alleged non-payment of Punjab Sales Tax on taxable services. The petitioner challenged the same show cause notice in a writ petition contending that the notice was issued without fulfilling procedural requirements and also alleged that same notice violated constitutional guarantees under Articles 4 and 10-A, which ensure the right to be treated in accordance with the law and the right to a fair trial.

Issues:

- i) Whether a tax officer must consider objections before determining liability under Section 52 of the Punjab Sales Tax on Services Act, 2012?
- ii) Which different legal provisions apply to withholding agents and tax collection procedures?

- iii) Comparison between “Section 52” and “Section 14” of Punjab Sales Tax on Services Act, 2012
- iv) Judicial Precedent regarding definition of Tax payer, his liabilities, principles for issuance of show cause notice and the jurisprudence developed by different courts.
- v) Whether the rights of a taxpayer are determined based on the legal framework governing tax administration?
- vi) Scope of Article 10 A of the Constitution of Islamic Republic of Pakistan, 1973
- vii) Whether Article 4 of the Constitution guarantees that all actions by public authorities must be in accordance with the law?
- viii) Whether the interpretation of tax laws should be limited to their plain language without considering intent of the Legislature ?

Analysis:

- i) It is pertinent to mention here that in the judgment reported as *Rahat Café, Rawalpindi versus Government of Punjab through Secretary Finance and others* (2024 PTD 898), this Court has already interpreted provisions of Section 52 of the Act by observing that the officer concerned shall determine the tax liability after considering the objections of the person served with notice as per Sub-Section (3) of Section 52 of the Act.
- ii) Sub-Section (2) of Section 14 of the Act discusses the powers of the Authority in connection with a withholding agent whereas Section 14A(2) of the Act describes a special procedure for collection and payment of tax in respect of any service or class of services, as may be specified.
- iii) It would be appropriate if a minute comparison is made between the relevant provisions of law, the Act, which in this case are “Section 52” and “Section 14” of the Act. When a quick glance is taken on Chapter VIII of the Act, which also comprises Section 52, it would clarify that this Chapter describes the procedure regarding offences and penalties, including the procedure meant for (i) exemption from penalty and default surcharge and (ii) recovery of tax not levied or short-levied. Whereas, Section 14 comes within the purview of Chapter II of the Act, which is most relevant here because it mentions the scope of tax with charging sections/provisions by giving a complete mechanism regarding (i) person, who is liable to pay tax [Section 11]; (ii) liability of a registered person [Section 11A]; exemptions [Section 12]; (iii) effect of change in the rate of tax [Section 13]; (iv) special procedure and tax withholding provisions [Section 14]; (v) special procedure for collection of tax, etc. [Section 14A]; (vi) delegation of power to collect, administer and enforce tax on certain services [Section 15]; (vii) deduction and adjustment of tax on inputs to the business [Section 16]; (viii) certain transactions not admissible [Section 16A]; (ix) tax credit not allowed [Section 16B]; (x) extent of adjustment of input tax [Section 16C] and (xi) refunds [Section 16D].
- iv) It would also be beneficial to note here that in the judgment reported as *Reliance Commodities (Private) Ltd. versus Federation of Pakistan and others*

(PLD 2020 Lahore 632=2020 PTD 1464) this Court has already defined the taxpayer and also vastly discussed his/her/its liabilities. In the said case, this Court has set-aside the show cause notice, being illegal and without lawful, after discussing in detail (a) the principles for issuance of a show cause notice; (b) relevant law and (c) the jurisprudence developed by superior Courts of the country on different occasions.

v) In another judgment reported as *Chenab Flour and General Mills versus Federation of Pakistan and others* (PLD 2021 Lahore 343), the rights of a taxpayer have been further elaborated by this Court by discussing in detail legal anthropology of the Federal Board of Revenue under provisions of the fiscal laws prevailing in Pakistan

vi) Scope of Article 10-A has recently been further expanded by the Supreme Court of Pakistan in the case of *Federal Government Employees Housing Authority through Director General, Islamabad versus Ednan Syed and others* (PLD 2025 SC 11) in which it has been held that “...Article 10A of the Constitution requires that everyone is entitled to a fair trial and due process, which includes the basic right to be heard. The principle of ‘audi alteram partem’ is one of the foundational principles of natural justice. It necessitates the requirement of being heard so that the judicial order reflects the contention of every party before the court. To fulfill the requirements of being heard, it is settled that the relevant party must be issued first a notice and then be allowed a hearing. These two (notice and hearing) are basic pre-requisites, which satisfy the test of being heard as well as fair trial and due process within the ambit of Article 10A of the Constitution...”

vii) Moreover, Article 4 of the Constitution clearly states that it is an inalienable right of every citizen to be treated in accordance with law and no action detrimental to his/her life, liberty, reputation or property shall be taken except as per law. No public functionary/authority is allowed, under the Constitution, to act in a manner infringing upon fundamental rights or exceeding statutory limits, as has been held by the Supreme Court of Pakistan in various cases, from time to time.

viii) In *Reliance Commodities Case* (supra) (PLD 2020 Lahore 632), this Court has already held that tax laws are divided into parts in the form of various Chapters, which also include Definition Sections, Charging Sections, Collection Sections, Recovery Sections and some other miscellaneous Sections in which the purpose as well as method regarding assessment (of tax) has been specifically provided. If this view is read with the Doctrine of Textualism developed by this Court in the case of *Service Global Footwear Limited and another versus Federation of Pakistan and others* (PLD 2023 Lahore 471) then it would also clear that a statute should be interpreted according to its plain meaning and not as per the intent of the legislature, the statutory purpose or the legislative history.

- Conclusion:** i) Officer concerned shall determine the tax liability after considering the objections of the person served with notice as per Sub-Section (3) of Section 52 of the Act.
 ii) See above analysis No ii.
 iii) See above analysis No iii.
 iv) See above analysis No iv.
 v) See above analysis No v.
 vi) See above analysis No vi.
 vii) No public functionary/authority is allowed, under the Constitution, to act in a manner infringing upon fundamental rights or exceeding statutory limits.
 viii) See above analysis No viii.

43. Lahore High Court
Muhammad Afzal v. Judge Family Court, etc.
Writ Petition No.43280 of 2022
Mr. Justice Ahmad Nadeem Arshad
<https://sys.lhc.gov.pk/appjudgments/2025LHC495.pdf>

Facts: Through this constitutional petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has called in question the validity and legality of judgment and decree passed by learned Judge Family Court; whereby suit of respondent No.2 (alleged biological daughter of the petitioner) for recovery of maintenance allowance was decreed.

Issues: i) What is Biological Child?
 ii) What is legitimate child?
 iii) What is illegitimate child?
 iv) How a status of child can be determined?
 v) Whether it is essential for court to establish paternity in case of dispute of paternity prior to fix the maintenance allowance?
 vi) Whether biological father is morally bound to maintain biological child?
 vii) Whether the Family Court has jurisdiction to hear the case and whether the maintenance can be awarded to an illegitimate child.

Analysis: i) "Biological Child" refers to a child who is genetically related to the parents. This term focuses on the genetic link between the child and the parents, rather than the legal or social status. A "biological child" can be born within a marriage or outside of it.
 ii) A "legitimate child" refers to a child born to parents who are legally married to each other at the time of the child's birth. This term primarily has legal significance and is used to distinguish children born within a lawful marriage from those born outside of marriage (historically referred to as "illegitimate" or "illegitimate children").

iii) An illegitimate child is a child born out of wedlock either as a result of adultery or rape and he is not from *Syubhah* intercourse or not from a child of slavery.

iv) In Islam, a child's status can be determined through several methods. First, through legal marriage or *Fasid* marriage between both parents. Second, through *Syubhah* intercourse. The third is a father's acknowledgment that a child is his biological child. Forth, evidence by two fair male witnesses. The fifth, *Qiyafah*, is the recognition by experts who specialized in determining descent base on physical characteristics and likeness. The sixth is through Deoxyribonucleic Acid or DNA tests on samples such as blood, hair, bone and sliva. The final method is through laboratory testing which has 99.99% accuracy in the determination of descent and can also be used to identify hereditary genealogy for inheritance. All the methods mentioned above are based on Hadiath of the prophet.

“(Descent) the child belongs to the span (legal marriage). While there is no right for adultrers.” (Al-Bukhari, 2000 Hadiath No.2092)”

v) In view of the above, the Court has erred in law by granting maintenance for the child without first ensuring, through the proper process of evidence, that the child is indeed the biological offspring of the petitioner. In cases where paternity is disputed, it is essential for the Court to first establish, beyond a reasonable doubt, the biological relationship between the child and the defendant. Without recording sufficient evidence, the Court's decision to grant maintenance prematurely bypasses a critical step in determining legal responsibility. This failure undermines the principles of fairness and due process in family law proceedings.

vi) In view of the above discussion, equity, fair-play and justice demands that the respondent No.2, if proves to be a biological child of the petitioner, then she must be compensated and maintained by him. The person, having begotten the child, is bound to provide for its maintenance. The biological father is also morally under obligation to maintain his illegitimate child.

vii) In view of the above discussion, this Court does not feel any hesitation to hold that while the Act specifically references "family affairs and marriage," its broader interpretation allows it to cover cases involving the maintenance of children, including disputes over biological paternity. Hence, the Family Court has jurisdiction to adjudicate upon the matter.

- Conclusion:**
- i) See above analysis No.i
 - ii) See above analysis No.ii
 - iii) See above analysis No.iii
 - iv) See above analysis No.iv
 - v) see above analysis No.v
 - vi) The biological father is also morally under obligation to maintain his illegitimate child.
 - vii) the Family Court has jurisdiction to adjudicate upon the matter.

- 44. Lahore High Court**
The State vs. Atif Pervaiz
Murder Reference No. 23 of 2023
Atif Pervaiz vs. The State etc.
Crl. Appeal No. 293-J of 2023
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Muhammad Tariq Nadeem
<https://sys.lhc.gov.pk/appjudgments/2025LHC639.pdf>

Facts: The deceased was shot and killed, initially, an FIR was registered however, a supplementary statement later implicated some other accused persons. The trial court convicted one of the accused, sentencing him to death, while acquitting the co-accused. The convicted accused assailed the judgment regarding his conviction and simultaneously the murder reference was also referred for confirmation of the death sentence.

Issues:

- i) Whether delay in reporting the incident to the police undermine the credibility of the prosecution's case?
- ii) Does the prolonged delay in the post-mortem examination weaken the prosecution's case by indicating possible manipulation of evidence?
- iii) What is the effect of significant delay in filing the private complaint?
- iv) What is the effect if the witnesses fail to justify their presence at the crime scene?
- v) Whether the failure of the eyewitnesses to describe specific injuries on the deceased undermine their credibility?
- vi) What is the legal and evidentiary value of a supplementary statement in Pakistani law?
- vii) Can a supplementary statement be relied upon if it alters the initial version of events without a plausible explanation?
- viii) Does the belated implication of the appellant by related witnesses undermine the credibility of the prosecution's case?
- ix) Whether absence of the names of eyewitnesses to be listed in the inquest and post-mortem reports undermine their credibility?
- x) Whether the testimony of prosecution witnesses credible against one accused if it has already been disbelieved for a co-accused, in the absence of independent corroboration?
- xi) Whether recovery of a pistol from an open and accessible place diminish its evidentiary value?
- xii) Whether CDR, without proof of the conversation's content, conclusively establish the accused's involvement in the crime?
- xiii) Whether the recovery of the motorcycle is inconsequential due to the lack of its details in the FIR and its non-recovery from the appellant's possession?
- xiv) Does the failure to prove the alleged motive weaken the prosecution's case against the accused?
- xv) whether the accused can be granted benefit of doubt due to a single

circumstance creating doubt in the prosecution's case?

- Analysis:**
- i) There is a delay of 02 hours and 35 minutes in reporting the matter to the police. No reasoning has been described by complainant (PW.1) to the effect that why he recorded his statement (Exh.PA) with the delay of one and half hour after the arrival of police. This fact is sufficient to hold that that supra-mentioned eye witnesses were not present at the time and place of occurrence, even otherwise, there was no justification for the above-mentioned delay. Therefore, we hold that this delay in setting the machinery of law into motion speaks volume against the veracity of prosecution version.
 - ii) Postmortem on the dead body of deceased was conducted with the delay of 09 hours and 50 minutes, after the occurrence. Keeping in view, the above-mentioned gross delay in the post mortem examination, an adverse inference can be drawn that the prosecution witnesses were not present at the time of occurrence and the intervening period had been consumed in fabricating a false story after preliminary investigation, otherwise there was no justification of delay for conducting post-mortem examination on the dead body of the deceased.
 - iii) We have further noted that complainant (PW.1) being dissatisfied with the police investigation, while changing the prosecution version as reproduced supra, filed private complaint (Exh.PD) with the delay of almost 04 months and 20 days of the occurrence. Prosecution has not given any plausible reasoning qua such delay meaning thereby that the private complaint has been filed after due deliberation and consultation just to fill up the lacunas left in the FIR.
 - iv) It was, therefore, mandatory for the above-mentioned eye witnesses to justify their presence at the place of occurrence at the relevant time through some cogent reason but they have failed to establish their presence at the relevant time and place of occurrence rather they are related and chance witnesses.
 - v) Occurrence took place in broad daylight at 01:40 p.m. but the alleged eye witnesses, complainant (PW.1) and PW.2 have not described any specific injury to any of the accused persons. Had they present at the time of occurrence, they must have described the exact locale of injuries on the body of deceased, this fact further negates the version of the prosecution qua the presence of supra-mentioned eye witnesses at the time and place of occurrence.
 - vi) It is settled by now that a supplementary statement is a statement made by a complainant or witness after the initial First Information Report (F.I.R.) has been recorded. It is typically used to provide additional information or clarify details that were not included in the original F.I.R. However, the legal standing and evidentiary value of supplementary statements can be quite limited. In the context of Pakistani law, supplementary statements are not considered equivalent to the F.I.R. and do not carry the same weight in legal proceedings.
 - vii) The courts have also noted that supplementary statements should not be relied upon if they change the initial version of events without a plausible explanation for change. In nutshell, while supplementary statements can provide additional

context or details, their legal significance is often scrutinized, and they are treated with caution in judicial proceedings.

viii) In this way, it is abundantly clear that above-mentioned PWs have implicated the appellant after due deliberation and consultation; even otherwise, due to the close relationship of the eye witnesses with the appellant being residents of adjacent houses, there was no occasion for not mentioning the name the appellant and his co-accused in the F.I.R. Even otherwise, the courts have always deprecated such kind of statement, which is made with the purpose to strengthen the case of the prosecution at the behest of the police officials or some other ulterior motives to get the suspect convicted by hook or crook.

ix) Complainant (PW.1) and PW.2 are not witnesses of inquest report (Exh.CW-2/B/5) and postmortem report (Exh.CW-2/B) pertaining to deceased. 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 the close relatives and their names should have been incorporated in the post mortem report in the column of identification of the dead body. This fact has constrained us to hold that supra mentioned PWs were not present at the time and place of occurrence.

x) It is a trite principle of law and justice that 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.

xi) With regard to the recovery of pistol 30 bore (P-4) taken into possession by ASI/I.O (CW.11) at the pointation of the appellant vide recovery memo (Exh.PJ) concealed near the bridge by wrapping in shopper under the gumarabic tree and positive report of the Punjab Forensic Science Agency, Lahore (Exh.PL), we are of the view that the same are not helpful to the prosecution, because the pistol was recovered from an open place, which was easily accessible to all... In this way, abovementioned recovery of pistol at the instance of the appellant is highly doubtful in nature and the same cannot be relied upon.

xii) As far as recovery of CDR of mobile phone (P-7) being used by co-accused Mst. Abida Perveen (since acquitted) through recovery memo (Exh.CW11/J) and CDR of mobile phone (P.9) of appellant through recovery memo (Exh.CW3/C) are concerned the same simply depict the number of caller as well of recipient, location, duration of call and not more than this, even there is no evidence that what was the conversation made between the caller and recipient. It is well settled by now that CDR is not conclusive proof of involvement of accused in the commission of crime.

xiii) So far as the recovery of motorcycle CD-70 (P-9) allegedly used by the appellant during the occurrence is concerned, admittedly, no registration number, colour, its company name have been described in the F.I.R. Moreover, abovesaid recovery was not made from the possession of the appellant. In this way, recovery of motorcycle is inconsequential and not helpful to the prosecution case.

xiv) Although, the prosecution is not under obligation to establish a motive in every murder case but it is also well settled principle of criminal jurisprudence that if prosecution sets up a motive but fails to prove it, then, it is the prosecution who has to suffer and not the accused.

xv) It is, by now well-established principle of law that it is the prosecution, which has to prove its case against the accused by standing on its own legs, but in this case the prosecution remained failed to discharge its responsibility. It is also well-established principle of law that if there is a single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.

Conclusion: i) Delay in setting the machinery of law into motion speaks volume against the veracity of prosecution version.

ii) An adverse inference can be drawn that the prosecution witnesses were not present at the time of occurrence and the intervening period had been consumed in fabricating a false story.

iii) Suh delay would suggest that the private complaint has been filed after due deliberation and consultation just to fill up the lacunas left in the FIR.

iv) See above analysis No iv.

v) This fact negates the version of the prosecution qua the presence of supra-mentioned eye witnesses at the time and place of occurrence.

vi) See above analysis No vi.

vii) Supplementary statements should not be relied upon if they change the initial version of events without a plausible explanation.

viii) See above analysis No viii.

ix) See above analysis No ix.

x) 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.

xi) Recovery of pistol at the instance of the appellant from an open accessible place is highly doubtful in nature and the same cannot be relied upon.

xii) It is well settled by now that CDR is not conclusive proof of involvement of accused in the commission of crime.

xiii) See above analysis No xiii.

xiv) If prosecution sets up a motive but fails to prove it, then, it is the prosecution who has to suffer and not the accused.

xv) If there is a single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.

45.

Lahore High Court

Muhammad Ramzan v. The State and another

Crl. Appeal No. 577 of 2022

Mr. Justice Tariq Saleem Sheikh, Mr. Justice Muhammad Tariq Nadeem

<https://sys.lhc.gov.pk/appjudgments/2025LHC626.pdf>.

- Facts:** The appellant was convicted under the Drugs Act, 1976, and the Drug Regulatory Authority of Pakistan Act, 2012, for allegedly stocking and selling drugs without a license, without warranties, and spurious alternative medicines. The conviction was challenged on the ground of procedural violations in prosecution.
- Issues:**
- i) Whether the initiation of prosecution for offences under the Drugs Act, 1976, and Drug Regulatory Authority of Pakistan Act, 2012, requires the issuance of show cause notice?
 - ii) Whether recovery proceedings under the Drugs Act, 1976, are required to be conducted in accordance with section 103 of the Code of Criminal Procedure, 1898?
 - iii) Whether benefit of doubt arising from non-compliance with statutory procedures is to be extended to the accused?
- Analysis:**
- i) The use of word “shall” between the lines in the above quoted Rule makes it mandatory for the District Quality Control Board to serve the show cause notice upon the concerned person and afford him an opportunity of hearing before taking any action about the prosecution of such person.
 - ii) Since the above-referred provisions of The Drugs Act, 1976 and Drug Regulatory Authority of Pakistan Act, 2012 with regard to the search and seizure of drugs are consistent with the provisions contained in section 103 of the Code of Criminal Procedure (Act V of 1898), therefore, the latter provisions are also fully applicable to the case in hand in the light of section 18(2) of The Drugs Act, 1976 as well as Para (2) in Schedule V of Drug Regulatory Authority of Pakistan Act, 2012...
 - iii) It goes without saying that if there is single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.
- Conclusion:**
- i) Yes, mandatory compliance regarding issuance of show cause notice is essential before initiating prosecution.
 - ii) Yes, recovery proceedings must comply with section 103 Cr.P.C. along with the provisions of Drugs Act, 1976.
 - iii) Yes, benefit of doubt must be extended to the accused in case of non-compliance with legal procedures.

46. Lahore High Court
Muhammad Arif v. The State and another
Crl. Appeal No. 175 of 2021
Wali Muhammad v. The State and another
Crl. Revision No. 66 of 2020
Mr. Justice Muhammad Tariq Nadeem
<https://sys.lhc.gov.pk/appjudgments/2025LHC762.pdf>

- Facts:** A young woman went missing while collecting fodder and was later found dead in a sugarcane field with her throat slit. The case was registered based on a

complaint by a family member, initially against an unknown person. During the investigation, the accused was implicated based on circumstantial evidence, including last-seen testimony, forensic reports, and alleged confessions. The trial court convicted the accused and sentenced him to imprisonment under multiple charges.

Issues

- i) What is the evidentiary value of circumstantial evidence in a criminal trial?
- ii) How reliable is 'last seen' evidence in the absence of corroborative proof?
- iii) What is the legal standing of DNA evidence in criminal cases?
- iv) Can DNA evidence be the sole basis for conviction in a capital case?
- v) What is the evidentiary value of medical reports in the absence of direct evidence?
- vi) Under what circumstances can a recovery memo be considered inadmissible?
- vii) Can a conviction be sustained solely on the basis of recovery of a weapon?
- viii) What is the principle regarding benefit of doubt in criminal trials?

Analysis:

- i) It is well settled by now that in such like cases, prosecution is required to link each circumstance to the other in a manner that it must form a complete, continuous and unbroken chain of circumstances, firmly connecting the accused with the alleged offence and if any link is missing then obviously benefit is to be given to the accused.
- ii) Even, it is well settled by now that last seen evidence is always considered to be weak type of evidence, unless corroborated by some other independent evidence
- iii) Although, in terms of section 510 Cr.P.C. the DNA report is per se admissible in evidence and it is high degree corroborative piece of evidence. Appeal No. 175 of 2021 and CrI. Rev. No. 66 of 2020 8 evidence, which plays very significant role in the safe administration of justice. Moreover, it gives a passage to the Courts of law to reach at a just conclusion but at the same time this court has to observe whether DNA report has been issued in accordance with law. In this regard, court should be very conscious about the safe transmission of sealed sample parcels to the office of the Punjab Forensic Science Agency
- iv) I have also observed that DNA is considered a type of expert evidence in criminal proceedings; therefore, it cannot be accepted as primary evidence and may only be used for corroboration. In any event, it is an expert opinion, and even if it was accepted as evidence and relied upon, it would not be adequate to link the appellant's neck to the commission of the crime when I have found all the other evidence to be implausible. As a result, it cannot be relied upon to impose conviction on a capital charge. In this way, this piece of evidence is also not helpful to the prosecution case.
- v) It is well settled by now that the medical evidence may confirm the ocular account with regard to seat of injuries and its duration, nature of injuries and kind of weapon used for causing such injury but it cannot connect the accused with the commission of crime.

vi) in order to apply Article 40 of the Qanoon-e-Shahadat Order, 1984, the prosecution must establish that information given by the accused led to the recovery or some fact deposed by him must be of some fact which the police had not previously learnt from any other source and that the knowledge of the fact was first derived from the information given by the accused. I have noted that the place of occurrence was already in the knowledge of the prosecution witnesses and police.

vii) More so, when the evidence qua last seen had already been disbelieved by this Court, due to the reasons mentioned earlier, I am of the view that conviction cannot be sustained merely on the ground of op-cit recovery of weapon of offence.

viii) The Supreme Court of Pakistan time and again held that in the event of a doubt, the benefit must be given to the accused not as a matter of grace, but as a matter of right.

- Conclusion:**
- i) Circumstantial evidence must form a complete and unbroken chain; any missing link benefits the accused.
 - ii) Last seen evidence weak unless corroborated by independent proof.
 - iii) DNA evidence admissible but requires a secure chain of custody to be reliable.
 - iv) DNA as expert opinion cannot be sole evidence for conviction; needs corroboration.
 - v) Medical evidence confirms injuries but does not establish the accused's guilt.
 - vi) Recovery evidence must be based on new, exclusive knowledge from the accused.
 - vii) Weapon recovery alone, it cannot sustain a conviction.
 - viii) Benefit of doubt must be given to the accused when reasonable doubt exists.

47.

Lahore High Court

Parks & Horticulture Authority v. Punjab Labour Appellate Tribunal, etc.
Writ Petition No.78987 of 2023

Mr. Justice Anwaar Hussain

<https://sys.lhc.gov.pk/appjudgments/2025LHC463.pdf>

Facts: The respondents were employed as daily wage workers for over a decade in a public authority responsible for horticultural maintenance. They approached the Labour Court seeking recognition as permanent workmen and regularization of their services. The Labour Court declared them permanent workmen but denied regularization, a decision later overturned by the Tribunal, leading to the present constitutional petitions.

Issues:

- i) Does the nature of duties determine a worker's status under labour laws?
- ii) Is Parks & Horticulture Authority (PHA) a 'Commercial Establishment' under labour laws?
- iii) Does a daily wage worker employed for over 10 years qualify as a 'workman'?

iv) What is the distinction between the regularization of service and the declaration as a permanent workman and whether the Tribunal was justified in directing the regularization of services of the respondents?

Analysis:

i) Suffice to observe that the nature of the duties performed is crucial in determining the status of a workman irrespective of the employment terms. Mere existence of the statutory rules does not exempt an organization from the application of labour laws if the employment conditions align with the definition under the relevant statutes.

ii) This Court is of the opinion that the definition of an ‘Industrial or Commercial Establishment’ under the Ordinance, broadly includes any entity engaged in systematic economic activities that involve labour and service delivery. The PHA Act establishes the petitioner-PHA as a regulatory and operational body for maintaining public parks and green spaces. While its primary function may not be industrial or commercial in the conventional sense, the engagement of petitioner-PHA in systematic horticultural maintenance falls within the scope of ‘Commercial Establishment’, particularly, given its structured employment model and the revenue-generating activities.

iii) Based on the legislative definitions under the PIRA, the Ordinance and the above referred judicial pronouncement of Supreme Court of Pakistan in case of Ahmad Hussain supra, I am of the opinion that for the purposes of the Ordinance, the petitioner PHA is a commercial establishment and the respondents are workmen. Consequently, they are entitled to the rights and protections outlined in the Ordinance and/or the PIRA. The respondents having demonstrated continuous service and engagement in functions integral to the objectives of the PHA Act as outlined in Section 4 thereof and hence, were rightly held entitled to be recognized as permanent workmen by the Labour Court(s). Suffice to observe that for a workman to be declared as permanent, it is nowhere mandated under the law that the said post should be a sanctioned post rather a workman working on a post for a statutory recognized period ipso facto becomes a permanent workman, by operation of the law. Therefore, permanent status of a workman cannot be made contingent upon the existence of a sanctioned post as the same would amount to reading into law what the law does not provide for.

iv) This Court is of the opinion that the Labour Courts do not have the authority to introduce the regularization, which applies to the contractual, ad-hoc, or daily wage employees in public authorities under the civil service rules and/or a specific government policy. Courts cannot lose sight of the fact that the workmen engaged in non-administrative roles, are covered by the Ordinance and the PIRA and are entitled to certain statutory rights as permanent workmen, as held in case of Ahmad Hussain, supra. These rights include job security, fair wages, gratuity and the ability to form or join trade unions. On the contrary, regularization is an administrative discretion rather than a statutory or vested right. Employees, like the respondents, in semi-autonomous bodies such as the petitioner-PHA, cannot claim an automatic right to regularization inasmuch as if such employees are not

carrying out manual work, their regularization is subject to the government policies and availability of sanctioned posts and if they are engaged in manual work their rights are determined by the Ordinance, which does not include regularization.

- Conclusion:**
- i) A workman's status depends on job duties, not employment terms, and statutory rules do not override labour laws.
 - ii) PHA's horticultural work makes it a Commercial Establishment under labour laws.
 - iii) PHA workers qualify as workmen and gain permanent status by law, regardless of sanctioned posts.
 - iv) Labour Courts cannot grant regularization; it is an administrative decision, but workmen still get statutory protections.

48. Lahore High Court
Liaqat Ali v. Shahnaz Akhtar
C.R. No.58611 of 2019
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC693.pdf>

Facts: This civil revision has been filed against concurrent findings of courts below, wherein suit for declaration along-with permanent injunction instituted by the respondent regarding gift/hiba in favour of petitioner being illegal and unlawful was decreed.

Issues:

- i) What are essential elements of a valid gift?
- ii) What is meant by undue influence?
- iii) What are the powers of Revisionary Court in matters of concurrent findings of Courts below?

Analysis:

- i) The essential elements of a valid gift are, a declaration of gift by the donor; acceptance of the gift by the donee; and the delivery of possession.
- ii) "undue influence" as a circumstance in which one party is able to dominate the will of another, either through actual authority or by exploiting a fiduciary or other vulnerable relationship, including instances where mental or bodily distress compromises a person's capacity for rational decision-making.
- iii) the revisionary power of this Court is limited in matters of concurrent findings of the Courts below and this Court would, as a settled law, not interfere in the concurrent findings of the Courts below unless the same are found to be illegal, materially irregular, infected with misreading of evidence, jurisdictional defect or procedural impropriety.

Conclusion:

- i) See analysis No.i.
- ii) See analysis No.ii.
- iii) See analysis No.iii.

- 49. Lahore High Court**
Bashir Ahmad v. Shaukat Ali and 13 others
Civil Revision No. 4749 of 2015
Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC674.pdf>

Facts: A civil revision was filed challenging the dismissal of an application under Section 12(2) of the Code of Civil Procedure, 1908. The applicant alleged that after obtaining a decree in a suit for declaration, the original decree-holder sold the disputed property to the applicant and later colluded with other parties to have the decree set aside without the applicant's knowledge. The lower court dismissed the application without framing issues or recording evidence, holding that the rule of lis pendens applied and that no fraud had been committed with the court.

Issues:

- i) Whether doctrine of lis pendens apply when the provisions of Section 41 of the Transfer of Property Act, 1882 are applicable to a case?
- ii) Whether a compromise obtained through collusion or fraud excludes the application of Section 52 of the Transfer of Property Act, 1882?
- iii) Whether fraud between parties, without misrepresentation before the court, sufficient to invoke Section 12(2) of the CPC?
- iv) Can a non-party invoke provisions of Section 12(2) of the CPC if a decree is obtained through fraud affecting their rights?
- v) Can an application under Section 12(2) of the CPC be summarily dismissed when it involves a mixed question of law and facts?
- vi) Can an application under Section 12(2) of the CPC be dismissed summarily if no fraud, misrepresentation, or jurisdictional defect is established?

Analysis:

- i) The application of doctrine of lis pendens is circumscribed by certain conditions. One of the well recognized exception is when the provisions of section 41 of the Transfer of Property Act-1882 (the Act) are squarely applicable to the case.
- ii) The Honourable Supreme Court has already settled that a genuine compromise is a normal conduct of parties but a compromise entered into by collusion or fraud excludes the application of section 52 of the Act .
- iii) If the fraud is inter se the parties and no fraud with the Court is committed or no misrepresentation is made before the Court, the provisions of section 12(2) of the CPC are not applicable, in absence of jurisdictional defect . However, the position is different when consent decree is obtained to have the premium of the fraud.
- iv) Argument was also raised that section 12(2) of the CPC does not apply because petitioner was not party to the suit or the appeal. This argument has no force as fraud alleged is not only amongst the parties or out of the Court but it is an attempt to take shelter of judicial proceeding and decree...facts of the case attract the view adopted by learned Peshawar High Court in Abdur Rauf case

(PLD 1982 Peshawar 172), which is also approved by the Honourable Supreme Court in 1984 SCMR 586.

v) The case is not that required summary dismissal... Nevertheless, when facts require determination, recording evidence and question being a mixed question of law and facts would need proper determination.

vi) When no case of fraud or misrepresentation or jurisdiction is made out and it is apparent from the record that application under section 12(2) of the CPC is filed just to derail the proceedings, superfluous or it is to cause delay in execution; such attempt requires summary dismissal.

- Conclusion:**
- i) See above analysis No i.
 - ii) A compromise entered into by collusion or fraud excludes the application of section 52 of the Act.
 - iii) See above analysis No iii.
 - iv) See above analysis No iv.
 - v) When mixed question of law and facts are involved application under section 2(2) of CPC cannot be summarily dismissed.
 - vi) See above analysis No vi.

50. Lahore High Court
The State v. Wasif Saeed
Wasif Saeed v. The State
Jannat-ul-Firdous v. The State, etc.
Murder Reference No.208 of 2021
Criminal Appeal No.56099 of 2021
Criminal PSLA No.56097 of 2021
Mr. Justice Shehram Sarwar Ch., Mr. Justice Sardar Akbar Ali
<https://sys.lhc.gov.pk/appjudgments/2025LHC773.pdf>

Facts: The appellant, along with his co-accused persons, was tried by the learned Sessions Judge in Lahore in a private complaint under sections 302, 148, and 149 PPC, which arose from a case registered under FIR for offences under sections 302 and 34 of the PPC. Upon conclusion of the trial, the co-accused were acquitted, while the appellant was convicted and sentenced. Aggrieved by his conviction and sentence, the appellant filed a Criminal Appeal. Additionally, the trial court submitted a reference for the confirmation or otherwise of the death sentence awarded to the appellant. Meanwhile, the complainant filed an appeal challenging the acquittal of the co-accused persons.

- Issues:**
- i) What is the effect of dishonest improvements made by a witness in his statement?
 - ii) If prosecution withheld the best piece of evidence, what adverse inference can be drawn?
 - iii) What purpose can be served by medical evidence?
 - iv) What is the role of motive in criminal proceedings?

- Analysis:**
- i) It is settled by now that dishonest improvements made by a witness in his statement to strengthen the prosecution case casts serious doubt about veracity of his statement and makes the same untrustworthy and unreliable.
 - ii) The prosecution has withheld the best piece of evidence, hence an adverse inference within the meaning of Article 129(g) of Qanun-e-Shahadat Order, 1984 can validly be drawn against the prosecution that had the abovementioned witnesses been produced in the witness box then their evidence would have been unfavourable to the prosecution.
 - iii) The medical evidence only being corroborative piece of evidence, cannot be made basis to record or sustain conviction because medical evidence could only give details about the locale, dimension, kind of weapon used, the duration between injury and medical examination or death and autopsy, etc. but never identify the real assailant.
 - iv) We cannot ignore the legal position that motive even if proved, depending upon the facts and circumstances of the case, may act as a double-edged weapon. If it can be a reason for the accused to commit the crime, it can also be used by the prosecution as a tool to implicate an innocent person.
- Conclusion:**
- i) It makes the statement untrustworthy and unreliable.
 - ii) That evidence would have been unfavourable to the prosecution.
 - iii) It gives details about the locale, dimension, kind of weapon used, the duration between injury and medical examination or death and autopsy, etc.
 - iv) It is double-edged weapon, it can be used by both prosecution and defence.

51. Lahore High Court
Iqbal Ahmad v. Additional District Judge, etc.
W.P.No.15171 of 2022
Mr. Justice Syed Ahsan Raza Kazmi.
<https://sys.lhc.gov.pk/appjudgments/2025LHC488.pdf>

- Facts:** Through this Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 the petitioner has challenged the Orders passed by learned Courts below whereby his application for amendment in the plaint of suit for specific performance and permanent injunction was partially allowed and certain other amendments were declined concurrently.
- Issues:**
- i) Whether discretionary powers of Courts to allow the amendments in pleadings are subject to certain conditions/limitations?
 - ii) Whether a party can be allowed to amend a pleading qua a fact already in its knowledge?
- Analysis:**
- i) There is no cavil to the legal proposition that the Court always has the jurisdiction under Order VI rule 17 of the Code and enjoys vast discretionary powers to allow the amendments in pleadings at any stage of the proceedings. However, such powers are subject to certain conditions/limitations. The main

conditions/limitations are as following: Firstly, the amendments should not cause prejudice to the other side, meaning thereby that while allowing amendment(s) in the plaint the defendants' rights should also be kept in mind and no amendment should be permitted which is aimed at changing the complexion of the suit while introducing a new case based on different cause of action. Secondly, any right accrued in favour of other party would not be allowed to be snatched away by permitting any amendment in a cursory manner. Thirdly, if it is moved with mala fide intention or it is already in the knowledge of the party at the time of instituting the suit.

ii) One cannot be allowed to seek amendment regarding any fact which was in one's knowledge before filing of the pleading(s)

Conclusion: i) See above analysis No.i
ii) A party is barred to amend a pleading qua a fact already in its knowledge.

52. Lahore High Court
Ashfaq Ahmad v. District and Sessions Judge/Presiding Officer District Consumer, Multan & another
F.A.O. No. 12 of 2025.
Mr. Justice Malik Javaid Iqbal Wains.
<https://sys.lhc.gov.pk/appjudgments/2025LHC432.pdf>

Facts: The appellant has preferred this appeal under Section 33 of the Punjab Consumer Protection Act against the order passed by the learned District Consumer Court, Multan, whereby the court proceeded to partly accept the claim of respondent No.2/claimant. Learned counsel for the appellant submitted that at the time of passing impugned order the appellant was not available in Pakistan. The office reported that this appeal is barred by 41 days; moreover, the Honourable court observed that appeal is time-barred which is accompanied by C.M. seeking condonation of delay.

Issue: i) What is the period provided for filing of an appeal against the order passed by District Consumer Protection Court and the rationale behind Section 33 of The Punjab consumer Protection Act 2005?
 ii) What constitute sufficient cause and how the courts should exercise discretion to condone the delay?
 iii) What is the finality clause provided by The Punjab Consumer Protection Act, 2005?

Analysis: i) In terms of Section 33 of the Act any person aggrieved may file an appeal within 30 days against final order of the consumer court passing such an order. The rationale behind this provision is to ensure that judgments become conclusive within a reasonable timeframe to prevent indefinite litigation and fair opportunity for Appeal. Granting an aggrieved party adequate time to challenge an order while maintaining procedural discipline that statutory limitation periods are not mere technicalities but substantive provisions that

serve to promote finality in litigation and judicial efficiency.

ii) The law mandates strict adherence to limitation period, courts possess discretion to condone delay in exceptional circumstances. This discretion, however, must be exercised sparingly and cautiously. A party seeking condonation must prove that the delay resulted from circumstances beyond its control, such as: Force majeure events (e.g., natural disasters, unforeseen emergencies), Court closures due to extraordinary circumstances, legal impediments preventing timely filing. A casual approach or mere administrative lapses do not constitute sufficient cause for condonation of delay. If the delay is found to be intentional, avoidable or due to negligence, the appeal must be dismissed. The doctrine of limitation is based on the principle that “condonation of delay is an exception, not the rule”.

iii) Section 34 of the Act deals with the finality of order. This provision in consumer law is acknowledged as finality clause which stipulates that once the statutory appeal period, typically 30 days expires, the judicial order issued by the consumer court attains finality and becomes legally enforceable. This provision is crucial for upholding judicial discipline, preventing the misuse of appellate mechanisms, and ensuring that justice is not indefinitely delayed. Without such a clause, courts would be susceptible to an influx of untimely or repetitive appeals, which could obstruct the prompt enforcement of consumer remedies and exacerbate judicial backlog.

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

53. Lahore High Court

Fida Hussain and another v. The State and another
Criminal Appeal No. 1035 of 2023

Mr. Justice Muhammad Jawad Zafar

<https://sys.lhc.gov.pk/appjudgments/2025LHC656.pdf>

Facts: The appellants were sentenced to life imprisonment and to pay compensation to the legal heirs of the deceased persons under section 302(b) PPC by the Trial Court; hence this Criminal Appeal before the High Court.

Issues: i) Whether a single doubt reasonably shaking the credibility of the presence of a witness at the venue of the crime suffices to discard the testimony of witness?
ii) What is effect of withholding best evidence?
iii) What is effect of conflict between medical and ocular accounts upon the case of prosecution?
iv) Whether confession of co-accused before police is as statement of accomplice before court?
v) Whether PFSA report on CCTV footage without photogrammetry test is insufficient to decipher identity of unknown assailant?

vi) Whether the trial court is duty bound to check the admissibility of evidence, i.e., before it was allowed to come on record and its omission does not beneficial to the prosecution and cause prejudice to the accused?

Analysis:

i) All the said omissions are conspicuous by their absence and in absence of physical proof or the reason for the presence of the witnesses at the crime scene, their presence at the venue of occurrence at the time of commission of offence becomes highly doubtful and the same cannot be relied upon. Consequently, the purported eyewitnesses were, at best, chance witnesses.⁶ It is trite that a single doubt reasonably shaking the credibility of the presence of a witness at the venue of the crime suffices to discard the testimony of said witness in its entirety.⁷

ii) Furthermore, Mr. Rabnawaz, in whose defense the complainant and witnesses purportedly went to office of DSP *Jatoi* and sustained injuries on the way back, was withheld by the prosecution, meaning thereby that he did not support the prosecution version. Illustration (g) of Article 129 of the Qanun-e-Shahadat 1984 (“QSO”) provides that if any best piece of evidence available with the parties is not produced by them, then it shall be presumed that *had that evidence been produced, the same would have gone against the party producing the same*.⁸

iii)... When the aforementioned number of injuries and time lapse(s) are put in juxtaposition, it becomes rather obvious that there was no plausible explanation as to why the autopsy was conducted with the delay⁹ and there is an apparent conflict between medical and ocular accounts due to which no other opinion could be formed but to hold that the incident did not occur at the time as stated by the witnesses of the ocular account and the occurrence remained unwitnessed.¹⁰ ...The medical and ocular conflict,¹¹ when culminated with the difference between the time of death and lack of justification *qua* presence at the scene of the alleged occurrence, lends credence to the view that the purported eyewitnesses were neither present when the deceased sustained injuries nor did they witness the occurrence and the narration of the FIR version, due to delayed post-mortem examinations,¹² is nothing but an afterthought, benefit whereof would go to the appellants.

iv)...it was averred by the learned Deputy Prosecutor General that statement of Muhammad Ramzan before the Investigating Officer has evidentiary value, in the light of the Articles 16 and 43 of the Qanun-e-Shahadat 1984 (“QSO”) and that the plea of appellants *qua* dishonestly substituting the name of co-accused Muhammad Ramzan with appellant Muhammad Shan is misconceived. This contention fails to take into consideration due to the following:

- a. Firstly, it is an admitted fact that appellant Muhammad Shan was not nominated in the Crime Report. His nomination through an affidavit on 12.03.2022 is nothing but a supplementary statement, and such statements have always been considered to be afterthoughts carrying no evidentiary value;¹³
- b. Secondly, there is a stark difference between a statement of an accomplice and a confession of a co-accused. The statement of

an accomplice has to be recorded under Section 164 of the Code for it to be used, and such an accomplice has to depose in terms of subsection (2) of Section 337 of the Code;¹⁴ a mere statement before the police simpliciter cannot be considered as such;¹⁵

- c. Thirdly, albeit under Article 16 of Qanun-e-Shahadat 1984 (“QSO”) an accomplice¹⁶ is a competent witness; however, illustration (b) to Article 129 provides a rider ‘*that an accomplice is unworthy of credit unless he is corroborated in material particulars*’. Since, the evidence of an approver being that of an accomplice is *prima facie* of a tainted character, it should be scrutinised with utmost care and accepted with caution and to this end, Rule 5 of Chapter 14, Volume-III, of the Rules and Orders of the Lahore High Court stipulates that ‘*As a matter of law, pure and simple, a conviction is not bad merely because it proceeds upon the uncorroborated testimony of an accomplice (vide *[Article 16 of the Qanun-e-Shahadat 1984]. But it has now become almost a universal rule ***[...] not to base a conviction on the testimony of an accomplice unless it is corroborated in material particulars. As to the amount of corroboration which is necessary, no hard and fast rule can be laid down. It will depend upon various factors, such as the nature of the crime, the nature of the approver’s evidence, the extent of his complicity, and so forth. But, as a rule, corroboration is considered necessary not only in respect of the general story of the approver, but in respect of facts establishing the prisoner’s identity and his participation in the crime.]*’,¹⁸ which is squarely lacking in this *lis*, as explained hereinbelow;
- d. Fourthly, if the argument is accepted and the statement is considered as a confession, then it would have no intrinsic evidentiary value for being an extra-judicial confession given to police because co-accused Muhammad Ramzan was never taken to any Magistrate for recording of his confession in terms of Section 164 of the Code;¹⁷
- e. Fifthly, the value of a statement made to police with regard to the niceties of Articles 38, 39 and 40 of QSO has already been enunciated in exceptional detail by the honourable Supreme Court of Pakistan in “Akhtar v. Khwas Khan and another” (2024 SCMR 476) in the following words:

‘the niceties of Article 38 of the Qanun-e-Shahadat Order, 1984 are quite lucid that no confession made to a police officer shall be proved as against a person accused of any offence, while Article 39 emphasizes that, subject to Article 40, no confession made by any person

whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person. Seemingly, a confession made before the police is not made admissible by dint of the aforesaid provisions of the Qanun-e-Shahadat Order, 1984 in order to preserve and safeguard the philosophy of safe administration of criminal justice and is also based on public policy’;¹⁸

- f. Sixthly, notwithstanding its lack of evidentiary value, the so-called confession does not support the prosecution case as it is trite that confession of a co-accused could not be used against another accused.²¹ It is clarified that Article 43 of QSO pertains to confession, not statements of co-accused or accomplice, and the Article itself provides that in clause (b) thereof, the confession of co-accused will be considered as a mere circumstantial piece of evidence against such other person. Meaning thereby that the same cannot be a stand-alone reason to convict someone; rather, it would require corroboration. Furthermore, it is settled by now that two corroborative pieces of evidence cannot corroborate each other, but corroboration must come from an independent source;¹⁹
- g. Lastly, if all of these factors are taken out of consideration, even then the statement of co-accused Muhammad Ramzan merely states that appellant Muhammad Shan was with the others, and not for a moment states that the appellant committed the commission of *qatl-e-amd*. As a consequence thereof, this contention is repelled.

v) By the same token, the PFSA report obtained against the CCTV footage does not confirm or deny the identity of the person(s) in the video by way of conducting a photogrammetry test;²¹ rather, it merely affirms that the video is not forged or tampered with. The submissions of the learned law officer could have been taken with a pinch of salt, had a photogrammetry test been conducted to identify the assailant, but even then due to the admission of Safdar Ghafoor (PW-6) and aberrant conduct of Faiz Rasool (PW-3), the same would have been futile to the prosecution case. In order to confirm the identity of culprit, it was mandatory for the Investigating Officer to refer the culprit or his picture, and video for photogrammetry test to the PFSA.

vi) The learned Trial Court was under a bounden duty to check the admissibility of evidence, i.e., before it was allowed to come on record,²⁰ but miserably failed to do so. Benefit of omission of the learned Trial Court does not help the prosecution case as under the maxim of “Actus Curiae Neminem Gravabit”, the appellants cannot be prejudiced due to an act of court.

- Conclusion:**
- i) a single doubt reasonably shaking the credibility of the presence of a witness at the venue of the crime suffices to discard the testimony of said witness in its entirety.
 - ii) Witness was withheld by the prosecution, meaning thereby that he did not support the prosecution version
 - iii) See above analysis No.iii
 - iv) See above analysis No.iv
 - v) See above analysis No.v
 - vi) See above analysis No.vi

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

Facts: The petitioner was tried by the learned Judicial Magistrate 1st Class, in crime case for offences under Articles 3 and 4 of the Prohibition (Enforcement of Hadd) Order 1979 and the trial court convicted and sentenced the petitioner. Hence, this Criminal Revision before the High Court

Issues

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

Analysis:

- i) The scope of revision is inherently limited and may only be invoked when a finding of fact that influences the decision is either unsupported by evidence or results from misreading or non-reading of the material available on record. Upon the fulfillment of either of these conditions, it is incumbent upon this Court to exercise its revisional jurisdiction. In order to invoke the revisional jurisdiction, two conditions precedent constituting jurisdictional facts would require to be fulfilled: first, it should relate to proceedings, and second, the said proceedings should be before subordinate criminal Court.³
- ii)...it was straightaway observed that none of the recovered materials were exhibited in evidence by the prosecution before the learned Trial Court. Rule 14-H, Part B, Chapter 24, Volume III, of the Rules and Orders of the Lahore High Court (“**High Court Rules and Order**”) pertains to exhibits and provides a self-explanatory procedure for exhibiting a document and article to be read in evidence, which has been blatantly overlooked in the instant case by the learned

Trial Court... Under the aforementioned Rule of the High Court Rules and Order, both documents and articles have to be exhibited. Since the recoveries were never produced and exhibited before the learned Trial Court, the same cannot be used to prove the case against the present petitioner despite the existence of positive report. Conversely, had the article been exhibited but the report was not, the effect would remain the same.

iii)...the prosecution failed to produce the witness Muhammad Khalid, who, according to the PFSA report (Exh.PE), transmitted the samples to the PFSA. This omission raises concerns regarding the safe transmission of the parcel to the PFSA, thereby disrupting the chain of custody for the sample parcel. In “*Muhammad Adnan and another v. The State and others*” (2021 SCMR 16), the Honourable Supreme Court observed that the positive report of the Forensic Science Laboratory was of no legal consequence because the police constable who transmitted the empty allegedly secured from the spot was not produced by the prosecution. In view thereof, the non-production of witness Muhammad Khalid suffices to break the chain of custody and is sufficient to cast serious doubt about the integrity of the sample parcel, ultimately compromising the credibility and reliability of the PFSA report (Exh.PE).

iv)... the recoveries were not put to the petitioner in his statement under Section 342 of the Code. The statement of the petitioner recorded under Section 342 of the Code depicts that the incriminating material, i.e., the recovered articles, were not put to the petitioner to extract his explanation thereon during his examination. It is trite that the incriminating material and the circumstances from which inferences adverse to the accused sought to be drawn should be put to the accused when he is questioned under Section 342 of the Code, else the same cannot be considered as a piece of evidence against the accused.⁴ Akin to the principle enunciated hereinabove that any non-exhibition of article or document cannot be used against the accused person, similarly, any incriminating article or document which was not put to accused in his statement under section 342 of the Code cannot be used against him.⁵

v)...according to the prosecution's narrative, the petitioner fled from the crime scene. Pertinently, it is not the prosecution's case that the petitioner was known to them. Since the petitioner was not known to the prosecution witnesses and no identification parade was conducted in terms of Article 22 of the Qanun-e-Shahadat Order 1984 (“QSO”), nor were the features of the petitioner disclosed in the Crime Report, with a lack of explanation from the complainant as to how he identified the petitioner, the identity of the petitioner remains unclear and shrouded in mystery.

vi)...the objection of the learned law officer that the petitioner cannot be acquitted in *absentia* is misconceived. It is trite that this Court can exercise its revisional jurisdiction *suo motu* to ensure effective superintendence and visitorial powers to make sure of the strict adherence to the safe administration of justice and to correct any error unhindered by technicalities.

- Conclusion:**
- i) See above analysis No.i
 - ii) See above analysis No.ii
 - iii) See above analysis No.iii
 - iv) any incriminating article or document which was not put to accused in his statement under section 342 of the Code cannot be used against him.
 - v) See above analysis No.v
 - vi) Court can exercise its revisional jurisdiction *suo motu*.

55. Lahore High Court
Haji Mehboob Alam v. Rana Khalid Mehmood & 03 others
Civil Revision No. 1214 of 2017
Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC701.pdf>

Facts: The case involves a dispute over multiple agreements to sell a commercial property, where the petitioner sought specific performance based on a chain of transactions. The lower court rejected the petitioner's plaint and subsequent appeals and review petitions were also dismissed. The petitioner later filed an application challenging the withdrawal of a related suit, alleging fraud and collusion, but the application was dismissed. The petitioner then sought to set aside this dismissal, which was also rejected, leading to the present civil revision petition where petitioner sought condonation and delay and the court's *suo motu* jurisdiction.

Issues

- i) Whether the right to file an appeal or revision is governed by the law prevailing at the date of institution of the suit or by the law in force at the time of its decision or filing?
- ii) Whether the ratio decidendi of 'Hafeez Ahmad v. Civil Judge, Lahore and others' applies to the present case regarding the *suo motu* exercise of revisional jurisdiction beyond the prescribed limitation period?
- iii) What are the legal grounds for condonation of delay, and does the ratio decidendi of 'Khushi Muhammad v. Mst. Fazal Bibi' apply in this case?
- iv) Does wrong legal advice from a counsel constitute a sufficient cause for condonation of delay?
- v) Does the principle of unjust enrichment provide a legal basis for invoking *suo motu* revisional jurisdiction?
- vi) Does Rule 10 of Order XXII of CPC allow suit continuation upon assignment of interest during litigation?

Analysis: i) Thus, the application under section 5 of the Limitation Act is caught by mischief of section 29 read with Section 3 of the Limitation Act due to settled position of law that the institution of the suit carries with it the implication that all rights of appeal or revision then in force are preserved to the parties thereto till the rest of the career of the suit and a right to file an appeal or revision, if so conferred by the statute, accrues to the litigant and exists as on and from the date

when the lis commences and although it may be actually exercised when the adverse judgment is pronounced, such right is to be governed by the law prevailing at the date of the institution of the suit or proceeding and not by the law that prevails at the date of its decision or at the date of the filing of the appeal or revision.

ii) It is settled by respectable authority that a case is only authority for what it actually decides and cannot be cited as precedent for a proposition that may be inferred from it.⁵ Considering the foregoing, one cannot escape to consider the facts which necessitated formation of larger bench of the Supreme Court for determinations handed by Hafeez Ahmed's case; the ratio of Hafeez Ahmad is unequivocally clear for its facts. At the relevant time the docket of the Supreme Court was inundated by the petitions involving questions arising from civil revisions filed in High Courts beyond the period of ninety days, which were all dismissed without exclusion of time consumed for obtaining certified copies. The Hon'ble larger bench assembled '[t]o consider 'inter alia whether the time consumed for obtaining certified copies of the judgment, decree or other documents could be excluded under section 12 read with section 29 of the Limitation Act'

iii) The true import of statute of limitation, its significance and essence has conclusively been settled by the Supreme Court of Pakistan¹³ while answering multiple questions urged as basis for condonation of delay. While considering various provisions of the Limitation Act, the Hon'ble larger Bench of the Apex Court in Khushi Muhammad's case summed up the issues in the following terms:-

(i) The law of limitation is a statute of repose, designed to quieten title and to bar stale and water-logged disputes and was to be strictly complied with. There is no scope in law of limitation for any equitable or ethical construction to get over them. Justice, equity and good conscience do not override the law of limitation;

(ii) The hurdles of limitation cannot be crossed under the guise of any hardships or imagined inherent discretionary jurisdiction of the Court. Ignorance, negligence, mistake or hardship does not save limitation, nor does poverty of the parties;

(iii) There is absolutely no room for the exercise of any imagined judicial discretion vis-a-vis interpretation of a provision, whatever hardship may result from following strictly the statutory provision. There is no scope for any equity. The Court cannot claim any special inherent equity jurisdiction;

(iv) The law of limitation is an artificial mode conceived to terminate justiciable disputes. It is therefore to be construed strictly with a leaning to benefit the suitor;

v) The conduct of counsel, his failure to discharge his obligations of due prudence, diligence and professionalism, as sought to be agitated in this case, has long been settled as a matter between 'counsel & client', the list of such precedents is so long and established that it will be a burden for this judgment to mention the same, however, if an authority was required due to some divergent views, the same was supplied by Khushi Muhammad's judgment, wherein, while answering the precise question as to whether the wrong advice of counsel

constitutes a sufficient cause for condonation of delay, the Supreme Court held as under:

“Therefore, we are fortified in our view that mistaken advice of counsel does not constitute a sufficient cause for condonation of delay as a matter of course and routine and/or is automatic and per se rather as mentioned above, the appellant has to specify the reasons with clarity and precision which prevailed with the counsel and led him to commit the mistake and such application must also be supported by an affidavit.

vi) In common law systems, five key questions underpin the ‘skeleton of principle’ on which the law of unjust enrichment and restitution are based: (1) was the payment received by mistake; (2) was the defendant enriched; (3) at the expense of the plaintiff; (4) in the circumstances where there is a recognised reason (an ‘unjust factor’) why the defendant should not be permitted to retain the benefit; and (5) is there a defence? (...) The above leads to inescapable conclusion that [unjust enrichment] is an edifice for laying a claim of restitution; involving factual determinations after granting an opportunity to the defendant. (...) this Court is not inclined to treat the ground of unjust enrichment as a basis for exercising suo motu revisional jurisdiction as divulging into such question at this stage might prejudice anyone’s case, if a separate suit is advised for restitution.

vii) Rule 10 postulates that in case of an assignment or creation of any interest during pendency of suit, the suit may, by leave of the court, be continued by or against the person to or upon whom such interest has devolved. Sine qua non for such right would be an acceptance by a litigant party that it has transferred or assigned its interest to the applicant seeking leave of the court for continuation of the suit.

- Conclusion:**
- i) The right to appeal or revise is governed by the law at the suit’s institution, not at its decision or filing.
 - ii) See analysis No.ii.
 - iii) See analysis No.iii.
 - iv) Wrong legal advice alone is not a sufficient ground for condoning delay; specific reasons must be provided with supporting evidence.
 - v) The principle of unjust enrichment alone does not justify invoking suo motu revisional jurisdiction, as it requires a separate claim for restitution and factual determination.
 - vi) Rule 10 allows suit continuation upon assignment of interest, but only with court approval and acceptance by the litigant party.

56.

Lahore High Court

Munna Bibi v. Government of Punjab, etc.

Mr. Justice Malik Muhammad Awais Khalid

<https://sys.lhc.gov.pk/appjudgments/2025LHC518.pdf>

- Facts:** Petitioner, a Civil Servant, working as Headmistress, challenged her transfer order through writ petition arguing that the same was in violation of the Transfer Policy, 2024.
- Issues:** Whether a Civil Servant can challenge his transfer directly before High Court without first exhausting the available departmental and statutory remedies?
- Analysis:** The impugned order is a transfer of petitioner whereas transfer is the part of terms and conditions by virtue of Sec.3 and Sec.9 of the Punjab Civil Servant Act, 1974 (the Act, 1974)... Being a civil servant, the petitioner at first avail the departmental remedy, and it is the duty of public functionaries to decide the grievance of their subordinate after application of mind with cogent reasons within reasonable time.. After availing departmental recourse, the aggrieved petitioner can resort the remedy under Section 4 of the Punjab Service Tribunal Act, 1974 by filing appeal before the Tribunal... Being a civil servant, petitioner's grievance in respect of terms and conditions of service could be adjudged by Service Tribunal under the law. The August Supreme Court of Pakistan specifically observed relating to the jurisdiction of Service Tribunal in such like matters, as reported in case titled as *Chief Secretary, Government of Punjab, Lahore and others Vs. Ms. Shamim Usman* (2021 SCMR 1390). Relevant extract is reproduced as under: —Jurisdiction of all other courts was ousted because of the provisions contained in Article 212 of the Constitution and orders of departmental authorities, even though without jurisdiction could be challenged only before Service Tribunal. Moreover, Service Tribunal had full jurisdiction to interfere in such like matters. The learned Service Tribunal has ample power to decide the appeal of civil servant under the law. Vires of this issue comes under the ambit of Service Tribunal, therefore, petitioner may avail alternate remedies available to her supra under the law.
- Conclusion:** Civil servant cannot challenge his transfer directly before High Court without first exhausting the available departmental and statutory remedies.

57. **Lahore High Court**
Dr. Samia Altaf v. Lahore University of Management Sciences etc.
R.F.A. No.11082 of 2025
Mr. Justice Masud Abid Naqvi, Mr. Justice Malik Muhammad Awais Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC510.pdf>
- Facts:** Appellant brought his suit for damages against the respondents (defendants). In pursuance of the process, respondents turned up and filed their statements while raising certain legal as well as factual objections. Issues were framed and evidence of the parties was invited. Despite affording various opportunities, appellant did not produce his evidence. Accordingly, her suit was dismissed for want of evidence. The appellant preferred an appeal before District Judge but the same was dismissed as withdrawn in order to avail proper remedy before

appropriate forum as value of the suit exceeds from the jurisdiction of the District Court. Hence, the instant appeal.

- Issues:**
- i) Whether a court must strictly enforce its final opportunity order when a party fails to produce evidence despite multiple chances?
 - ii) What is the impact of repeated adjournments on the judicial systems, and should courts refrain from granting them liberally?
 - iii) What are the necessary conditions before applying the penal provision of Order XVII Rule 3 CPC to close the right of a party to produce evidence?
 - iv) How does the ‘adjournment culture’ affect the efficiency of the judicial system?
 - v) Should courts permit further adjournments once a final opportunity has been granted with a warning?
 - vi) Does the failure to act diligently in producing evidence constitute an abuse of the legal system?

- Analysis:**
- i) it becomes crystal clear that the trial court ordered a specific warning and imposition of cost therefore once the final opportunity was granted along with a clear warning, the court must enforce its order strictly and without exception
 - ii) The case law reported as ‘Duniya Gul and another Vs. Niaz Muhammad and others’ (PLD 2024 Supreme Court 672) wherein it has been held as under:-

“ 7.---In our view, it is imperative for the court to exercise vigilance and refrain from granting adjournments so liberally and without any compelling reasons. Such a cautious approach is necessary to prevent abuse of the legal system, ensure a fair and timely resolution of cases, and optimize the use of judicial resources. ”
 - iii) in the case of Moon Enterpriser CNG Station, Rawalpindi v. Sui Northern Gas Pipelines Limited through General Manager, Rawalpindi, and another (2020 SCMR 300). The Court, after considering the case law available on the subject, held that the following two conditions must be satisfied before applying the above penal provision to close the right of a party to produce evidence:
 - i. that time must have been granted at the request of a party to the suit to adduce evidence with a specific warning that said opportunity will be the last and failure to adduce evidence would lead to closure of the right to produce evidence; and
 - ii. that the same party on the date which was fixed as the last opportunity fails to produce its evidence.
 - iv). The August Supreme Court of Pakistan in case reported as Lutfullah Virk Vs. Muhammad Aslam Sheikh (PLD 2024 Supreme Court 887) observed as under:-

“7.---It is unfortunate that adjournments have become a plague for the country's justice system. On 31 December 2023, a net pendency of 2.26 million cases was reported in the country and 1.86 million of the cases out of the total pendency, which is around 82%, are pending adjudication before the District Judiciary and despite this mammoth pendency, which undoubtedly has only grown since 31 December 2023, the adjournment

culture continues unabated - which robs litigants of the right to speedy justice and further exacerbates the inefficient judicial system crisis.”

v) The case law reported as *‘Duniya Gul and another Vs. Niaz Muhammad and others’* (PLD 2024 Supreme Court 672) wherein it has been held as under:-

10. It is relevant to observe here that when the last opportunity to produce evidence is granted and the party has been duly warned of the consequences, the court must execute its order consistently and strongly, without exceptions. Such a measure would not only realign the system and reaffirm the authority of the law but also curb the trend of seeking multiple adjournments on frivolous grounds, which serve to needlessly prolong and delay proceedings without valid or legitimate justification.

vi) The appellant could not produce her evidence before the trial court despite availing reasonable opportunities. The lis was prolonged on one pretext or the other despite clear orders of the trial court. In such manner the cases must be decided promptly which causes heavy backlogs of controversies between the parties, otherwise this amounts to abuse of legal system and a hurdle in fair and timely disposal of cases.

- Conclusion:**
- i) See above analysis No.i
 - ii) See above analysis No.ii
 - iii) A party’s right to produce evidence can only be closed if last opportunity with a warning is given and still failed to produce evidence on the given date.
 - iv) The unabated culture of adjournments, worsen case backlogs, depriving litigants of speedy justice.
 - v) Once a last opportunity is granted, Courts must execute it strictly without exception.
 - vi) See above analysis No. vi

58. Lahore High Court
The province of Punjab through Secretary, Sports & Youth Affairs
Department Lahore and 2 others v. Sabir Ali and 8 others.
R.F.A.NO.10975 of 2025
Mr. Justice Masud Abid Naqvi, Mr. Justice Malik Muhammad awais
Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC794.pdf>

Facts: Through instant application filed under Section 5 of the Limitation Act, 1908 read with Section 151 of the Code of Civil Procedure, 1908, the applicants/appellants has sought condonation of delay of 318 days in filing of the main appeal preferred under section 54 of the Land Acquisition Act, 1894, against a consolidated judgment dated 19.01.2024 passed by learned Senior Civil Judge (Civil Division), Kasur.

- Issues:**
- i) Whether communication and correspondence inter se the departments can be considered a ground for condonation of delay?
 - ii) Whether any extraordinary clemency, compassion or preferential treatment

may be accorded to the Government department, autonomous bodies or private sector/organizations to condone the delay?

iii) Whether government departments may be treated differently from the ordinary litigants, while deciding the question of limitation?

- Analysis:**
- i) The communication and correspondence inter se the departments cannot be considered a valid and reasonable ground for condonation of delay. While dealing the limitation for filing of the appeal under Section 54 of the Act, 1894.
 - ii) While considering the grounds for condonation of delay, whether rational or irrational, no extraordinary clemency or compassion or preferential treatment may be accorded to the Government department, autonomous bodies or private sector/organizations, rather their case should be dealt with uniformly and in the same manner as cases of ordinary litigants and citizens. No doubt the law favours adjudication on merits, but simultaneously one should not close their eyes or oversee another aspect of great consequence, namely that the law helps the vigilant and not the indolent.
 - iii) The appellants being government departments cannot be treated differently from the ordinary litigants. The government departments are not entitled to any leniency while deciding the question of limitation. Their cases must be assessed on the same standards applicable to public litigants and application for condonation of delay requires same scrutiny.

- Conclusion:**
- i) See above analysis No. i
 - ii) See above analysis No. ii.
 - iii) see above analysis No.iii.

59. Lahore High Court
Muhammad Waseem. v. The State and another
Criminal Appeal No.448 of 2023/BWP.
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Ch. Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC732.pdf>

Facts: The appellant preferred this appeal against his conviction under the CNSA.

Issues: i) Whether a previous statement of a witness could be used to impeach his credit and how?

Analysis: i) It is a method recognized by law under 151(3)1 of the Qanoon-e-Shahadat Order 1984 that the credit of a witness can be impeached by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted. If former statement was in writing or was reduced to writing, the attention of witnesses must be called to those part of it which are used for purpose of contradicting him. It is also admitted position of law that previous statement can be relied for the purpose of contradiction but not as substantive evidence, so applying the above principles this Court has noted that defence has exhibited the

previous statement of the witness and has confronted him with the same, so while it has been used for contradiction and has not been used as substantive, as not tendered in the statement of the Appellant, therefore, it is safe to use the contradiction as it passes the judicially approved standards of evidence.

Conclusion: i) A previous statement of a person recorded could be used to impeach his credit by confronting him to that part of statement. Such former statement could not be used as substantive evidence.

60. Lahore High Court
Muhammad Ameer v. Member(J-VII), Board of Revenue, etc
Writ Petition No.234510 of 2018.
Mr. Justice Ch. Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC621.pdf>

Facts: The petitioner was allotted land under the Horse Breeding Scheme, which was later challenged by the respondent before the Board of Revenue. The Member (J-VII), Board of Revenue, set aside the allotment based on purported admissions of private partition, remanding the case for fresh allotment. Through this petition, the petitioner seeks the setting aside of the impugned order and restoration of his allotment. The connected writ petition, filed by the contesting respondent, also assails the same order but seeks the allotment in his favour instead.

Issues:

- i) What is the difference between the revisional powers under Section 164 of the Land Revenue Act, 1967, and Section 115 of the Civil Procedure Code?
- ii) What are the types of admissions, and where are they provided in the law of evidence?
- iii) Whether a statement recorded without administering an oath is admissible in evidence?
- iv) Whether a party can retract an admission made during proceedings?

Analysis:

- i) It is correct that the Section 164 of the Land Revenue Act, 1967 confers very wide power of revision as any order made by the subordinate officer can be interfered, the only condition being that the Board considers the case 'fit' for its interference. The only other condition is of a prior notice unlike revisional jurisdiction contained in the section 115 of Civil Procedure Code. However, the power so vested has to be exercised under the law and not otherwise.
- ii) The law on the subject is the Qanun e Shahadat Order 1984(QSO), it embodies two genres of admissions: one contained in the Article 113 of the QSO it is a rule of pure procedure; and the second one is the Article 45 of the QSO, which is to give effect to the rule of evidence. Plainly speaking the Article 113 of the QSO applies to the admissions made in the pleadings while the Article 45 of the QSO applies to evidentiary admissions.
- iii) The omission to administer oath to the persons giving evidence before the forum below is an illegality which cannot be cured and such statements cannot be used to the detriment of makers. It is settled law that it is obligation of a Court to

record testimony of a witness on oath and statement of witness recorded without oath is inadmissible in evidence.

iv) *It is well-settled law that parties may resile all admissions except those made in the pleadings.*

- Conclusion:** i) Section 164 grants wider revisional powers than Section 115 CPC but is conditioned on a "fitness" test and prior notice
 ii) See Above Analysis No.ii
 iii) A statement recorded without administering an oath is inadmissible in evidence.
 iv) See Above analysis No.iv

61. Lahore High Court
Phaphi alias Fatima and another v. The State and another
CrI. Misc. No.7172-B/2025.
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC788>

Facts: Petitioners seek pre-arrest bail in case FIR registered under Section 406 and 420 PPC as their earlier pre-arrest bail application was declined by Court of Sessions.

Issue: i) What are the essential ingredients to constitute offence under section 406 PPC
 ii) Whether malafide can always be proved through direct evidence?

Analysis: i) Under section 406 PPC, the essential ingredients are:- i) There should be an entrustment by a person who reposes confidence in the other, to whom property is entrusted. ii) The person in whom the confidence is placed, dishonestly misappropriates or converts to his own use, the property entrusted. iii) He dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged. iv) He dishonestly uses or disposes of that property in violation of any legal contract, express or implied, which he has made touching the discharge of such trust.
 ii) Malafide being a state of mind could not always be proved by direct evidence. In most of the cases it has always to be inferred from the facts and circumstances of the case.

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

LATEST LEGISLATION/AMENDMENTS

1. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Adjustment of Canal Command Areas Rules, 2024 are made.

2. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Punjab Canal Water Supply Rules, 2024 are made.
3. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Punjab Irrigation (Appeal and Revision) Rules, 2024 are made.
4. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Punjab Irrigation Review Board Rules, 2024 are made.
5. Vide Notification No Legis: 5-22/2024/897 dated 26-02-2025 published in the Punjab Gazette, The Punjab Defamation (Tribunal) Rules, 2025 are made.
6. Vide Notification No.147-2025/233-RS(II) dated 06-03-2025 published in the Punjab Gazette, amendments are made in The Punjab Agricultural Income Tax Rules, 1997.
7. Vide Notification No.148-2025/234-RS(II) dated 06-03-2025 published in the Punjab Gazette, amendments are made in The Punjab Agricultural Income Tax Rules, 2001.

SELECTED ARTICLES

1. Lawyers Club India

<https://www.lawyersclubindia.com/articles/what-is-an-interpol-arrest-warrant-and-how-does-it-affect-citizens-in-the-uae--17524.asp>

What is an Interpol Arrest Warrant and How Does It Affect Citizens in the UAE? By Yaksh Sharma

An Interpol arrest warrant, commonly known as a Red Notice, is an international request for the detention of a wanted person. While it is not an arrest warrant in itself, it signals law enforcement agencies worldwide to locate and provisionally detain an individual for potential extradition. In the UAE, Interpol Red Notices can significantly impact a person's legal status, including travel restrictions, frozen bank accounts, and the risk of detention while legal proceedings unfold.

2. Lawyers Club India

<https://www.lawyersclubindia.com/articles/understanding-probation-violations-in-colorado-and-their-consequences-17521.asp>

Understanding Probation Violations in Colorado and Their Consequences by Yaksh Sharma

Probation is a common alternative to incarceration for those navigating the criminal justice system in Colorado. Understanding the nuances of probation violations is essential for individuals on probation and their families, as these violations can lead to serious legal repercussions, including the possibility of jail time. In Colorado, probation

violations can occur for a variety of reasons, including failure to complete mandated programs, issues with reporting to a probation officer, or engaging in illegal activities. Each of these violations carries specific consequences that can dramatically impact a person's life and future.

3. **Lawyers Club India**

<https://www.lawyersclubindia.com/articles/data-breach-as-personal-injury-17520.asp>

Data Breach as Personal Injury by Yaksh Sharma

In today's digital age, the potential for personal data breaches is alarmingly high. Individuals often underestimate the severity of how these breaches can affect their lives, both financially and emotionally. A data breach can be considered a form of personal injury, as it compromises personal security and can lead to significant harm. Victims of data breaches may experience real consequences, such as identity theft, financial losses, and emotional distress. As organizations increasingly store sensitive information online, the responsibility to protect that data is paramount. Those impacted must understand their rights and the implications of such breaches on their personal well-being. As society becomes more aware of data privacy, discussing the concept of data breaches as personal injuries opens a vital conversation. It encourages individuals to take proactive steps in safeguarding their information, while also holding companies accountable for failures in data protection.

4. **Lawyers Club India**

<https://www.lawyersclubindia.com/articles/what-to-do-after-a-car-accident-when-it-s-not-your-fault-17519.asp>

What To Do After a Car Accident When It's Not Your Fault? By Yaksh Sharma

After a car accident, especially when it's not your fault, knowing the right steps to take can make a significant difference. The immediate priority should be ensuring everyone's safety, exchanging information with the other driver, and documenting the scene thoroughly. These actions are essential for protecting one's rights and establishing a clear record of the incident. After ensuring safety, it's crucial to notify the insurance companies involved. This step initiates the claims process, allowing for repairs and medical expenses to be addressed. Gathering evidence, such as photos of the damage and witness statements, can further support a claim and clarify the circumstances of the accident.

5. **Lawyers Club India**

<https://www.lawyersclubindia.com/articles/what-do-lawyers-do-when-they-know-their-client-is-guilty-17518.asp>

What Do Lawyers Do When They Know Their Client is Guilty? By Yaksh Sharma

When a criminal defense attorney knows their client is guilty, they face a complex ethical dilemma. The primary responsibility of the attorney is to provide a robust defense, ensuring that the legal rights of the client are upheld, regardless of their guilt. This role emphasizes the importance of the legal principle that everyone deserves a fair trial. Attorneys maneuver through this challenging situation by focusing on the facts, evidence, and legal standards present in the case. They may seek to negotiate plea bargains, look for procedural errors, or highlight mitigating circumstances that could impact sentencing. By doing so, they not only fulfill their duty to their client but also maintain the integrity of the legal system.

LAHORE HIGH COURT BULLETIN



Fortnightly Case Law Update *Online Edition*

Volume - VI, Issue - VI

16 - 03 - 2025 to 31 - 03 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

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

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

JUDGMENTS OF INTEREST

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

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

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

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

Analysis:

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

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

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

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

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

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

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

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

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

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

unless declared otherwise.

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

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

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

2.

Supreme Court of Pakistan

Rab Nawaz v. Shehzad Hassan, etc.

Crl.P. 235-L/2025

Mr. Justice Syed Mansoor Ali Shah, Mrs. Justice Ayesha A. Malik

https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 253 1 2025.pdf

- Facts:** The petitioner sought cancellation of post-arrest bail granted to an accused in a murder case. The High Court granted bail citing delay in the test identification parade and nature of recovered weapon.
- Issues:**
- i) Whether bail is an unqualified right or subject to withdrawal upon misuse?
 - ii) What are the recognised grounds for cancellation of bail under the law?
 - iii) On what grounds may a court interfere with a bail granting order for the purpose of cancellation?
 - iv) What constitutes a perverse bail granting order warranting interference by the court?
 - v) What is the standard for evaluating material on record at the bail stage?
- Analysis:**
- i) Bail, though a concession granted to ensure the liberty of an accused pending trial, is not an unqualified right and can be withdrawn, if misused... The guiding principle remains that the liberty of an individual must be balanced against the need to ensure a fair trial and uphold public confidence in the justice system.
 - ii) The law recognizes that bail may be cancelled if the accused, after securing release, engages in conduct that undermines the administration of justice. Such grounds include attempts to influence or intimidate witnesses, tampering with evidence, committing another offence while on bail, or violating conditions imposed by the court. Furthermore, if the accused fails to appear before the court without just cause, or if new facts come to light that materially alter the basis on which bail was granted, the court may justifiably revoke the concession.
 - iii) The principles evolved for examining a bail granting order for the purpose of cancellation, the court usually interferes on two grounds: (i) when the impugned order is perverse on the face of it, or (ii) when the impugned order has been made in clear disregard of some principle of the law of bail.
 - iv) A perverse order is the one that has been passed against the weight of the material on the record or by ignoring such material or without giving reasons; such order is also termed as arbitrary, whimsical and capricious.

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

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

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

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

Issues:

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

Analysis:

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

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

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

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

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

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

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

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

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

Issues

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

Analysis:

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

Conclusion:

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

5.

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

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

Issues:

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

Analysis:

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

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

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

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

6. Supreme Court of Pakistan
Muhammad Ajmal etc. v. Mst. Noor Khattoon, etc.
Civil Petition No. 3455-L of 2022
Mr. Justice Yahya Afridi, Mr. Justice Irfan Saadat Khan, Mr. Justice Muhammad Shafi Siddiqui
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3455_l_2022.pdf

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

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

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

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

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

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

Issues:

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

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

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

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

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

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

Issues:

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

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

Analysis:

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

Conclusion:

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

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

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

Issues:

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

Analysis:

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

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

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

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

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

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

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

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

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

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

10. Supreme Court of Pakistan

Muhammad Azam & others v. Muhammad Aijaz

Civil Appeal No.99-K/2022

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

https://www.supremecourt.gov.pk/downloads_judgements/c.a. 99 k 2022.pdf

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion: i) See above analysis No.

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

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

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

spontaneous altercation?

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

Analysis:

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

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

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

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

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

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

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

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

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

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

acquittal in a criminal case?

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

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

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

Analysis:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of the accused

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

iv) See above analysis No iv.

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

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

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

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

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

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

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

Issues:

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

Analysis:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Issues:

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

Analysis:

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

this Court while deciding a writ of certiorari.

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

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

21. Supreme Court of Pakistan
Nawabzada Muhammad Fateh Khan son of Nawabzada
Muhammad Khalid Khan, Resident of Hoti, Mardan, Tehsil and
District Mardan v. Mumtaz Ahmad and others
Civil Petition No.331-P of 2014
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 331_p 2014.pdf

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

Issues:

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

Analysis:

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

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

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

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

- Conclusion:**
- i) The sale stands completed when the statement of vendor is recorded and consideration is paid.
 - ii) there are four different eventualities for calculating the period of limitation for instituting a suit for pre-emption.
 - iii) The attestation of mutation or registration of sale deed is admittedly an administrative step in the process of transfer of property; the limitation would start when the sale stands completed.
 - iv) The jumping demand is to be made without loss of slightest time.
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22. **Lahore High Court**
The State v. Ali Akbar Zia
Murder Reference No.08 of 2020
Ali Akbar Zia v. The State, etc.
Crl. Appeal No.195 of 2020/BWP
Ms. Justice Aalia Neelum Chief Justice, Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC953.pdf>

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

Issues

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

Analysis:

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

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

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

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

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

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

Issues:

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

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

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

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

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

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

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

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

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

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

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

Issues:

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

Analysis:

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

Conclusion:

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

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

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

Issues:

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

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

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

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

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

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

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

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

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

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

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

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

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

Issue:

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

Analysis:

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

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

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

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

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

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

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

Issues: i) Does the mere adoption of statutory rules by an organization confer upon them statutory status?

ii) When a Department had statutory rules relating to terms and conditions of their service whether their terms and conditions could be varied to their disadvantage?

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

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

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

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

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

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

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

Analysis:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Issues:

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

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

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

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

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

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

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

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

Issues:

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

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

ii) A principal can repudiate the transaction if:-

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

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

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

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

31. Lahore High Court

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Analysis:

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

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

33. Lahore High Court

Nazar Hussain and another v. The State

Criminal Appeal No. 964/J/2023

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

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

- Facts:** A criminal case was registered based that appellants not only raped a minor but also recorded video; trial court acquitted one accused while convicting appellants, sentencing them to imprisonment and fines. Appellants assailed the judgement in appeal and later on, filed an application seeking acquittal, citing a compromise reached through Panchayat.
- Issues:**
- i) Whether special law offences can be compounded without explicit statutory permission?
 - ii) Whether delay in reporting child sexual abuse affects the credibility of the case?
 - iii) What is the evidentiary value of a chance witness?
 - iv) What is the evidentiary value of DNA reports in criminal cases?
 - v) How the testimony of a child victim be evaluated in criminal cases?
 - vi) What are the requirements for the admissibility of audio and video evidence in court?
- Analysis:**
- i) Offences created under special laws are governed by the provisions of those laws and may only be compounded if explicitly permitted by the law creating the offence. Section 345(5A) Cr.P.C. provides that a High Court, exercising its revisional powers under section 439 Cr.P.C., or a Court of Session under section 439-A Cr.P.C., may permit the compounding of any offence that is compoundable under section 345 Cr.P.C. Importantly, section 345(7) Cr.P.C. expressly states that no offence shall be waived or compounded except as provided under section 345 Cr.P.C. and section 311 PPC.
 - ii) Delays in reporting such offences cannot be equated with delays in other crimes. Several factors can contribute to delay in reporting child sexual abuse, including trauma, fear, shame, dishonour due to invasive examination by a doctor, threat, or a lack of awareness. Consequently, courts in our country do not consider the delay in making a report to the police material unless the

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

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

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

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

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

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

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

34. Lahore High Court

Jadeed Feeds Industries v. Board of Revenue etc.

ICA (Writ)-ICA Land 99-24

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

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

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

Issues:

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

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

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

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

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

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

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

Issues:

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

Analysis:

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

Conclusion:

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

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

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

Issues:

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

Analysis:

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

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

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

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

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

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

Issues

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

Analysis:

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

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

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

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

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

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

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

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

Analysis:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion: i) See above analysis No i.

ii) See above analysis No ii.

iii) See above analysis No iii.

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

v) See above analysis No v.

vi) See above analysis No vi.

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

viii) See above analysis No viii.

ix) See above analysis No ix.

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

xi) See above analysis No xi.

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

xiii) See above analysis No xiii.

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

xv) See above analysis No v.

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

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- 39. Lahore High Court**
Malik Mudassar Ali and others v. Secretary, Public Prosecution Department, etc.
W.P No.6630 of 2022
Mr. Justice Anwaarul Haq Pannun
<https://sys.lhc.gov.pk/appjudgments/2025LHC1154.pdf>

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

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

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

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

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

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

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

Issues:

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

Analysis:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Issues:

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

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

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

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

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

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

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

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

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

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

by a mistaken relief of bail.

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

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

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

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

Issues:

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

Analysis:

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

Conclusion:

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

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

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

Issues:

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

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

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

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

47.

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

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

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

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

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

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

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

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

Issues:

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

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

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

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

Non-Cardiac Causes are as under;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49.

Lahore High Court

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

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

Mr. Justice Abid Hussain Chattha.

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

Facts:

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

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

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

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

the doctrine of *restitutio in integrum*?

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

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

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

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

Issues

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

Analysis:

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

Conclusion:

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

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

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

Issues

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

Analysis:

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

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

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

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

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

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

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

Analysis:

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

Conclusion:

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

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

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

Issue:

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

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

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

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

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

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

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

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

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

Conclusion: i) See above analysis No. i

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

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

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

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

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

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

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

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

57.

Lahore High Court

The State v. Shahid alias Shahidi

Murder Reference No.234 of 2021

Shahid alias Shahidi v. The State, etc.

Criminal Appeal No.848 of 2022

Saddam Hussain v. The State, etc.

Criminal PSLA No.846 of 2022

Saddam Hussain v. The State, etc.

Criminal Revision No.847 of 2022

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

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

Facts:

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

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

Issues

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

Analysis:

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

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

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

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

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

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

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

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

speaks volumes against the veracity of prosecution version.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Issues:

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

Analysis:

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

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

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

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

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

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

Conclusion: i) See above analysis No. i

61. Lahore High Court

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

Writ Petition No. 8683 of 2024

Mr. Justice Syed Ahsan Raza Kazmi

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

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

Issues

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

Analysis:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

v) Another astonishing factor which this Court has observed is that all the murder weapons recovered from the appellants were blood stained. It does not resonate with a judicious mind that the appellants would keep the murder weapons stained with blood as souvenirs for such a long duration despite having ample time to dispose them off or destroy them or at the very least, wash away the blood stains from them.

vi) The trial court is empowered, after ascertaining from the public prosecutor or complainant, to summon any person as a witness who is acquainted with the facts of the case and is able to give evidence. However, when it appears to the trial court that the witness is being called for the purpose of vexation, delay or defeating the ends of justice, it has the power to refrain from summoning such a witness.

vii) After completion of prosecution evidence, the trial court is under a bounden duty to allow the accused person to adduce his evidence, generally termed as defence evidence, and after entering in his defence, if the accused applies to the trial court to summon any person as a witness or for the production of a document, the trial court shall summon such witness or document.

viii) The only difference between the powers granted to the trial court under Section 265-F of the Code and Section 94 of the Code appears to be that the first can only be exercised during the course of trial after plea of the accused under Section 265-E of the Code and witnesses deemed essential can be summoned, whereas the latter can be exercised at any stage of 'any proceedings' where the court conducting the proceeding, inquiry or trial, as the case may be, considers the production of a document or other thing necessary.

ix) Article 129 of the Qanun-e-Shahadat 1984 ('QSO') allows the Courts to presume the existence of any fact, which it thinks is likely to have happened, regarding the common course of natural events and human conduct in relation to the facts of the particular case... This Court presumes the existence of this fact that the occurrence remained unwitnessed by virtue of Article 129 of QSO because the conduct of the witnesses as deposed by them is opposed to the common course of natural events and human conduct.

x) Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

- Conclusion:**
- i) The unexplained delay in the registration of the FIR renders the prosecution's case doubtful.
 - ii) A delayed autopsy suggests the absence of eyewitnesses at the crime scene, affecting the credibility of their testimony.
 - iii) The testimony of a chance witness is unreliable unless convincingly justified with a reasonable explanation for their presence at the crime scene.
 - iv) Non-compliance with Section 103 of the Cr.P.C. in the recovery process diminishes the evidentiary value of the recovered items.
 - v) The recovery of blood-stained weapons after a significant lapse of time is highly suspicious and lacks probative value.
 - vi) The trial court has the discretion to summon or refrain from summoning a prosecution witness if it deems the request vexatious or aimed at delaying justice.
 - vii) The trial court must allow the accused to present defence evidence and summon witnesses or documents upon request.
 - viii) Section 265-F Cr.P.C. applies during trial for summoning witnesses, while Section 94 Cr.P.C. can be invoked at any stage of proceedings for producing documents or objects.
 - ix) Under Article 129 QSO, courts may presume facts based on natural human conduct, and unwitnessed occurrences may be inferred when testimony contradicts common experience.
 - x) Section 540 Cr.P.C. empowers courts to summon, recall, or re-examine witnesses at any stage if their testimony is essential for a just decision.

64. Lahore High Court
Hafeez Ahmad v. The State, etc.
Criminal Revision No.400 of 2018
Mr. Justice Muhammad Jawad Zafar
<https://sys.lhc.gov.pk/appjudgments/2025LHC752.pdf>

Facts: The petitioner was tried by the learned Judicial Magistrate, in crime case for offences under Articles 3 and 4 of the Prohibition (Enforcement of Hadd) Order 1979 and the trial court convicted and sentenced the petitioner. Hence, this Criminal Revision before the High Court.

Issues

- i) What is scope and conditions to invoke revisional jurisdiction?
- ii) What is effect of non-exhibition of articles/document in evidence during the trial?
- iii) Whether non-production of witness transmitting samples to the PFSA is fatal to prosecution?
- iv) What is effect of material or evidence not put to the accused in his statement under section 342 Cr.P.C?
- v) Whether the failure to establish the identity of accused is fatal to the prosecution?
- vi) Whether the Court can exercise its revisional jurisdiction suo motu?
- vii) Is a single reasonable doubt enough to grant the accused the benefit of doubt?

- Analysis:**
- i) The scope of revision is inherently limited and may only be invoked when a finding of fact that influences the decision is either unsupported by evidence or results from misreading or non-reading of the material available on record. Upon the fulfillment of either of these conditions, it is incumbent upon this Court to exercise its revisional jurisdiction. In order to invoke the revisional jurisdiction, two conditions precedent constituting jurisdictional facts would require to be fulfilled: first, it should relate to proceedings, and second, the said proceedings should be before subordinate criminal Court.³
 - ii) It was straightaway observed that none of the recovered materials were exhibited in evidence by the prosecution before the learned Trial Court. Rule 14-H, Part B, Chapter 24, Volume III, of the Rules and Orders of the Lahore High Court (“High Court Rules and Order”) pertains to exhibits and provides a self-explanatory procedure for exhibiting a document and article to be read in evidence.
 - iii) the prosecution failed to produce the witness Muhammad Khalid, who, according to the PFSA report (Exh.PE), transmitted the samples to the PFSA. This omission raises concerns regarding the safe transmission of the parcel to the PFSA, thereby disrupting the chain of custody for the sample parcel...the non-production of witness Muhammad Khalid suffices to break the chain of custody and is sufficient to cast serious doubt about the integrity of the sample parcel, ultimately compromising the credibility and reliability of the PFSA report (Exh.PE).
 - iv) It is trite that the incriminating material and the circumstances from which inferences adverse to the accused sought to be drawn should be put to the accused when he is questioned under Section 342 of the Code, else the same cannot be considered as a piece of evidence against the accused.⁴ Akin to the principle enunciated hereinabove that any non-exhibition of article or document cannot be used against the accused person, similarly, any incriminating article or document which was not put to accused in his statement under section 342 of the Code cannot be used against him.⁵
 - v) Since the petitioner was not known to the prosecution witnesses and no identification parade was conducted in terms of Article 22 of the Qanun-e-Shahadat Order 1984 (“QSO”), nor were the features of the petitioner disclosed in the Crime Report, with a lack of explanation from the complainant as to how he identified the petitioner, the identity of the petitioner remains unclear and shrouded in mystery.
 - vi) It is trite that this Court can exercise its revisional jurisdiction *suo motu* to ensure effective superintendence and visitorial powers to make sure of the strict adherence to the safe administration of justice and to correct any error unhindered by technicalities.⁶
 - vii) It is trite that it is not necessary that there be multiple infirmities in the prosecution's case or several circumstances creating doubt. A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle

the accused to the benefit, not as a matter of grace or concession but as a matter of right.⁸

- Conclusion:**
- i) See above analysis No.i
 - ii) See above analysis No.ii
 - iii) See above analysis No.iii
 - iv) any incriminating article or document which was not put to accused in his statement under section 342 of the Code cannot be used against him.
 - v) See above analysis No.v
 - vi) Court can exercise its revisional jurisdiction *suo motu*
 - vii) A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle the accused to the benefit of doubt

65. Lahore High Court
The State v. Muhammad Saleem
Murder Reference No. 09 of 2020&Criminal Appeal No. 18-J of 2020
Mr. Justice Muhammad Jawad Zafar
<https://sys.lhc.gov.pk/appjudgments/2025LHC1099.pdf>

Facts: The Sessions Court convicted the appellant under section 302(b) PPC, on the charge of murder of complainant's wife and sentenced him to death as ta'zir along with a sentence u/ 324 PPC as 5 years rigorous imprisonment and daman under section 337-F(ii) PPC for inflicting injuries upon the complainant's son.

Issues:

- i) Whether promptness of FIR and injuries upon the child witness prove the presence of witness at the place of occurrence?
- ii) Whether in presence of trustworthy and reliable ocular and circumstantial evidence the delay in lodging the FIR is fatal?
- iii) How many witnesses are required to prove the fact in issue in a murder case?
- iv) Whether a child is a competent witness?
- v) Whether an accused of murder case can be convicted on the basis of solitary statement of single witness?
- vi) Whether delay in post-mortem examination solely is sufficient to extend benefit of doubt by brushing aside the prosecution evidence?
- vii) Whether inmates are deemed to be natural witnesses and their testimony is to be discarded?
- viii) What is value of medical evidence, whether ocular evidence can be given preference over medical evidence and it is sufficient to sustain conviction?
- ix) Whether the testimony of police officials is as good as any other witness?
- x) Whether without DNA comparison, the weapon of offence/recovery has any value?
- xi) What facts constitute mitigating and extenuating circumstances, whether these circumstances have value to secure acquittal of the accused?

Analysis: i) The promptness with which the Crime Report got lodged, especially considering the existence of Injured Child Witness (PW-10), not only confirms

the presence of PWs at place of occurrence. In addition thereto, the Crime Report was lodged by the complainant (PW-9), inmate of the house where the occurrence took place along with the stamp of injuries on the person of Injured Child Witness, are conclusive proof of their presence at the venue of occurrence.

ii) The so-called delay as averred by the learned counsel for the Appellant, is out of question, especially considering the ratio decidendi laid down in the aforementioned cases, in as well as the case of “Sheraz Asghar v. The State” (1995 SCMR 1365), wherein it was held that ‘[b]esides, delay in lodging F.I.R. is not per se fatal to a case. It neither washes away nor torpedoes trustworthy and reliable ocular or circumstantial evidence. F.I.R. in this case has been lodged with an eye-witness. It contains the names of the eye-witnesses, the names of the assailant with arms carried by them, active role played by each assailant’. Even otherwise, the honourable Supreme Court of Pakistan observed in “Zar Bahadur v. The State” (1978 SCMR 136) that mere delay does not wash away the reliability of the ocular account or trustworthiness of the same.

iii) Article 17 of the Qanun-e-Shahadat 1984 (“QSO”) does not spell the number of witnesses required to prove a fact in issue in a case under Section 302 of the PPC in terms of Article 18 of QSO.

iv) Under the law, a child as young as eight is fully competent to depose as a witness, because said child has the capacity and intellect to depict and comprehend what he is deposing about. Rationality test is invoked by the courts of law as a means of determining whether a child is a competent witness or otherwise. Said test stems from the combined reading of Article 3 and Article 17 of the Qanun-e-Shahadat 1984 (“QSO”) after conducting voir dire. It is trite that voir dire constitutes a sort of inquiry conducted within a trial to determine ancillary issues that are essential for adjudication and it falls within the discretion of the learned Trial Court to assess the competence of a child witness by posing various questions, based on which questions, it is deciphered whether the child witness has passed the rationality test and is deemed to be a competent witness or otherwise.

v) It is the quality, and not the quantity, of witnesses that matters and an accused facing trial for offence of qatl-e-amd can be convicted based on solitary testimony of a single witness.

vi) Insofar as the aspect of delay of almost 11 hours and 30 minutes in conducting post-mortem examination, it is observed that one person lost her life while Injured Child Witness (PW-10) was evacuated to the hospital as a means to save his person. Possibility of time being consumed in transportation might led to delay in post-mortem examination which was still fairly good as the doctor has opined approximately that it ranges from twelve to twenty four hours. In similar circumstances, where the FIR was lodged with promptness but the autopsy was conducted with delay, the Honourable Supreme Court of Pakistan has held, in “Muhammad Asif and another v. Mehboob Alam” (2020 SCMR 837), that ‘[i]n a country where the medical facility cum availability of paramedics for the job assigned is not an easy task, the consumption of such a time seems to be quite

reasonable hence, the prosecution evidence cannot be brushed aside on this score alone to extend the benefit of doubt as claimed'. Therefore, this contention is repelled.

vii) It needs no reiterating that inmates are deemed to be natural witnesses and their testimonies, especially considering their relationship with the deceased, cannot be discarded.

viii) The value and status of medical evidence is always corroborative in its nature, which alone is not sufficient to sustain the conviction. It is settled law that where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused.

ix) Witnesses of the recovery being police officials is of no consequence because it is trite that the testimony of police officials is as good evidence as of any other witness unless the accused establishes that the police witness who appeared against him had personal motive to falsely implicate him in the offence.

x) The murder weapon (P-1) was deposited in the PFSA on 16.07.2019, and according to the serologist report pertaining to murder weapon (Ex.PT), '[h]uman blood was identified', however, no corresponding DNA was conducted to connect the murder weapon (P-1) with the occurrence despite the depositing of murder weapon (P-1) in the PFSA well in time as well as the availability of samples of deceased in the shape of blood stained cotton and buccal swabs. Therefore, the recovery, due to lack of corresponding DNA comparison becomes inconsequential.

xi) that no corresponding DNA was conducted to connect the murder weapon (P-1) with the occurrence despite availability of samples of deceased in the shape of blood stained cotton and buccal swabs of the deceased. Similarly, buccal and nail swabs of the deceased were taken and sent for analysis, however, no corresponding DNA samples of the Appellant were sent for comparison. According to Aftab Ali Shahid JFS Crime Scene Unit Multan (PW-5), three live rounds (P-5/1-3) were found at the place of occurrence, however, entire prosecution case is silent qua this aspect. All these three circumstances, although attract illustration (g) of Article 129 of QSO, yet at the same time, have no probative value in terms of securing an acquittal when taken in conjunction with fact that the testimonies of the eyewitnesses, inclusive of injured witness, remained unshattered and rather it a mere omission on part of the investigating agency due to their lethargic attitude and as a consequence thereof, it can merely be termed as a mitigating and extenuating circumstance and not otherwise.

- Conclusion:**
- i) Promptness of FIR and injuries upon injured prove the presence of witness at the place of occurrence.
 - ii) In presence of trustworthy and reliable ocular and circumstantial evidence the delay in lodging the FIR is not fatal.
 - iii) The QSO, 1984 does not tell the number of witnesses required to prove a fact in issue in a case under Section 302 PPC.

- iv) A child is a competent witness if he passes the rationality test.
- v) An accused of murder case can be convicted on the basis of solitary statement of single reliable witness.
- vi) The delay in post-mortem examination solely is not sufficient to extend benefit of doubt by brushing aside the prosecution evidence.
- vii) The inmates are deemed to be natural witnesses. Their testimony cannot be discarded due to their relation with the deceased.
- viii) See above analysis No. viii
- ix) The testimony of police officials is as good as any other witness.
- x) See above analysis No.x
- ix) See above analysis No.ix

66. Lahore High Court
Mst. Misbah Farooq etc. v. M/s. Daewoo Pakistan Express Bus Service Ltd.
etc.
RFA No. 1123 of 2014
Mr. Justice Faisal Zaman Khan, Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC1065.pdf>

Facts: An appeal was filed against a partial decree granted in a suit for damages filed due to an accident involving a passenger bus. The claim centered on alleged negligence resulting in permanent injury and emotional and financial hardship to the appellants.

Issues:

- i) What are the essential conditions for the applicability of the doctrine of *res ipsa loquitur* in civil negligence claims?
- ii) Is the doctrine of *res ipsa loquitur* applicable in determining negligence in motor vehicle accident claims where the exact cause of the accident is contested?
- iii) Does the Civil Court have jurisdiction to entertain suits for damages not specifically covered under statutory enactments like the Contract Act or Fatal Accidents Act?
- iv) In tortious claims for damages, is it sufficient to prove suffering and loss without establishing a direct and proximate breach of duty by the defendant?
- v) Can an offer to pay compensation under a statutory schedule be treated as an unqualified admission of liability in tort claims?

Analysis:

- i) *Res ipsa loquitur* means an inference of Negligence in Civil Proceedings, it permits an inference of a defendant's negligence from the happening of an event and thereby creates a prima facie case of negligence sufficient for submission to a Court... the plaintiff must establish: (i) the event must be of a kind which ordinarily does not occur in the absence of someone's negligence; (ii) it must be caused by an agency or instrumentality within the exclusive control of the defendant; (iii) it must not have been due to any voluntary action or contribution on the part of the plaintiff.
- ii) It may be an inference that such accidents do not ordinarily occur but since the Plaintiffs had opted to take a specific position that occurrence was owed to bus's

mechanical and fitness failure, therefore, they had to prove it by producing some evidence but they failed to do so... The above makes it abundantly clear that in the case in hand the doctrine of *res ipsa loquitur* is not attracted and normal rule of evidence prevails, therefore, the onus of proving negligence on part of the defendant was on the Appellants/Plaintiffs, particularly when the defendant had unrooted the prima facie presumption

iii) However, this does not mean that there is no remedy for even laying a claim for such damages in Punjab as the Suit is not regulated by any specific Law in Punjab for the time being. The answer lies in Section 9 of the C.P.C as it would operate and vest jurisdiction in the Civil Court to adjudicate the suits for recovery of damages of the nature filed by the Appellants/Respondents and the Civil Court was not robbed of its jurisdiction to try the Suit as the said provision is all encompassing. This is based on well settled position of law that Ouster of Jurisdiction of Civil Court conferred upon it under Section 9 cannot be readily inferred and an ouster by special law has to be specific, clear and unambiguous. Exclusion of jurisdiction of civil court must be expressed and ouster clause, ousting general law's jurisdiction, must be construed very strictly.

iv) This brings the Court to the conclusion that in a suit for damages, the wrong done to the plaintiff must be proved to be immediate, direct or proximate result of the act, or acts of negligence attributed to the defence... it is not proved that those have occurred due to a direct negligence by the Defendants... The Appellants/Plaintiffs were not only required to prove that they sustained all such losses which they had claimed, instead they had to prove at the outset that the liability ensued from any breach by the Defendant Company, which they have failed to establish in this case.

v) The learned counsel for the Appellants/Plaintiff has half-heartedly attempted to argue that by offering to pay the amount in terms of Thirteenth Schedule of West Pakistan Motor Vehicle Ordinance, 1965, the Defendant Company has admitted the liability, therefore, they were liable to pay the damages sustained by the Appellants/Plaintiffs. We are not impressed by this submission as it is well settled by now that an admission by the Defendant should be unambiguous, unqualified and specific and cannot be inferred for granting a claim or Decree.

- Conclusion:**
- i) The doctrine of *res ipsa loquitur* requires specific essential conditions to be fulfilled for its application.
 - ii) The doctrine of *res ipsa loquitur* is not applicable where plaintiffs allege specific causes and fail to prove them with evidence.
 - iii) The Civil Court retains jurisdiction under Section 9 CPC in the absence of a specific statutory bar.
 - iv) In tort claims, plaintiffs must establish a direct and proximate breach of duty by the defendant to claim damages.
 - v) A payment offer under statutory provisions does not amount to an unqualified admission of liability.

67. Lahore High Court
Muhammad Irshad. Vs. The State, etc.
Mr. Justice Tanveer Ahmad Sheikh
CrI. Misc. No.7151-B/2025
<https://sys.lhc.gov.pk/appjudgments/2025LHC1359.pdf>

Facts: Pre-arrest bail petition of the petitioner was dismissed from Sessions court in case registered under Section 406 and 408 of Pakistan Penal code, 1908 and he filed bail petition before High court.

Issues: i) What is the combined effect of Section 3 of Pakistan Penal Code, 1860 and Sections 188 and 403 of Criminal procedure Code, 1898?
 ii) Whether section 188 Cr.PC imposes any bar on registration of FIR for an offence committed by citizen of Pakistan abroad?
 iii) What is requirement for claiming protection against double Jeopardy under Section 403 Cr.PC?

Analysis: i) Combined study and critical analysis of the above provisions leads to an inference that if a person commits any offence in a foreign country, which is also an offence under the Pakistan Penal Code, he may be tried or convicted in Pakistan in the same manner as if the offence was committed within Pakistan.
 ii) Section 188 of Cr.P.C. does not create any bar to the registration of a crime report under section 154 of Cr.P.C. in Pakistan for an offence committed by a citizen of Pakistan abroad. If any reference in this regard is required that can be had from (2011 YLR 2882).
 iii) So far as Section 403 of Cr.P.C. is concerned, the protection available there under can be claimed by an accused only if he has been tried for a crime by a court of competent jurisdiction and he is thereafter convicted or acquitted of the charge and that conviction/acquittal remains intact.

Conclusion: i) See above analysis (i)
 ii) See above analysis (ii)
 iii) See above analysis (iii)

68. Lahore High Court
Mst. Bisma alias Sana v. The State
CrI. A. No. 664 of 2024
Mr. Justice Sadaqat Ali Khan, Mr. Justice Tariq Mahmood Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC1029.pdf>

Facts: Appellant preferred this criminal appeal against conviction pronounced by the Trial Court under Section 9(1)-6c of CNSA 1997 and sentenced to 10-years R.I. with fine Rs.1,25,000/- and in default thereof to further undergo 02-months S.I. with benefit of section 382-B Cr.P.C.

Issue: i) What is evidentiary value of non-production of sample bearer as witness in recovery cases of narcotics?

ii) What is requirement for a convicted person to establish in a criminal appeal to claim benefit of doubt?

Analysis:

i) In many cases, the Hon'ble Supreme Court had given the benefit of doubt in addition to other facts, that prosecution had not produced sample bearer in the witness box. No doubt, in case of non-appearance of sample bearer, in the report of Chemical Examiner, different columns are available, one of the same is relating to the officer who submitted the parcels/sample bearer. The Hon'ble Supreme Court had not considered that the entry was enough and had cured the factum of non-production of sample bearer and had recorded ratio that it was necessary for the prosecution to produce the sample bearer.

ii) Appellant is not required to create a series of dents and doubts in the prosecution case but for giving benefit of doubt if a single doubt is created even then the defence is entitled to the benefit of doubt not as a matter of grace and concession but as a matter of right.

Conclusion:

i) Production of sample bearer as witness in cases of narcotics is necessary as mere entry in record is not sufficient.

ii) Single doubt in criminal case is sufficient to extend benefit in favour of accused as matter of right.

69. Lahore High Court
Criminal Appeal No.78420-J of 2019
Irfan Ali v. The State
Murder Reference No.308 of 2019
The State v. Irfan Ali
Ms. Justice Aalia Neelum Chief Justice, Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC1032.pdf>

Facts: Appellant and others faced charges of *qatl-i-amd*, *attempt to commit qatl-i-amd* and multiple *hurts*. Trial court convicted the appellant and sentenced him to death as *Tazir* along with compensation under section 544-A, Cr.P.C. to the legal heirs of the deceased. So far as rest of accused are concerned, they were acquitted. Appellant preferred appeal while the trial court forwarded reference for confirmation or rejection of death sentence and now both (Criminal Appeal and Murder Reference) are being decided by this judgment.

Issue:

i) What does the timely registration of FIR ensue?

ii) What do the injuries on the injured witness indicate and what is the legal worth of the deposition of such witness?

iii) In what circumstances, recovery is a relevant factor?

iv) What is the legal principle qua establishing the guilt of accused and what is the exception to this rule?

v) Whether a solitary fire-arm injury is considered as a mitigating circumstance?

vi) What is the rule as to conversion of death sentence into life imprisonment?

- Analysis:**
- i) It needs no scholarly discussion that timely registration of an FIR eliminates the potential for the manipulation of facts and indicates the likely presence of eyewitnesses at the crime scene.
 - ii) The presence of a witness, injured during the occurrence is always considered well beyond doubt, because it has stamp of injuries on his person (...) Where a witness to the incident has been injured, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the crime scene.
 - iii) The pistol was recovered upon the appellant's disclosure and thus was relevant under Article 40 of Qanun-e-Shahadat Order, 1984.
 - iv) It is cardinal principal of law that prosecution has to prove the guilt of accused by standing upon its own leg without any shadow of doubt, however Article 121 of Qanun-e-Shahadat Order 1984, is an exception to the general rule.
 - v) It is well settled that the infliction of solitary firearm injury is also considered an acknowledged mitigating circumstance warranting conversion of death sentence into imprisonment for life.
 - vi) We are also not oblivious of the fact that even the slightest circumstance can be enough to convert death sentence of an accused into life imprisonment and no extraordinary circumstances are necessary to effect this change.

- Conclusion:**
- i) See above analysis No. i.
 - ii) Injuries on the injured-witness demonstrate his presence at the scene of occurrence and the testimony of such witness is reliable.
 - iii) See above analysis No. iv
 - iv) See above analysis No. v
 - v) Infliction of solitary injury is considered as a mitigating circumstance.
 - vi) A slightest circumstance is enough to convert death sentence of an accused into life imprisonment.

LATEST LEGISLATION/AMENDMENTS

1. Vide Notification No.F.2(1)/2025-Pub dated 25-03-2025, amendment is made in paragraph 13 of The High Court Judges (Leave, Pension and Privileges) Order 1997.
 2. Vide Notification No.SO(P-I)2-2/2023(P) dated 19-02-2025 published in the Punjab Gazette, amendments are made in rule 219, 254, rule 254-A is inserted and rule 257 is substituted.
 3. Vide Notification No. SO(CAB-I)2-18/2018(ROB) dated 19-03-2025, amendments are made in first and second schedule of The Punjab Government Rules of Business, 2011.
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SELECTED ARTICLES

1. MANUPATRA

<https://articles.manupatra.com/article-details/The-Role-and-Impact-of-Technology-in-Enhancing-Legal-Aid-Accessibility-An-Urban-Perspective>

The Role and Impact of Technology in Enhancing Legal Aid Accessibility: An Urban Perspective by Twisha Rangra

Over the past decade, India has witnessed rapid digitalization, having spearheaded efforts for technology adoption across all industrial sectors as well as its societal facets¹. However, the legal-tech landscape remains underutilized. While the market for providing legal aid services has been gaining traction, there is a significant gap between availability and accessibility of the same, as it is yet to fully benefit from contemporary technological advancements, which underscores the need for further study. The web-based survey of 205 respondents along with literature review conducted for this study revealed a considerable lack of awareness regarding online legal aid services. However, there is clear intent and willingness to adopt the same, though it is restricted by concerns over trust, data privacy and security, user experience and reliability. Despite technology's impact on the current legal landscape, its role in ensuring access to justice remains underdeveloped. Digital legal aid services have the potential to bridge justice gaps by overcoming geographical, financial and temporal barriers. While traditional methods of availing legal services remain as most preferred, more innovative solutions² are gaining traction. To fully utilize technology in this field it is important to address concerns about privacy, security and accessibility.

2. MANUPATRA

<https://articles.manupatra.com/article-details/Securing-The-Future-IP-Frameworks-In-The-Age-Of-Disruptive-Technologies>

SECURING THE FUTURE: IP FRAMEWORKS IN THE AGE OF DISRUPTIVE TECHNOLOGIES BY Chandresh Tiwari

The paper analyses how disruptive technologies have impacted intellectual property (IP), with a special focus on blockchain, artificial intelligence (AI), augmented and virtual reality (AR/VR), quantum computing and cybersecurity links. These technologies are altering innovation, and a thorough investigation needs to be done into how they affect copyright, patent law, trade secrets and cooperative dynamics. The paper explores how decentralized ledgers and smart contracts might change conventional IP systems in the setting of blockchain technology and intellectual property. Blockchain's effectiveness and openness offer solutions to long-standing challenges, setting the way for a time when intellectual property ownership is effectively and safely recorded. AI's rise represents a serious threat to patent law, posing concerns concerning ownership, eligibility, and the rapidity at which patents are reviewed. This research analyzes the delicate waltz that occurs between artificial intelligence and patent law, emphasizing the importance of cooperative efforts to reconsider innovation norms and find an equilibrium between

development and the law. The simultaneous use of IP with AR and VR challenges the trademark and copyright landscapes. The research paper studies how these fully immersive experiences reshape company identities and innovative thinking, prompting the creation of complex legal structures that achieve a balance between innovation and protection. Biotechnology, specifically gene editing technologies such as CRISPR-Cas9, exposes the complex structure of DNA and creates problems with intellectual property rules. The paper highlights the need for a harmonious framework that tackles ethical issues and encourages growth as it negotiates the complex waltz between patents and innovation. The research highlights patents as crucial resources for preserving technological breakthroughs in the area of cyber security. It addresses the rise in patent applications, challenges with the examination processes, and how industry participants and legal experts have to collaborate to handle this changing environment. The paper proposes cooperation among legal specialists, lawmakers, and industry participants as disruptive technologies shift the IP field. These innovative technologies must be effectively integrated into the complex web of intellectual property due to the evolving conditions of innovation and IP protection.

3. Lawyers Club India

<https://www.lawyersclubindia.com/articles/trump-administration-taking-action-against-underground-surrogacy-in-california-law-related-to-surrogacy-that-you-must-know--17576.asp>

Trump Administration Taking Action Against Underground Surrogacy in California: Law related to surrogacy that you must know! By Swabhiman Panda

California has emerged as a center for “commercial surrogacy,” a practice whereby foreigners effectively rent American wombs in return for U.S. citizenship. Officials say these couples often live in upscale apartments or homes in the Los Angeles suburbs, which residents call “baby farms.” Illegal Chinese birthing organizations organize the trips and charge up to \$100,000. However, these practices in USA is not something new but can be traced going back a decade. Acting U.S. Attorney Joseph McNally told NewsNation that 30,000 Chinese children were born with U.S. citizenship through this “system.” These were criminal organizations that were active in the United States as well as recruiters in China. Hospitals were contacted by the organizers of this event. It was a business. These schemes’ organizers were in charge of thousands of babies’ birth tourism. It’s pertinent to note here that Lax U.S. laws governing international surrogacy allow foreign nationals, to “rent a womb” from American women. However, Trump administration has started taking strong action against the corrupt practices that have been prevalent in America for a while. A contentious executive order intended to terminate birthright citizenship was signed by President Trump in January, though it hasn’t been put into effect yet but Trump administration is cracking down on an underground industry in California in which Chinese nationals pay money to baby brokers to bring pregnant Chinese women into the country and have their infants delivered as US citizens.

Probation is a common alternative to incarceration for those navigating the criminal justice system in Colorado. Understanding the nuances of probation violations is essential for individuals on probation and their families, as these violations can lead to serious legal repercussions, including the possibility of jail time. In Colorado, probation violations can occur for a variety of reasons, including failure to complete mandated programs, issues with reporting to a probation officer, or engaging in illegal activities. Each of these violations carries specific consequences that can dramatically impact a person's life and future.

4. Lawyers Club India

<https://www.lawyersclubindia.com/articles/precautions-best-practices-and-common-mistakes-in-drafting-a-legal-notice-17575.asp>

Precautions, Best Practices, and Common Mistakes in Drafting a Legal Notice by Sankalp Tiwari

A legal notice serves as a formal communication tool in legal disputes, providing an opportunity for resolution before litigation. It is an essential aspect of legal due process, allowing parties to negotiate, rectify disputes, and comply with obligations without court intervention. The historical evolution of legal notices showcases their significance in pre-litigation processes, with statutory frameworks in different jurisdictions mandating their use in specific legal matters. This article delves into the essential components of a legal notice, the methodology of drafting one, and the various ways in which it can be served. Furthermore, it examines the legal ramifications of sending and receiving a legal notice, emphasizing the importance of drafting precision, adherence to legal principles, and avoiding common pitfalls. Through a comprehensive analysis, this article provides an in-depth understanding of the role of legal notices in dispute resolution.

5. Lawyers Club India

<https://www.lawyersclubindia.com/articles/6-powerful-ways-ai-voice-effects-are-changing-the-game-for-content-creators-17565.asp>

6 Powerful Ways AI Voice Effects Are Changing the Game for Content Creators by Yaksh Sharma

Artificial intelligence has transformed the digital landscape, especially in content creation. One of the most exciting advancements is AI-driven voice effects, which allow creators to modify, enhance, and generate voices with ease. Whether for gaming, podcasts, social media videos, or professional presentations, AI voice effects are revolutionizing the way people engage with audio. Here are six powerful ways AI voice effects are making a difference. These innovations not only save time and effort but also open up new creative possibilities. With AI voice effects, users can experiment with different tones, accents, and styles, making content more dynamic and engaging. As AI technology continues to evolve, the potential for high-quality, customizable voice experiences will only expand.

LAHORE HIGH COURT BULLETIN



Fortnightly Case Law Update *Online Edition*
Volume - VI, Issue - VII
01 - 04 - 2025 to 15 - 04 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(01-04-2025 to 15-04-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles
Prepared & Published by the Research Centre Lahore High Court

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1. **Supreme Court of Pakistan**
Ishfaq Ahmed v. Mushtaq Ahmed, etc.
C.P.L.A. No. 1010-L/2022
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1010_1_2022.pdf
- Facts:** The petitioner, residing abroad, rented out his property through his mother to his brother under an oral agreement. Upon default in rent payments, eviction proceedings were initiated in 2018. The tenant's right to cross-examine was struck off, and his defence remained unsubstantiated. The Special Judge (Rent) dismissed the petition, but the appellate court reversed it. The High Court later set aside the appellate decision, which led the filing of leave to appeal before the Supreme Court.
- Issues:**
- i) Does the delegation of rent collection authority affect the legal status of a landlord in eviction proceedings?
 - ii) Should rent proceedings be decided summarily to uphold the right to property?
 - iii) Can Artificial Intelligence be used in judicial processes while ensuring constitutional guarantees?
 - iv) Can AI-generated legal research be relied upon by judges without independent human verification?
 - v) Does the use of AI in drafting judicial opinions compromise judicial independence or impartiality?
 - vi) Is there a risk of due process violations if judicial decisions are influenced by AI-generated content?
 - vii) Can AI be used in case allocation without risking judge shopping or undermining fairness?
 - viii) Is it ethically acceptable for judges to consult commercial AI platforms (e.g., ChatGPT) in decision-making?
 - ix) Does the use of AI in judicial systems require human rights compliance under international obligations?
 - x) Can algorithmic bias in AI result in discriminatory judicial outcomes?
- Analysis:**
- i) While the law may recognize such agents as 'landlords' for the procedural purpose of instituting eviction proceedings, such recognition is merely representative and does not derogate from the petitioner's legal title or his status as the actual landlord.
 - ii) Rent proceedings, by their very nature, are summary in character... A just legal system must, therefore, ensure an equitable balance between the rights of landlords and tenants, a balance that is fundamentally disrupted when cases are permitted to stagnate in the judicial pipeline.
 - iii) AI, when deployed within principled boundaries, holds significant potential to enhance judicial and institutional productivity and efficiency. Its role is not to replace the human adjudication but to supplement and support judicial functions, particularly in areas where the judgment themselves build expertise... The

responsibility for ensuring the accuracy, ethical integrity, and confidentiality of judicial determinations rests entirely with the judge... AI remains merely an auxiliary resource, while indispensable human judgment and individualized discernment remain paramount.

iv) Judges must, however, undertake careful verification of all references suggested by Judge-GPT while adhering to established ethical and procedural protocols.

v) AI tools remain subordinate to judicial reasoning and must never be mistaken as a substitute for the exercise of judicial conscience, discretion, or interpretive judgment. The responsibility for ensuring the accuracy, ethical integrity, and confidentiality of judicial determinations rests entirely with the judge.

vi) Hallucinations present both a technical and judicial challenge. Technically, models like GPT-4 have shown a significant incidence of fabricating legal references (58% in one study), underscoring their reliance on statistical predictions over fact verification. These invented authorities can distort court proceedings, undermine evidentiary accuracy, and raise due process concerns if false information slips into the record. Some courts now require attorneys to certify that any AI-generated text has been thoroughly checked before filing. Therefore, judges apply a trust-but-verify approach to maintain factual accuracy and protect the rule of law.

vii) The allocation of cases within judicial systems is a foundational element of procedural fairness, and courts worldwide are increasingly adopting AI-driven frameworks to eliminate discretion, reinforce transparency, and prevent manipulation.

viii) We find this to be a fit case to explore the use of AI by the judiciary in order to actualize the constitutional mandate of Articles 10A and 37(d) of the Constitution.

ix) This Court emphasizes that fairness and transparency must apply equally to AI-assisted rulings, in alignment with Article 14 of the International Covenant of Civil and Political Rights and General Comment No. 32 of the United Nations Human Rights Committee. UNESCO's 2021 Recommendation on the Ethics of Artificial Intelligence and its 2022 Global Toolkit on AI and the Rule of Law similarly call for accountability and oversight in AI deployment. In Europe, the European Commission for the Efficiency of Justice Ethical Charter and the Council of Europe Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, 2024 emphasize transparency and accountability within judicial systems. Moreover, Article 22 of the EU General Data Protection Regulation restricts fully automated decisions with significant legal consequences, while the EU AI Act, 2024 designates judicial AI as high-risk, requiring bias-free data, thorough documentation, explainability, and human oversight in accordance with the EU Charter of Fundamental Rights.

x) AI-driven tools for bail, sentencing, and comparable judicial decisions frequently replicate or exacerbate existing biases, especially when their underlying training data incorporate historical inequities. AI systems must not

influence judicial reasoning by embedding latent demographic or ideological biases. This Court warns against “automation bias,” the undue deference to algorithmic recommendations and affirms that any AI adoption must maintain institutional independence and judicial impartiality.

- Conclusion:**
- i) Recognition of agents as ‘landlords’ for procedural purposes is merely representative and does not derogate from the petitioner’s legal title or his status as the actual landlord.
 - ii) Rent proceedings, by their very nature, are summary in character and are intended to ensure swift and efficient resolution of landlord-tenant disputes.
 - iii) AI, when deployed within principled boundaries, holds significant potential to enhance judicial and institutional productivity.
 - iv) Judges must, however, undertake careful verification of all references suggested by Judge-GPT while adhering to established ethical and procedural protocols.
 - v) AI tools remain subordinate to judicial reasoning and must never be mistaken as a substitute for the exercise of judicial conscience, discretion, or interpretive judgment.
 - vi) Hallucinations present both a technical and judicial challenge... therefore, judges apply a trust-but-verify approach to maintain factual accuracy and protect the rule of law.
 - vii) The allocation of cases within judicial systems is a foundational element of procedural fairness, and courts worldwide are increasingly adopting AI-driven frameworks to eliminate discretion, reinforce transparency, and prevent manipulation.
 - viii) We find this to be a fit case to explore the use of AI by the judiciary in order to actualize the constitutional mandate of Articles 10A and 37(d) of the Constitution.
 - ix) This Court emphasizes that fairness and transparency must apply equally to AI-assisted rulings, in alignment with international human rights obligations.
 - x) AI usage in judicial decisions must be carefully managed to prevent bias and uphold impartiality and judicial independence.

2. Supreme Court of Pakistan
Ahmed Ali Talpur v. Sub-Registrar Latifabad, Hyderabad and others
Civil Petition No.290-K of 2024
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 290 k 2024.pdf

Facts: A petitioner sought a declaration of ownership and injunction based on an alleged oral gift from his father, which was later challenged as forged. The plaint was rejected by the Trial Court and upheld by both appellate forums.

Issues: i) Is it mandatory for the Court to evaluate all legal prerequisites under Order VII Rule 11 CPC before rejecting a plaint?

- ii) Is it appropriate to allow suits involving mixed questions of law and fact to proceed through trial instead of rejecting them summarily?
- iii) Does an application under Order VII Rule 11 CPC require specific grounds, and must the court ensure due process before rejecting a plaint?
- iv) Are concurrent findings of lower courts immune from interference if found contrary to law or evidence?

Analysis:

- i) The constituents or components of Order VII Rule 11, CPC, require proper appreciation and cannot be decided in a slipshod or perfunctory manner. It is an age-old, well-settled legal exposition that, before ordering the rejection of a plaint, the Court must first discharge its onerous duty of examining whether the plaint discloses a cause of action; whether the relief claimed is undervalued, and if so, whether the plaintiff, on being required by the Court to correct the valuation within a fixed time, has failed to do so; whether the relief is properly valued but the plaint is written upon an insufficiently stamped paper, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a fixed time, has failed to do so; and whether the suit appears, from the statement in the plaint, to be barred by any law.
- ii) However, in the case of mixed questions of law and fact, the correct approach is to allow the suit to proceed to the written statement and discovery phases, determining the *lis* either by framing preliminary issues or through a regular trial with equal opportunities for both parties.
- iii) Another important aspect cannot be overlooked that whenever an application under Order VII Rule 11, CPC, is filed, it must distinctly articulate how and on what grounds the plaint is liable to be rejected, rather than making sweeping or trivial allegations to waste the court's valuable time or drag and delay the proceedings. It is well-established principle that for substantial questions of facts or law, the provisions of Order VII Rule 11, CPC, cannot be invoked. The proper course is to frame issues and decide them on merits in light of the evidence. The court is duty-bound to ensure substantial justice between the parties and not render them remediless. The power conferred under Order VII Rule 11, CPC, is drastic in nature, allowing the termination of lawsuits. Therefore, the Court must be confident that rejection is justified under the enumerated conditions. The letter of the law does not envisage a particular stage at which the other side may object that the plaint is genuinely hit by Order VII Rule 11, CPC. Nor does the Rule explicitly state whether such an application may be filed before or after the filing of the written statement. However, in our view, the essence of the Rule demonstrates, in its literal vision, that its application is independent and does not require waiting for the filing of the written statement. Even the court may reject the plaint on its own motion as a sense of duty if it is found to be genuinely hit by any of the disability or infirmity provided in the clauses of Order VII Rule 11, CPC. However, before rejecting the plaint in its prudence and judiciousness, the court must provide the plaintiff with the right of audience. If the plaint is rejected, then under Rule 12, the Judge is bound to record an order to that effect, stating the

reasons for such order.

iv) If the concurrent findings recorded by the lower fora are found to be in violation of the law or based on a flagrant and obvious defect floating on the surface of the record, such concurrent findings cannot be treated as so sacrosanct or sanctified that they cannot be upset or reversed... the stumbling block of the doctrine of concurrent findings cannot shield flawed and erroneous decisions from correction.

- Conclusion:**
- i) Yes, the Court must thoroughly assess all statutory grounds under Order VII Rule 11 CPC before rejecting a plaint.
 - ii) Yes, suits involving mixed questions of law and fact should proceed to trial rather than being summarily rejected.
 - iii) Yes, applications under Order VII Rule 11 CPC must clearly state specific grounds, and the plaintiff must be given a right of audience before rejection.
 - iv) No, concurrent findings can be interfered with if they violate law or are based on evident defects.

3. Supreme Court of Pakistan
Sikindar Ahmed Ghouri v. Syed Rafat Abbas Jafferi and other.
Civil Petition No. 1220-K/2022
Mr. Munib Akhtar, Mr. Justice Syed Hasan Azhar Rizvi.
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1220_k_2022.pdf

Facts: The dispute concerns ownership of a property which was originally leased and lawfully transferred through registered instruments. Respondent No.1 later acquired ownership through a registered sale agreement. Petitioner, claiming rights through a separate transaction involving a disputed office bearer of the Society, contested the ownership. A civil suit was filed by respondent's predecessor and decreed in their favor. Petitioner, however, initiated arbitration proceedings without disclosing the prior litigation and obtained an ex-parte award. Respondent challenged the award through a constitutional petition, which was allowed by the High Court setting aside the award, quashing the writ of possession, and declaring a subsequent lease deed void. Hence, the present petition.

- Issues:**
- i) What are essential conditions under Section 54 of the Co-operative Societies Act 1925 that must be met for the Registrar to entertain a dispute?
 - ii) What is the significance of the phrase 'touching the business of the society' under Section 54 of the Act in determining the Registrar's jurisdiction over disputes?
 - iii) Whether every dispute between a society and its members, officers, or employees is covered under Section 54 of the Act?
 - iv) Whether title disputes can be adjudicated by the Registrar under the Act?
 - v) Whether a society retains any interest in a property after its rights have been transferred, and can it adjudicate subsequent ownership disputes?

- vi) Whether disputes relating to ownership, title, and possession of immovable property fall within the purview of the society's business under the Act?
- vii) Whether the prior allotment or transfer of property by a co-operative society through a registered lease deed is sufficient to bring a dispute within the scope of 'touching the business of the society'?
- viii) Whether the powers of the Registrar under the Act can exceed those of Civil Courts under the Code of Civil Procedure, 1908?
- ix) Whether the Registrar is empowered to order attachment of property and execute awards in the manner of a civil court under Sections 55 and 59 of the Act?
- x) Whether the phrase 'touching the business of the society' is a jurisdictional prerequisite for the Registrar or arbitrators under Section 54 of the Act?
- xi) Whether civil courts have ultimate jurisdiction to adjudicate matters of a civil nature?
- xii) Whether the decision of a civil court can be altered or diluted through subsequent proceedings before the Registrar under the Act?
- xiii) Whether matters relating to title and ownership of immovable property fall within the exclusive jurisdiction of civil courts?
- xiv) Whether arbitration proceedings under the Act can override or nullify a judgment and decree passed by a competent civil court, especially in matters relating to ownership rights?

- Analysis:**
- i) Bare perusal of the section 54 of Act reveals that the following two conditions have to be fulfilled before a dispute could be entertained by the Registrar, namely:-
 - (i) the dispute must be one "touching the business of a society" and
 - (ii) it must arise between certain specified parties such as the society or its members on the one side and the members of the society or any officer, agent or servant of the society on the other side.
 - ii) The phrase "touching the business of the society" under Section 54 of the Act is a jurisdictional prerequisite that determines whether a dispute falls within the Registrar's domain.
 - iii) It is settled law that not all disputes arising between a society and its members, officers, or employees fall within the ambit of Section 54 of the Act.
 - iv) Title disputes are civil in nature and cannot be adjudicated by the Registrar under the Act.
 - v) Once property rights have been transferred the society no longer retains an interest in the property, and subsequent ownership disputes must be settled by a civil court of competent jurisdiction.
 - vi) Disputes relating to ownership, title, and possession of immovable property do not fall within the purview of the society's business.
 - vii) The mere fact that the disputed property was once allotted or transferred through the registered lease deed by the co-operative society does not automatically render the dispute one that "touches the business of the society."

- viii) The powers of the Registrar can in no case exceed the powers of Civil Courts under the Code of Civil Procedure, 1908.
- ix) The Registrar has been granted the power to order the attachment of a party's property before the making of an award under Section 55. Similarly, Section 59 empowers the Registrar to recover money directed to be paid under an award by signing a certificate, which shall be deemed to be a decree of a civil Court and shall be executed in the same manner.
- x) The requirement that the dispute must be one "touching the business of the society" goes to the very root of the jurisdiction of the Registrar or the arbitrators acting under Section 54.
- xi) It is a settled principle of law that civil courts have the ultimate jurisdiction to adjudicate upon matters of a civil nature.
- xii) The consequences and effect of the decision of a civil court cannot be diluted, either directly or indirectly, through subsequent proceedings before the Registrar under the Act.
- xiii) Matters relating to title and ownership of immovable property fall within the exclusive jurisdiction of civil courts.
- xiv) The arbitration proceedings under the Act cannot override or nullify the judgment and decree passed by a competent civil court, particularly when the dispute pertains to ownership rights.

- Conclusion:**
- i) See above analysis No.i.
 - ii) See above analysis No.ii
 - iii) All disputes arising between a society and its members, officers, or employees do not fall within the ambit of Section 54 of the Act.
 - iv) Title disputes being civil in nature cannot be adjudicated by the Registrar under the Act.
 - v) The society does not retain an interest in the property after its and subsequent ownership disputes must be settled by a civil court of competent jurisdiction.
 - vi) Disputes relating to ownership, title, and possession of immovable property do not fall within the purview of the society's business.
 - vii) The prior allotment or transfer of property by the co-operative society does not automatically make the dispute 'touch the business of the society.
 - viii) Registrar's powers cannot exceed those of Civil Courts under the Code of Civil Procedure, 1908.
 - ix) See above analysis No.ix.
 - x) See above analysis No.x.
 - xi) Civil courts have the ultimate jurisdiction to adjudicate upon matters of a civil nature.
 - xii) Decision of a civil court cannot be diluted, either directly or indirectly, through subsequent proceedings before the Registrar under the Act.
 - xiii) Matters relating to title and ownership of immovable property fall within the exclusive jurisdiction of civil courts.
 - xiv) Arbitration under the Act cannot override a civil court's judgment, especially

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- 4. Supreme Court of Pakistan**
Muhammad Akram v. Shafaqat Ali, etc.
C.P.L.A. No. 1033-L of 2024
Mr. Justice Shahid Bilal Hassan, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1033_l_2024.pdf
- Facts:** The plaintiff filed a suit for pre-emption but repeatedly failed to produce evidence despite being granted several opportunities with final warnings. The trial court proceeded under Order XVII, Rule 3 CPC, and dismissed the suit; the decision was upheld by the appellate and revisional courts.
- Issues:**
- i) What are the consequences of allowing litigants to pursue litigation without adherence to procedural rules and regulations?
 - ii) What are the mandatory conditions for applying Order XVII, Rule 3 of the Civil Procedure Code to close a party's right to produce evidence?
 - iii) Whether an indolent person who displays disobedience and indifferent demeanour towards court orders can seek favour of law?
 - iv) Whether a litigant can be allowed to proceed with a case as per his whims and wishes without adhering to procedural rules?
- Analysis:**
- i) Same is the situation in the judicial system, if the litigants are allowed to proceed with their matters without following rules and regulations, framed and promulgated to lead litigation to an ultimate end at the earliest, it would not only increase the burden upon the Court(s) but also destroy the trust of the general public upon judicial system, as such the litigants cannot be permitted to take the Courts for granted and proceed with the lis as per their whims and wishes as well as cause agony to their rival parties without any progress in the matter(s) brought against them (rival party).
 - ii) Though, it is a settled law that evidence of a party cannot be closed under Order XVII, Rule 3, C.P.C for non-production of evidence where the case on the previous date was not adjourned at the request of such party. For the application of Rule 3 the following conditions must co-exist: a). Adjournment must have been granted to the party at his request; b). It must have been granted to it for the purposes mentioned in the rule 3; c). The party who has taken the time defaulted in doing the act - for which he took the time from the court; d). The party must be present or deemed to be present before the court; e). That there must be some material on record for decision of the case on merits and; f). That the court must decide the suit forthwith that is within a reasonable time.
 - iii) Such like indolent person(s) cannot be allowed to play with the process of the Court and linger on the matter on one pretext or the other, that too, without any plausible and valid reason. (...) The above picture of affairs makes it crystal clear that how the petitioner pursued his case and showed his disobedience and indifferent demeanour towards the orders of the Court; thus, such like indolent

person cannot seek favour of law, because law favours the vigilant and not the indolent.

iv) Besides, this Court in recent judgment has deliberated upon the moot point involved in this case and in an elaborative way has discussed the pros and cons of Order XVII, Rule 3, Code of Civil Procedure, 1908 with all other relevant provisions of law and the essence of the same is that litigant cannot be left unleashed and unbridled to act as he intends and proceed with the lis as per his whims and wishes rather he would be made to abide by the rules and procedure provided under the law to bring the lis to an ultimate end at the earliest.

- Conclusion:**
- i) Allowing litigants to disregard procedural rules undermines judicial efficiency, burdens courts, and erodes public trust in the justice system.
 - ii) Order XVII, Rule 3 CPC can only be invoked to close evidence if all specified conditions, including adjournment at party's request and failure to act thereafter, are met.
 - iii) An indolent person who shows disobedience and indifferent demeanour towards court orders cannot seek favour of law.
 - iv) A litigant cannot be allowed to proceed with the lis as per his whims and wishes but must abide by procedural rules to conclude the matter.

5. Lahore High Court
Muhammad Riaz alias Baddi v. The State
Criminal Appeal No.748-J of 2019
Mr. Justice Syed Shahbaz Ali Rizvi, Mr. Justice Muhammad Jawad Zafar
<https://sys.lhc.gov.pk/appjudgments/2025LHC2100.pdf>

Facts: Appellant challenged his conviction and sentence to death with a compensation under Section 544-A Cr.P.C for a homicide involving multiple accused; two co-accused were acquitted by extending them the benefit of doubt; a criminal appeal against their acquittal and a murder reference for confirmation of the death sentence have also been clubbed for adjudication.

Issues:

- i) Whether delay in conducting autopsy due to non-compliance with Chapter 25 of the Police Rules, 1934 affects the credibility of the prosecution?
- ii) Whether unexplained delay in sending crime empties to the forensic agency renders the forensic report doubtful?

Analysis: i) Perusal of police rules reproduced supra and that of the forms prescribed makes it clear that the police papers i.e. Form 25.35(1)(B) and 25.39 along with other reports prescribed prepared and articles collected by the Investigation Officer are to accompany the dead body to be transported expeditiously to the Medical Officer for examination. In particular Rule 39(5) mandates that the officer accompanying the dead body shall personally deliver it to the Medical Officer along with all reports and articles sent by the Investigation Officer to assist the examination. If it is not so done and even is not explained plausibly, it surely

renders doubt about the credibility of the police proceedings conducted at the place of occurrence and also about the timing and contents of the crime report.

ii) The prosecution is not equipped with any justification with regard to the belated dispatch of crime empties to Punjab Forensic Science Agency and the reason for not sending the same along with blood stained earth on 17.11.2016. It has also been noticed that the date of receiving crime empties is not given in the report of Punjab Forensic Science Agency (Exh-PS) available at page 189 of the paper book. These aspects of the case in hand make the credibility of report of the Punjab Forensic Science Agency doubtful.

Conclusion: i) Delay in conducting autopsy due to non-compliance with Chapter 25 of the Police Rules, 1934 renders doubt about the credibility of the police proceedings conducted at the place of occurrence.
ii) Unexplained delay in sending crime empties to the forensic agency makes the forensic report doubtful.

6. Lahore High Court
Nazir Ahmad etc. v The learned Additional District Judge, Kasur etc.
W.P.No.62973/2024
Mr. Justice Ch. Muhammad Iqbal
<https://sys.lhc.gov.pk/appjudgments/2025LHC2015.pdf>

Facts: Brief facts of the case are that the respondents No.3 & 4 were blessed with twin daughters. The petitioners are the maternal uncle and aunt of the minors, who adopted one of minors. The respondents being close relative of the petitioners accepted the request of the petitioners with the condition that as and when they demand return of custody of the minor, the petitioners would accordingly hand over the minor to them. The respondents asked the petitioners to return the custody of the minor girl but they refused which resulted into filing of the application for custody of the minor on the ground that they are the real biological parents of the minor as such her custody may be given to them. The petitioners filed contesting written. The learned Guardian Judge dismissed the petition of the respondents. The respondents filed an appeal which was accepted by the learned Additional District Judge by setting aside the order of the learned Guardian Judge. Hence, this petition.

Issue: i) What considerations should be kept in mind while deciding a case of custody of minor, where adoptive and biological parents are claiming custody of same child?
ii) In the event of conflict of judgements which forum should be preferred?

Analysis: i) Though adoptive parents provide emotional support, care, and guidance, often forming deep, lasting bonds with the child. However, it is essential to recognize that the love and affection shared between a child and their biological parents hold a unique and irreplaceable place in a child's life. The affection between biological parents and their child often carries a sense of familiarity and

instinctive connection, influenced by biological and evolutionary factors. These natural connections may form a foundation of trust and comfort that, for many, remains an essential part of their emotional makeup, even if their biological parents are not in their lives. While adoptive parents can provide a loving and supportive home, they may never fully replicate the biological ties and the shared experiences that come with being part of the same family tree. The memories, genetic traits, and inherited emotional bonds are aspects that cannot be recreated through adoption. Adoption is not about replacing the biological parents but rather about extending a circle of care and love to a child who may not have had the opportunity to experience it otherwise. A child's connection to their biological parents remains a crucial part of their identity, even when they grow to form meaningful and fulfilling relationships with adoptive families. The petitioners are maternal uncle & aunt of the minor girl and in the presence of real parents of the minor, the custody of the minor girl cannot be handed over to the petitioners as the welfare of the minor best lies with her real parents.

ii) It is well settled law that in the event of conflict of judgments, findings of appellate Court are to be preferred and respected, unless it is shown from the record that such findings are not supported by evidence.

Conclusion: i) See above analysis No. i
ii) See above analysis No. ii.

7. Lahore High Court
Sheikh Ali Jaffar v. The Registrar, Lahore High Court, Lahore.
Service Appeal No.31 of 2015
Mr. Justice Muhammad Sajid Mehmood Sethi, Mr. Justice Rasaal Hasan Syed, Mr. Justice Abid Hussain Chattha.
<https://sys.lhc.gov.pk/appjudgments/2025LHC2391.pdf>

Facts: The appellant, a Civil Judge appointed as a Returning Officer, was dismissed from service following an ECP complaint based on election-related allegations. The Service Tribunal set aside the dismissal, which was upheld by the Supreme Court on the ground that no regular inquiry had been held. Consequently, the appellant was reinstated and a fresh inquiry was ordered under the Punjab Civil Servants (Efficiency and Discipline) Rules, 1999. The appellant challenged this action through Service Appeal which was dismissed for being time-barred. His subsequent petition before the Supreme Court was disposed of. Following due process, he was again dismissed from service. His departmental appeal was also rejected prompting the filing of the current appeal.

Issues: i) Whether the scope of enquiry in disciplinary proceedings is different from that of a criminal trial and if so how it differs?
ii) What standard of proof is applied to determine misconduct in disciplinary proceedings, and what criteria are used to assess it?"

- Analysis:**
- i) The scope of enquiry in disciplinary proceedings is entirely different from that of a criminal trial in which the charge is required to be proved beyond reasonable doubt. In contrast, the disciplinary enquires do not adhere to strict technical rules of evidence.
 - ii) A preponderance of probabilities and some material on record would be sufficient to reach a conclusion whether or not the delinquent has committed misconduct. The test laid down by various judgments of this Court is to determine whether there is evidence on record to reach the conclusion that the delinquent has committed misconduct and whether a reasonable man, in the circumstances, would be justified in reaching that conclusion.

- Conclusion:**
- i) See above analysis No.i.
 - ii) See above analysis No.ii.

8. Lahore High Court
Riaz Ahmad v. Registrar, Lahore High Court, Lahore & another
Service Appeal No.21 of 2022
Mr. Justice Muhammad Sajid Mehmood Sethi & Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC2164.pdf>

Facts: In consequence of a departmental inquiry the petitioner was imposed a minor penalty of withholding two increments. Through an appeal before the High Court the petitioner challenged the inquiry report and the notification vide which the report of inquiry was recommended.

- Issues:**
- i) Which fundamental right is protected under the article 25 of the Constitution of Pakistan?
 - ii) What prohibits under this constitutional guarantee of right to equality?
 - iii) Whether acquittal of a person, after thorough investigation, also creates a compelling precedent to extend to others facing the same charges?

- Analysis:**
- i) In accordance with Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973—which enshrines the fundamental right to equality before law and equal protection of law—persons similarly situated must be treated equally in legal and administrative proceedings.
 - ii) This constitutional guarantee prohibits arbitrary discrimination and demands consistency in the application of laws and rules. When two individuals face departmental inquiries on the basis of same set of allegations, disparate treatment becomes legally untenable.
 - iii) Therefore, if one person is acquitted following a thorough investigation of certain allegations, it creates a compelling precedent that logically extends to others facing the same charges. To find one individual guilty while exonerating another on identical evidence would undermine the very fabric of administrative justice and violate the constitutional promise of equality.

- Conclusion:** i) The right to equality is protected under article 25 of the Constitution of Pakistan.
 ii) See above analysis No.ii
 iii) See above analysis No.iii

9.	Lahore High Court Ammar Aziz v. Lahore High Court, Lahore & others Service Appeal No.01/Litig//HR-I/2021 Mr. Justice Muhammad Sajid Mehmood Sethi, Mr. Justice Muhammad Amjad Rafiq https://sys.lhc.gov.pk/appjudgments/2025LHC2152.pdf
Facts	The appellants were appointed to administrative posts without following the prescribed recruitment process involving advertisement and competitive examination. Their appointments were withdrawn within a few days, prompting them to challenge the withdrawal orders through service appeals.
Issues:	i) What principles have been prescribed for selection and promotion under the High Court, (Lahore) Establishment (Appointment & Conditions of Service) Rules? ii) What are the powers of Chief Justice of High Court regarding relaxation of service rules in matters of appointment and absorption of officers in High Court establishment? iii) What are the limitations of principle of locus poenitentiae? vi) What is the status of an act which is void?
Analysis:	i) It was determined that the power of selection under Rule 7 of the High Court(Lahore) Establishment (Appointment and Conditions of Service) Rules could not be used arbitrarily to select preferred officers without considering all eligible officers awaiting promotion. While educational qualification constitutes a valid parameter for selection posts, it is not the sole criterion. The authority vested in the competent authority/Chief Justice under Rule 26 of the aforementioned Rules did not confer unfettered or unguided power to circumvent the regular selection process established under Rule 7 or to disregard the vested rights of officers awaiting consideration for promotion. Rule 26 could not be invoked to selectively choose officers without first considering all officers in the promotion pool. ii) The Apex Court, while deliberating on the power of the Chief Justice of the High Court to relax service rules in matters of appointment and absorption of officers, observed that absolute power to relax a certain service Rule had not been conferred on the Chief Justice of the High Court and such power was limited only to be exercised where it did not encroach upon the statutory rights of the other persons or employees. Rule 16 of the Islamabad High Court Establishment (Appointment and Conditions of Service) Rules, 2011, and Rule 26 of the Lahore High Court Establishment (Appointment and Conditions of Service) Rules, 1973,

could not be interpreted as conferring absolute power upon the Chief Justice to deal with the case of a person / employee in a manner he liked. The Court emphasized that the Chief Justice could exercise powers under these Rules only in a manner that would not cause injustice or prejudice to any individual or employee.

iii) We are no-doubt conscious of the principle of *locus poenitentiae*, which refers to a stage or opportunity for repentance, allowing a party to withdraw from a proposed course of action before it becomes legally binding. In certain contexts, it has been interpreted to mean that once an act or benefit has been granted—particularly where the beneficiary was not at fault—its withdrawal may not be permissible, even if the grant was made under a mistake... "*Quod ab initio non valet, in tractu temporis non convalescit*" (what is invalid from the beginning cannot be made valid by the passage of time) serves as a fundamental principle in legal jurisprudence that significantly qualifies the application of *locus poenitentiae*. This principle serves as a critical check against the perpetuation of legal errors and unauthorized benefits, ensuring that administrative or judicial mistakes do not create enduring entitlements contrary to established law. The rationale behind this doctrine is to preserve the integrity of legal systems by preventing the validation of unlawful acts through mere persistence, thereby upholding the foundational principle that legitimate rights cannot flow from illegitimate sources. This principle has been consistently upheld across various legal jurisdictions and maintains that fundamental defects in an original action cannot be remedied merely through continued practice or temporal progression.

iv) The incisive legal principle articulated by Lord Denning in *Benjamin Leonard MacFoy v. United Africa Co Ltd* [1961] 3 All ER 1169 (PC), bears a mention here wherein he elucidated that "If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the court declare it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on nothing and expect it to stay there. It will collapse." This foundational principle has been similarly recognized across multiple jurisdictions. In *Norton v. Shelby County* (118 U.S. 425, 1886), the Supreme Court of the United States definitively pronounced that "an unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed." Similarly, the Supreme Court of India while dealing with the matter related to ad hoc appointments of teachers reinforced this principle in *Prabhat Kumar Sharma & Ors v. State of U.P. & Others* (AIR 1996 SC 2638), specifically holding that ad hoc appointments must conform strictly to procedures prescribed by relevant laws and regulations, and that "any appointment made in transgression thereof is illegal, void, and confers no rights upon the appointees".

Conclusion: i) See above analysis (i)

- ii) See above analysis (ii)
- iii) See above analysis (iii)
- iv) See above analysis (iv)

10. Lahore High Court
Faisal Rehman Raheem etc. v. The Competent Authority of Lahore High Court, Lahore.
Service Appeal No.09 of 2022
Mr. Justice Muhammad Sajid Mehmood Sethi, Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC2171.pdf>

Facts: Brief facts are that the appellant did not obey the order of Deputy Registrar, he threatened the Senior Supervisory Officer of dire consequences, flouted clear direction of the Additional Registrar (Judicialand) and he availed special casual leave along with 56 casual/medical/earned leave during the year. A fact finding probe reached conclusions unfavorable to the appellant. The Inquiry Officer recommended the imposition of a minor penalty of ‘censure’. Consequently, the competent authority imposed minor penalty of ‘censure’ on the appellant. Hence, instant appeal.

Issue:

- i) Whether an official/officer should be punished for an isolated instance or his overall conduct and performance should be considered?
- ii) Under which law an adverse presumption may be drawn against prosecution/authority, if the complainant does not appear in witness box?
- iii) What legal sanctity is attached to a verbal order?
- iv) Whether absence of a provision as to notice can override the principle of natural justice?
- v) Whether doctrine of natural justice has been recognised by Article 10-A of the Constitution of the Islamic Republic of Pakistan and how it guarantees meaningful opportunity of hearing?

Analysis:

- i) Even if, it is believed that during the reported incident, the appellant had behaved angrily towards the complainant, it may not be appropriate to punish him for an isolated instance of harsh behavior; as such a conduct could stem from external stress, personal issues, or momentary frustration. Instead, a fair assessment requires considering his overall conduct and performance to ensure a balanced and just approach.
- ii) Needless to say, given the provision of Article 129 (g) of Qanun-e-Shahadat, 1984, an adverse presumption shall be drawn against the prosecution/authority that had the complainant appeared in the witness box, he would not have supported its stance.
- iii) A verbal order which has no sanctity of law as written form of an order is the only medium that identifies the reason behind the order and it is the written order that undergoes accountability of judicial review. An order in writing is integral to good governance and the rule of law.

iv) We do not think the mere absence of a provision as to notice can override the principle of natural justice that an order affecting the rights of a party cannot be passed without an opportunity of bearing to that party. An order passed without notice of the hearing against a party would be without jurisdiction and coram non judice.

v) The doctrine of natural justice at present finds constitutional recognition in Article 10-A of the Constitution of the Islamic Republic of Pakistan, which guarantees the right to a fair trial and due process. Of course, the right to fair trial and due process reinforces the necessity of providing the affected party with a meaningful opportunity of hearing before any adverse action is taken. The UK House of Lords, in *Ridge v. Baldwin* [1964] AC 40, reaffirmed this principle, stating that "the body with the power to decide cannot lawfully proceed to make a decision until it has afforded to the person affected a proper opportunity to state his case" (Lord Reid). Since a fair hearing was not merely a procedural formality but a cornerstone of justice—promoting transparency, accountability, and public confidence in the legal system—the failure to issue notice to the appellant constitutes a significant procedural flaw.

- Conclusion:**
- i) See above analysis No. i
 - ii) According to Article 129 (g) of Qanun-e-Shahadat, 1984, an adverse presumption shall be drawn against the prosecution/authority if it does not support its stance.
 - iii) A verbal order which has no sanctity of law.
 - iv) Mere absence of a provision as to notice cannot override the principle of natural justice.
 - v) The doctrine of natural justice at present finds constitutional recognition in Article 10-A of the Constitution of the Islamic Republic of Pakistan.

11. Punjab Subordinate Judiciary Service Tribunal Lahore
Dr. Syed Ali Sana Bokhari v. Chief Justice and Judges of the Lahore High Court / Authority through the Registrar, Lahore High Court, Lahore
Service Appeal No.06 of 2022
Mr. Justice Muhammad Sajid Mehmood Sethi, Mr. Justice Rasaal Hasan Syed, Mr. Justice Abid Husain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC2177.pdf>

Facts: The appellant was issued a charge sheet containing allegations of misconduct, inefficiency, and non-performance of duties. The disciplinary proceedings were ultimately dropped but were followed by suo moto contempt proceedings, culminating in the appellant's conviction. Following dismissal of his appeals up to the Hon'ble Supreme Court, his sentence was reduced, and he was dismissed from service. A departmental appeal and a service appeal were filed. During pendency of the latter, the appellant reached the age of superannuation. The Tribunal set aside the dismissal order and remanded the matter for a fresh decision after affording the appellant a hearing, which was upheld by the Hon'ble Supreme

Court. In post-remand proceedings, disciplinary proceedings were abated due to the appellant's superannuation. The appellant requested release of pension and service benefits, which was rejected that led to the filing of the instant service appeal.

Issues: i) Whether disciplinary proceedings abate upon the superannuation of a civil servant, and what legal consequences follow from such abatement?
ii) Whether a civil servant is entitled to full pensionary and retiral benefits when the disciplinary proceedings are abated after superannuation?

Analysis: i) In post-remand proceedings, the respondent-authority issued notification dated 05.05.2021 qua abatement of the disciplinary proceedings, which reads as under:- "In view of the instructions issued by Government of the Punjab, Services & General Administration Department, Lahore through Circulation No.SORI(S&GAD)4-32/2004, dated 29.09.2004, the Hon'ble Chief Justice and Judges are pleased to abate the disciplinary proceedings against Dr. Syed Ali Sana Bokhari, ex-Civil Judge having already crossed the age of superannuation." It is obvious from the above that no adverse order existed against the appellant as order of his dismissal from service had already been set aside and the disciplinary proceedings to determine the question of 'moral turpitude' were also abated by the competent authority as noted above when during the course of proceedings, the appellant reached the age of superannuation. It is settled law that an employee cannot be penalized for any action, which was subject-matter of an inquiry that was not completed before his superannuation/retirement. Upon reaching the age of superannuation, the unfinished disciplinary proceedings automatically cease to have effect by operation of law. This legal extinction of proceedings vests in the civil servant an indefeasible right to receive their full complement of pensionary benefits without deduction or diminution. The Superior Courts of the country have consistently upheld this principle as a fundamental safeguard against the perpetual pendency of disciplinary action, recognizing that the retirement creates a vested right that cannot be retroactively disturbed by inconclusive inquiries.
ii) The respondent-authority was obligated to pass the further order by notionally permitting the appellant to retire from service on date he had attained the age of superannuation besides considering to release the retiral benefits to him, treating the disciplinary proceedings abated as if no punishment was ever awarded to the appellant. Even otherwise, in terms of office memorandum dated 26.02.1976, it was incumbent upon the respondent-authority to notify the retirement of its officers to all concerned for recovery of dues from them, if any, and to facilitate the payment of pension and other dues to them.

Conclusion: i) See analysis i above.
ii) This legal extinction of proceedings vests in the civil servant an indefeasible right to receive their full complement of pensionary benefits without deduction or diminution even in the case the disciplinary proceedings are abated after superannuation.

- 12. Lahore High Court**
Muhammad Ramzan v. The State and another
Criminal Appeal No. 692/2022
Saeed Akhtar v. The State
Criminal Appeal No. 704/J/2022
Mst. Nawaz Bibi v. The State and another
Criminal Revision No. 26/2023
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Muhammad Tariq Nadeem
<https://sys.lhc.gov.pk/appjudgments/2025LHC2184.pdf>

Facts: The trial court indicted three accused persons under Sections 365-B and 375-A PPC. The accused pleaded not guilty and opted for a trial. Upon the conclusion of the trial, the trial court, in its judgment, acquitted one of the accused while convicting and sentencing the remaining appellants. The appellants have challenged their conviction and sentence through Criminal Appeals, whereas the complainant has sought an enhancement of the sentence by filing a Criminal Revision. It is noteworthy that Neither the State nor the Complainant has challenged acquittal. This consolidated judgment aims to address the Criminal Appeals and Criminal Revision stemming from the impugned judgment.

Issues:

- i) What is the role of expert guidance in determining the capacity of a witness with disabilities to communicate?
- ii) Whether testimony of victims with cognitive or intellectual disabilities should be rejected outrightly?
- iii) Whether Article 10A protect the rights of persons with disabilities in the context of a fair trial?

Analysis:

- i) The absence of expert evaluation constitutes a serious procedural lapse, as mental incapacity does not automatically preclude a witness from providing testimony. The law does not rigidly assume that persons with disabilities are wholly incapable of expressing themselves. Instead, courts are required to ascertain, with expert guidance, whether accommodations could enable them to communicate their experiences. The trial court should have sought professional input to determine whether the victim, despite her condition, could express facts relevant to the case through limited verbalization, gestures, facilitated communication, or alternative interpretative means.
- ii) In criminal cases involving victims with cognitive or intellectual disabilities, their testimony should not be rejected outright due to their condition. Instead, appropriate procedural accommodations must be made to facilitate their meaningful participation in the legal process. The obligation extends beyond courts to law enforcement agencies, prosecutors, and the judiciary, requiring proactive measures to ensure their access to justice. The guiding principle is that disability should never become a barrier to legal redress, and legal systems must exhaust all reasonable means to enable disabled victims to present their evidence.
- iii) It is well settled that Article 10A of the Constitution of Pakistan (1973), which

guarantees the right to a fair trial and due process, applies equally to victims as it does to the accused. This protection extends fully to persons with disabilities. The constitutional guarantee under Article 10A reinforces the broader international obligation under Article 13 of the CRPD discussed above.

- Conclusion:**
- i) Expert guidance helps determine if accommodations can aid communication.
 - ii) No, enable them by providing necessary accommodations and support.
 - iii) Yes, this protection extends fully to persons with disabilities.

13. Lahore High Court
Aamir Nawaz Minhas and others v. National Accountability Bureau and others
Writ Petition No.1027 of 2025.
Mr. Justice Jawad Hassan, Mr. Justice Tariq Mahmood Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC2125.pdf>

Facts: The petitioner filed this writ petition seeking directions to NAB to conclude inquiry against him pending since long and the delay thereof is unlawful.

- Issues:**
- i) What is the mandate of section 32 of the National Accountability Bureau Ordinance, 1999 to hear appeals against final judgments?
 - ii) What are relevant Rules under the High Court Rules & Orders, dealing bench formation?
 - iii) What is the status of preamble in any statute?
 - iv) What constitutional provisions and High Court Rules & Orders, deal with placing the constitutional writs before the benches?
 - v) How delays in conclusion of inquiries affect the fundamental rights?

Analysis:

- i) The above provision of law mandates the Division Bench of High Court constituted by the Chief Justice to decide the cases arising out of final judgment or order of the Court. It is pertinent to mention here that no provision (express or implied) is available under the “Ordinance” which deals with direct placement of matters before the Division Bench of High Court except the appeals arising out of final judgment or order of the Court under Section 32 of the “Ordinance”.
- ii) The “Rules” were made by the Lahore High Court under Article 202 of the “Constitution”. These Rules are meant to regulate the practice of fixing and hearing of cases and other matters related to Lahore High Court. Chapter No.3, Part-2 relates to the jurisdiction of a Single Judge and Benches of the Court...The above Rule provides three eventualities viz (i) Save as provided by law (which in the case in hand is the “Ordinance”), (ii) by these rules (the “Rules”) and (iii) by a special order of the Chief Justice; meaning thereby, any matter in constitutional jurisdiction of the High Court will be referred, heard and disposed of by a Single Judge sitting alone unless provided by law or the Rules or the order of the Chief Justice.

iii) Though the preamble to a statute is not an operational part of the enactment but it is a gateway, which discusses the purpose and intent of the legislature to necessitate the legislation on the subject and also sheds clear light on the goals that the legislator aims to secure through the introduction of such law. The preamble of a statute, therefore, holds a pivotal role for the purposes of interpretation in order to dissect the true purpose and intent of the law as held by the Hon'ble Supreme Court of Pakistan in "DIRECTOR GENERAL, FIA AND OTHERS Versus KAMRAN IQBAL and others" (2016 SCMR 447) holding that "indeed, preamble to a Statute is not an operative part thereof, however, as is now well laid down that the same provides a useful guide for discovering the purpose and intention of the legislature".

iv) The High Courts were defined under Chapter-3, Part-VII of the "Constitution" and constituted under Article 192 of the "Constitution" with jurisdiction to deal with the matters under Article 199 of the "Constitution" by way of constitutional petitions. The High Courts have also jurisdiction over the matters under Article 204, Chapter-4, Part-VII of the "Constitution" however, after 26th Amendment in the "Constitution", Article 202A has been added which deals with the Constitutional Benches of the High Courts whereas Article 202 of the "Constitution" deals with the Rules of Procedure of the High Court which may make rules regulating the practice and procedure or any of court subordinate to it. Rule 2, Chapter 3, Part A of the "Rules" states that "The Judges will sit singly or in benches of two or more Judges in accordance with a roster to be prepared by the Deputy Registrar with the approval of the Chief Justice from time to time", which means that the Judges, depending on the roster, will conduct the Court singly or in benches for decision of the cases to be fixed before it but no provision of the "Ordinance" mentions the placement/fixation of a case directly before the Single Bench or the Division Bench to be heard in exercise of its ordinary, extra-ordinary, original or appellate jurisdiction. Chapter-3, Part-J deals with RULES FOR THE ISSUE OF ORDERS/DIRECTIONS UNDER ARTICLES 199 AND 202 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973 AND CLAUSE 27 OF THE LETTERS PATENT. Part-II whereof deals with the constitutional remedies... The above rule outlines the procedure for presenting a particular type of writ petition, unless a law permits, before a Single Judge for its decision unless the Chief Justice orders something different.

- Conclusion:**
- i) Section 32 of the NAB Ordinance mandates for hearing appeal against final judgment by a Division Bench of High Court.
 - ii) Article 202 of the constitution and High Court Rules & Orders Chapter No.3, Part-2 relates to the jurisdiction of a Single Judge and Benches of the Court. Rule 1 provides three eventualities for bench formation.
 - iii) The preamble to a statute is not an operational part of the enactment but it is a gateway, which discusses the purpose and intent of the legislature to necessitate the legislation.

iv) The Article 202 of the “Constitution” deals with the Rules of Procedure of the High Court which may make rules regulating the practice and procedure or any of court subordinate to it. Rule 2, Chapter 3, Part A of the “Rules” states that “The Judges will sit singly or in benches of two or more Judges in accordance with a roster to be prepared by the Deputy Registrar with the approval of the Chief Justice from time to time”. No provision exists to hear writ under article 199 of the constitution by the Division Bench.

14. Lahore High Court
Ejaz Ahmed v. Addl. District Judge, etc.
W.P.No.14946 of 2025
Mr. Justice Muzamil Akhtar Shabir
<https://sys.lhc.gov.pk/appjudgments/2025LHC2082.pdf>

Facts: Through this constitution petition, petitioner has called in question order and judgment passed by both the Trial and Appellate Courts respectively, whereby in a Suit for specific performance of agreement to sell filed by petitioner, his application for grant of interim relief seeking order of maintaining status quo, protection against interference in peaceful possession, dispossession and further alienation has concurrently been dismissed.

Issues: i) Can a tenant legally deny the title of their landlord according to the principle of estoppel?
 ii) Can a prima facie case be assumed where recording of evidence is required?
 iii) Whether an agreement to sell does create any title?

Analysis: i) It is settled principle of law of estoppel that ‘once a tenant, always a tenant’ also recognized by Article 115 of the Qanun-e-Shahadat Order, 1984 whereby a tenant cannot deny the title of his landlord or claim to have a better title than the owner of the property.
 ii) Where to establish a claim, evidence is required to be recorded, prima facie case cannot be assumed in favour of the petitioner especially when he is yet to establish his right to hold possession of the suit property or be transferred its ownership,
 iii) The agreement to sell presently does not create any title but gives only a right to the petitioner to claim specific performance of contract, if he can prove the said agreement as valid by refuting the claim of the respondents that it was a forged and fabricated document.

Conclusion: i) No, a tenant cannot deny the landlord's title.
 ii) Prima facie case cannot be assumed.
 iii) No, it gives only a right to claim specific performance of contract.

15. **Punjab Subordinate Judiciary Service Tribunal Lahore**
Anam Haseeb v. The Registrar, Lahore High Court, Lahore
Service Appeal No.07 of 2023
Mr Justice Muhammad Sajid Mehmood Sethi (Chairman), Mr. Justice
Rasaal Hasan Syed, Mr Justice Abid Hussain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC1381.pdf>

Facts: Appellant was appointed as a Civil Judge-cum Judicial Magistrate on probation for a period of two years. For her confirmation, she was to pass Departmental Examination in maximum of 04 chances in successive examinations. She remained unsuccessful in all 04 attempts and, in result, was discharged from service. She moved a request for grant of 05th chance which was declined and same was the fate of representation/review petition. The appellant filed Service Appeal which was dismissed by the Tribunal. The said order was assailed before Supreme Court of Pakistan which is now pending. After remaining unsuccessful, the appellant filed a representation for grant of grace marks, which too, was declined. Hence, the instant appeal.

Issues:

- i) What does the rule 9 of the Punjab Civil Judges Departmental Examinations Rule, 1991 provide?
- ii) What is the eligibility criteria for obtaining grace marks?
- iii) From what perspective, the Supreme Court of Pakistan sees culture of seeking award of grace marks?
- iv) What is the rigorous explanation for condoning the delay in filing appeal?

Analysis:

- i) Rule 9 of the Punjab Civil Judges Departmental Examinations Rule, 1991 is germane, which provides that 05% marks as grace marks may be awarded in any paper in any examination.
- ii) This clearly establishes the departmental practice qua Rule 9 of the Punjab Civil Judges Departmental Examination Rules, 1991 which deciphered entails that the candidates would only be eligible for grace marks up to 05% if they were failing in one paper and not more.
- iii) In University of the Health Sciences Lahore and others v. Sh. Nasir Subhani and others (PLD 2006 SC 243) the Supreme Court of Pakistan observed to the effect that the culture of seeking award of grace marks is against the settled principles of good governance and improving the higher standards in professional context and departmental practice.
- iv) Under the law rigorous explanation for each and every day of delay is liable to be given by the applicant to make out a case based on sufficient cause to be allowed condonation of delay in filing of appeal.

Conclusion:

- i) Grace marks of 05% may be awarded in any paper in any examination.
- ii) The candidate would only be eligible for grace marks up to 05% if he was failing in one paper and not more.
- iii) See above analysis No. iii

iv) Every day of delay is liable be explained in filing of appeal.

16. Lahore High Court
M/s Pakistan Railways Advisory & Consultancy Services v. Al-Barka Islamic Bank Ltd.
RFA No.249/2023

Mr. Justice Mirza Viqas Rauf, Mr. Justice Asim Hafeez

<https://sys.lhc.gov.pk/appjudgments/2025LHC2051.pdf>

Facts: The respondent extended a finance facility in the form of a guarantee, which expired without being encashed. The appellant later claimed excessive commission charges, but the suit was dismissed for being time-barred and for failure to prove default of contractual obligation.

Issues

- i) Whether substitution of an original guarantee constitutes novation of contract, and what is required to legally establish such novation?
- ii) Whether issuance of a notice to admit, without producing primary or secondary evidence, is sufficient to prove default of contractual obligation?
- iii) Whether the terms of a revised contract can be proved without producing the original document or admissible secondary evidence under the Qanun-e-Shahadat Order, 1984?
- iv) Whether a notice to admit relieves a party from proving the existence and execution of a document?
- v) Whether failure to produce the original document justifies an adverse inference under Article 129(g) of the Qanun-e-Shahadat Order, 1984?
- vi) Whether failure to object during the validity of a guarantee bars later objections under the principle of acquiescence?
- vii) Whether the adjustment of charges and expiry of a guarantee render the matter a past and closed transaction, barring claims due to lapse of limitation?

Analysis:

- i) substitution of original guarantee, if any agreed and affected, tantamount to discharge from previous obligation under original guarantee and incurring of fresh obligation – attracting the principle of novation of the contract. Incidence of novation of contract has to be proved in terms of the requirements prescribed under section 62 of the Contract Act, 1872. We are afraid that no such compliance is made to prove or establish novation of contract.
- ii) Mere issuance of notice to admit without production of the document, either by way of primary or secondary evidence, was not enough to prove default on the part of the respondent – above all there is no document to show alleged default of contractual obligation on the part of the part, less a contract.
- iii) No evidence shall be given in proof of the terms of alleged revised guarantee except the document itself or secondary evidence of its contents, where admissible – attracting Articles 102 & 103 of Qanun-e-Shahadat Order 1984.
- iv) Notwithstanding issuance of the notice to admit, the party serving the notice has to prove the existence and execution of the documents. No exemption could

be claimed from establishing the existence and proving the execution of the document subject to notice to admit.

v) Failure to produce text of the guarantee, evidently the best evidence, would suggest adverse inference in terms of Article 129 (g) of Qanun-e-Shahadat Order 1984.

vi) failure to raise any objection qua effectiveness of the guarantee during its validity disentitle the appellant from raising any such objection, attracting principle of acquiescence.

vii) Another aspect of the matter is that adjustment of commission charges upfront and expiry of the guarantee attracts principle of conclusion of transaction(s) – a specie of past and closed transactions – particularly upon lapse of limitation provided for seeking compensation for alleged breach of contractual obligation.

Conclusion: i) See analysis No.i.

ii) Mere issuance of notice to admit without production of the document was not enough to prove default.

iii) No evidence shall be given except the document itself or secondary evidence, attracting Articles 102 & 103 QSO, 1984.

iv) No exemption could be claimed from establishing the existence and proving the execution of the document.

v) Failure to produce text of the guarantee would suggest adverse inference under Article 129(g) of QSO, 1984.

vi) See analysis No.vi.

vii) Adjustment and expiry of the guarantee attracts principle of conclusion of transaction(s) upon lapse of limitation.

17. Lahore High Court
M/s Astral Constructions (Pvt.) Limited v. Province of Punjab, etc.
STR No.35/2022
Mr. Justice Asim Hafeez, Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC2040.pdf>

Facts: The Reference Application involves a dispute over the imposition of sales tax under the Punjab Sales Tax on Services Act, 2012. The applicant contests the validity of tax assessment and appeal proceedings on the grounds of procedural irregularities and issues of jurisdiction.

Issues:

- i) Whether a person having site office in the province of Punjab and carrying on business is “resident” within the meaning of Punjab Sales Tax on Services Act, 2012 and liable to pay tax?
- ii) Whether the time frame prescribed in the Punjab Sales Tax on Services Act, 2012 for conclusion of proceedings before commissioner appeals is mandatory?
- iii) Whether non registration of a person absolves him from payment of tax under the Punjab Sales Tax on Services Act, 2012?

Analysis:

i) Primarily, parties disagree on the point that whether sub-section (1) or sub-section (3) of section 3 of the Act is attracted – difference between aforesaid sub-sections is dependent upon the resident status of the service provider, which may be either a resident or non-resident – both having different connotation(s) under the Act. Specific meaning(s) has been assigned to the expression ‘resident’ and converse thereof is treatable as a ‘non-resident...Evidently, question of determination of status of an entity, either a resident or non-resident, is essentially a question of fact but for the purposes of present case it has legal connotation, which require determination in the context of the expression defined as ‘place of business’, in terms of section 2(30) of the Act... The fact of the matter is that site-office, for the purposes of carrying-out or provisioning of an economic activity, wholly or partially, is covered under the expression ‘place of business’, under clause (a) of section 2(30) of the Act. We are not extending serious consideration to the argument that office established was project specific and being a camp office, because description prescribed in document referred – annexure-G in paragraph 9 of the decision - fits within the legal description of the ‘place of business’ defined above. Hence, applicant’s status, for the purposes of this reference application, is treated and declared as a resident.

ii) Second issue is whether time frame prescribed for conclusion of the proceedings before Commissioner Appeals is mandatory or directory. Though principles requiring determination of the scope of directory and mandatory provision(s) of law are clear, and to reiterate those we seek guidance from a recent decision of the Apex Court, dated 25.10.2022, passed in Civil Review Petition No.275 of 2022 in Civil Petition No.4599 of 2021 titled (Commissioner Inland Revenue, Zone-III, RTO, Rawalpindi V. M.s Sarwaq Traders, Rawalpindi, etc.), wherein, while interpreting, by and large, similarly placed provisions of law or *pari materia* provisions in the Sales Tax Act 1990 and the Customs Act 1969, it was held that such time-bound provision(s), specifying conclusion of adjudication of particularly the appeal proceedings – distinction has been drawn between proceedings before appellate authority and adjudicating officer -, are directory and not mandatory, because in the latter case it would cause prejudice to the taxpayer, when same was appellant before the appellate authority.

iii) Another issue is regarding non-registration of the applicant and effect thereof. It is alleged that in absence of applicant’s registration with the department no claim of Sales Tax could be raised or recovered. Reliance in this behalf was placed on a case reported as Commissioner Inland Revenue, Gujranwala V. S.K.Steel Casting, Gujranwala (2019 PTD 1493). Process of registration is dealt with under Chapter IV of the Act. Before discussing provision relating to registration, it is appropriate to highlight definition of a ‘registered person’ through Section 2(33) of the Act, which reads as... In follow-up to the definition of registered person, Section 25 of the Act deals with registration process, which provision is reproduced hereunder along with Explanation thereto... The case of S.K. Steel Casting, Gujranwala (*supra*) has no application to the present case, firstly, in the context of the Explanation provided in Section 25 of the Act, and

secondly, levy of Sales Tax under the Sales Tax Act 1990 involves interplay of input and output tax, which is not the case here. In the case of S.K. Steel Casting, Gujranwala (supra) Sales Tax was charged on Electricity bills, and in that scenario expression ‘liable to be registered’ was discussed and interpreted. And additionally, provisioning of Explanation is per se another major point of distinction. No such Explanation was provided under Sales Tax Act, 1990. In the issue at hand definition of registered person aligns with the Explanation provided in section 25 of the Act and any interpretation contrary thereto would otherwise militate against the legislative intent and render the Explanation redundant – ratio of the decision in the case of S.K. Steel Casting, Gujranwala (supra) cannot be applied to jeopardize the effectiveness and application of the Explanation to Section 25 of the Act. No conflict is otherwise found in the substantive provision and the Explanation appended thereto.

Conclusion: i) Yes, he is resident within the meaning of Punjab Sales Tax on Services Act, 2012 and liable to pay tax.
 ii) The time frame prescribed in the Punjab Sales Tax on Services Act, 2012 for conclusion of proceedings before commissioner appeals is directory.
 iii) Non registration does not absolve from payment of tax under the Punjab Sales Tax on Services Act, 2012.

18. Lahore High Court
The State v. Javaid Ahmed alias Jaidi
Murder Reference No.18 of 2023
Javaid Ahmed alias Jaidi Vs. The State
Criminal Appeal No. 447-J of 2023
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC1656.pdf>

Facts: Appellant was convicted and sentenced to death for committing Qatl-e-Amd by the trial court. Murder reference was sent to the High Court for confirmation of the conviction and sentence while the appellant assailed the same through criminal appeal.

Issues: i) What is the principle qua the establishment of a criminal case which is hinged upon circumstantial evidence?
 ii) What are the pre-requisites for believing the last seen evidence?
 iii) What is the nature of last seen evidence and what is the criteria of its being believable?
 iv) What is the legal status of Article 40 of the Qanun-e- Shahadat Order 1984 and when does it comes into operation?
 v) What is the condition precedent for application of Article 40 of the Qanun-e- Shahadat Order 1984?
 vi) What is epithelial D.N.A?
 vii) Whether a tainted piece of evidence corroborates another tainted piece of

evidence?

viii) What is the principle of law with regard to the nature of evidence for determining the guilt or innocence of an accused?

ix) Upon whom, the legal duty is cast to establish the guilt against the accused?

x) What will be the legal effect of acceptance of defective evidence?

xi) Why should the courts deeply scrutinize the circumstantial evidence in order to carry a conviction on a capital charge?

xii) What is the rule as to extension of benefit of the doubt?

Analysis:

i) In a case of circumstantial evidence, the prosecution must establish each instance of incriminating circumstance by way of reliable and clinching evidence, and the circumstances so proved must form a complete chain of events, on the basis of which no conclusion other than one of guilt of the accused can be reached.

ii) Pre-requisites for believing the last seen evidence are the proximity of time between the deceased seen last alive and his death and the nearness of the place of occurrence from the place of last seeing of the deceased. Interpreting these two principles, it is required that deceased shall be seen in the company of the accused by the witnesses some short time before happening of the incident and the place of murder may not be far away from the place of lastly seeing the deceased in the company of the accused by the prosecution witnesses.

iii) Last seen together is a weak type of circumstantial evidence, which cannot be readily believed unless it was corroborated through unimpeachable source, and it should be close to the time and place of murder to exclude the possibility of innocence.

iv) A perusal of above article 40 of the Qanun-e-Shahadat Order, 1984 reveals firstly that it serves as a proviso to Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984. It comes into operation only if and when certain facts are deposited to as discovered in consequences of information received from an accused person in police custody.

v) In order to apply Article 40 of the Qanun-e-Shahadat Order, 1984, the prosecution must establish that information given by the accused led to the discovery of some fact deposited by him and the discovery must be of some fact which the police had not previously learnt from any other source.

vi) When an individual touches an object, epithelial cells are left behind. Touch D.N.A. is also known as epithelial D.N.A.

vii) A tainted piece of evidence cannot corroborate another tainted piece of evidence.

viii) It is a cardinal principle of justice and law that only the intrinsic worth and probative value of the evidence would play a decisive role in determining the guilt or innocence of an accused person. Even evidence of an uninterested witness, not inimical to the accused, may be corrupted deliberately while evidence of an inimical witness, if found consistent with the other evidence corroborating it, may be relied upon.

ix) It is a known and settled principle of law that prosecution primarily is bound to establish guilt against the accused without a shadow of reasonable doubt by producing trustworthy, convincing and coherent evidence enabling the Court to draw a conclusion whether the prosecution has succeeded in establishing accusation against the accused or otherwise and if it comes to the conclusion that charges, so imputed against the accused, have not been proved beyond a reasonable doubt.

x) If the evidence of such defective quality is accepted it would produce an illusory judgment which apparently would not be sustainable in the eye of the law.

xi) To carry a conviction on a capital charge it is essential that the courts should deeply scrutinize the circumstantial evidence because fabricating of such evidence is not uncommon and very minute and narrow examination of the same is necessary to secure the ends of justice.

xii) . It is a settled principle of law that for giving benefit of the doubt it is not necessary that there should be so many circumstances rather, if only a single circumstance creating reasonable doubt in the mind of a prudent person is available, then the such benefit is to be extended to an accused not as a matter of concession but as of right.

- Conclusion:**
- i) Prosecution must prove every circumstance through reliable evidence.
 - ii) Last seen evidence requires proximity in time and nearness in place to the occurrence.
 - iii) Last seen is a weak evidence unless corroborated by unimpeachable evidence.
 - iv) Article 40 of QSO, 1984, is a proviso to Articles 38 & 39 and applies when discovery is based on information from an accused in custody.
 - v) For application of article 40 of QSO, 1984, prosecution must show the accused's information led to a new discovery unknown to the police earlier.
 - vi) See above analysis No.vi.
 - vii) See above analysis No. vii
 - viii) Intrinsic worth and probative value of evidence are the key factors in determining guilt or innocence.
 - ix) Guilt must be proven beyond reasonable doubt.
 - x) Defective evidence leads to illusory judgment.
 - xi) Circumstantial evidence needs careful scrutiny due to potential fabrication.
 - xii) A single circumstance creating reasonable doubt is sufficient to acquit the accused.

19.

Lahore High Court

Farhan Saleem vs Anwar Hussain and three Others

Criminal Appeal No.1042 of 2019

Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Sultan Tanvir Ahmad.

<https://sys.lhc.gov.pk/appjudgments/2025LHC1575.pdf>

Facts:

This appeal has been filed against the judgment passed by the Additional Sessions Judge/ Model Court, whereby the respondents / accused were acquitted in a

criminal case registered under sections 302, 336, 337-L(2), 148 & 149 PPC alleging commission of Qatle-amad of the brother of the appellant / complainant.

- Issues:**
- i) Whether the presence of injuries on the person of a witness guarantees a truthful deposition?
 - ii) Whether testimony of an injured witness can be accepted without scrutiny?
 - iii) Whether an injured witness may be assumed to always tell the truth?
 - iv) Whether witness's reliability is determined by credibility rather than his mere presence at the crime scene?
 - v) Whether the delay in the post-mortem examination discredits the witnesses' presence at the crime scene?
 - vi) Whether the recoveries of the crime weapons if made in violation of Section 103 of Cr.P.C, can be relied upon?
 - vii) Whether an acquittal from criminal charge attaches double presumptions of innocence, and what are the principles for overturning an acquittal into a conviction?

- Analysis:**
- i) The stamp of injuries on the person of a witness may be proof of his presence at the place of occurrence, at the time of occurrence, however the same can never guarantee a truthful deposition.
 - ii) Injuries received by a witness during an incident do not warrant acceptance of his evidence without scrutiny.
 - iii) It is not a given that a witness who suffered injuries during the occurrence will depose nothing but the truth.
 - iv) It is not the simple presence of a witness at the crime scene but his credibility, which makes him a reliable witness.
 - v) This clearly establishes that the witnesses claiming to have seen the occurrence were not present at the time of occurrence and the delay in the post mortem examination was used to procure their attendance and formulate a false narrative after consultation and concert.
 - vi) We have also noted that recoveries of the weapons from the respondents No. 1 to 3 cannot be relied upon as the Investigating Officer of the case did not join any witness of the locality during the said recoveries which was in clear violation of the provisions of the section 103 Code of Criminal Procedure, 1898.
 - vii) It is important to note that according to the established principle of the criminal administration of justice, once an acquittal is recorded in favour of the accused facing criminal charge, he enjoys double presumption of innocence, therefore, the court is competent to interfere in the acquittal order should be slow in converting the same into conviction, unless and until the said order is patently illegal, shocking, based on misreading and non-reading of the record or perverse.

- Conclusion:**
- i) Presence of injuries on the person of a witness does not guarantee a truthful deposition.
 - ii) Testimony of injured cannot be accepted without scrutiny.
 - iii) An injured witness may not be assumed to always tell the truth.

- iv) Presence of a witness at the crime scene does not but his credibility makes him a reliable witness.
- v) See above analysis No.v.
- vi) Recoveries of the crime weapons if made in violation of Section 103 of Cr.P.C, cannot be relied upon.
- vii) See above analysis No.vii.

20. Lahore High Court
Liaquat Ali v. The State
Criminal Appeal No.778-J of 2020 & Murder Reference No.82 of 2020
Mr. Justice Sadiq Mahmud Khurram.
<https://sys.lhc.gov.pk/appjudgments/2025LHC1597.pdf>

Facts: The Sessions Court convicted the appellant under section 302 (b) PPC, on the charge of murder of complainant's brother, and sentenced him to death as ta'zir. Two co-accused were acquitted by the learned trial court. Hence the appeal was filed by the convict; a separate appeal was filed by the complainant against the acquittal of two co-accused. Murder reference was also sent to the Hon'ble Lahore High Court.

Issues:

- i) Whether mere injuries on the person of an injured witness make him a truthful witness and his deposition can be relied upon without scrutiny?
- ii) Which fact can be presumed to be in existence under Article 129 of Q.S.O?
- iii) How the presence of witnesses can be doubted when there is delay in reporting the matter to police?
- iv) Whether recovery of weapon in violation of section 103 Cr.PC is hit by the exclusionary rule of evidence?
- v) Whether recovery of weapon from the accused during his illegal custody has any evidentiary value?
- vi) Whether the motive alone can be the basis of conviction?
- vii) In criminal cases, on which party the onus to prove lies?
- viii) In which circumstances the benefit of the doubt should be extended in favour of the accused?

Analysis: i) The prosecution witness namely Najabat Ali (PW-12) claimed that he was injured during the occurrence however the stamp of injuries on the person of a witness may be proof of his presence at the place of occurrence, at the time of occurrence, however the same can never guarantee a truthful deposition. Injuries statedly received by a witness during an incident do not warrant acceptance of his evidence without scrutiny. At the most, such traumas can be taken as an indication of his presence on the spot, but still his evidence is to be scrutinized on the benchmark of principles laid down for the appraisal of evidence. It is not a given that a witness who suffered injuries during the occurrence will depose nothing but the truth. Even otherwise, it is not the simple presence of a witness at the crime scene but his credibility which makes him a reliable witness.

ii) Article 129 of the Qanun-e-Shahadat Order, 1984 allows the courts to presume the existence of any fact, which it thinks likely to have happened, regard being had to the common course of natural events and human conduct in relation to the facts of the particular case.

iii) Another aspect of the case raising our doubt over the presence of the prosecution witnesses namely Sohbat Khan (PW-11) and Najabat Ali (PW-12) at the place of occurrence, at the time of occurrence is the fact that they never reported the matter to the police for as many as more than two hours and twenty minutes after the occurrence.(---) The august Supreme Court of Pakistan in its binding judgment has repeatedly held that in a scenario where the motivation was against the complainant or the witnesses but the accused did not cause any harm to them, notwithstanding being within the range of their firing, would reveal that the said witnesses were not present at the place of occurrence.

iv) the Investigating Officer of the case did not join any witness of the locality during the recovery of the Sickle (P-10) from the appellant namely Mazhar Ali son of Shahzada and the recovery of the Gun 12-bore (P-4) from the appellant namely Liaquat Ali son of Shahzada and the recovery of the Danda (P-3) from the appellant namely Kamran Ali son of Shahzada which action of his was in clear violation of the provisions of the section 103 Code of Criminal Procedure, 1898 and therefore the evidence of the recovery of the Sickle (P-10) from the appellant namely Mazhar Ali son of Shahzada and the recovery of the Gun 12-bore (P-4) from the appellant namely Liaquat Ali son of Shahzada and the recovery of the Danda (P-3) from the appellant namely Kamran Ali son of Shahzada cannot be used as incriminating evidence against the appellants, being evidence which was obtained through illegal means and hence hit by the exclusionary rule of evidence.

v) It was proved that the appellant namely Liaquat Ali was kept in illegal confinement by Zulfiqar Khan, SI (PW-16), the Investigating Officer of the case, therefore, no value can be attached to the recovery of the Gun 12-bore (P-4) from the appellant namely Liaquat Ali. In this manner, the recovery of the Sickle (P-10) from the appellant namely Mazhar Ali son of Shahzada and the recovery of the Gun 12-bore (P-4) from the appellant namely Liaquat Ali son of Shahzada and the recovery of the Danda (P-3) from the appellant namely Kamran Ali son of Shahzada could not be proved and cannot be considered as a relevant fact for proving any fact in issue.

vi) It is an admitted rule of appreciation of evidence that motive is only a corroborative piece of evidence and if the ocular account is found to be unreliable, then motive alone cannot be made the basis of conviction.

vii) Suffice it to observe that the onus to prove the facts in issue never shifts and always lies on the prosecution. That the law is quite settled by now that if the prosecution fails to prove its case against an accused person then the accused is to be acquitted even if he had taken a plea and had thereby admitted killing the deceased, which at least is not the case in this particular matter.

viii) It is a settled principle of law that for giving the benefit of the doubt it is not necessary that there should be so many circumstances rather if only a single

circumstance creating reasonable doubt in the mind of a prudent person is available then such benefit is to be extended to an accused not as a matter of concession but as of right.

- Conclusion:**
- i) Injuries on the person of an injured witness do not make him a truthful witness and his deposition cannot be relied upon without scrutiny
 - ii) See above analysis No. ii
 - iii) See above analysis No. iii
 - iv) Any recovery in violation of section 103 Cr.PC is hit by the exclusionary rule of evidence
 - v) Recovery of weapon from the accused during his illegal custody has no value.
 - vi) The motive alone cannot be the basis of conviction.
 - vii) The onus to prove the charge lies on prosecution.
 - viii) See above analysis No. viii

21. Lahore High Court
The State V. Sajid Ali
Sajid Ali V. The State and another
Capital Sentence Reference No. 02 of 2023
Criminal Appeal No. 583 of 2023
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC1689.pdf>

Facts: The convict/appellant was tried by the learned Additional Sessions Judge in a case registered for offences under sections 295-C and 298-A P.P.C. The learned trial court, in its impugned judgment, convicted the appellant and imposed a sentence. Feeling aggrieved by this decision, the convict lodged a Criminal Appeal challenging his conviction and sentence. Additionally, the learned trial court submitted a Capital Sentence Reference under section 374 Cr.P.C. seeking confirmation or otherwise of the death sentence awarded to the appellant. Both the Criminal Appeal and the Capital Sentence Reference are disposed of through this single judgment.

- Issues:**
- i) What is the legal significance of the delayed recording of a prosecution witness's statement under section 161 Cr.P.C. without a valid explanation?
 - ii) What is the cardinal principle of justice and law regarding the evaluation of evidence?
 - iii) Can the Court abridge the right of the accused to acquittal if the charges are not proven beyond a reasonable doubt?
 - iv) Who bears the onus of proving the guilt of the accused during a trial?
 - v) Can suspicion, regardless of its strength, be used as a substitute for the standard of proof in criminal cases?

Analysis: i) It is trite that the delayed recording of the statement of a prosecution witness under section 161 of the Code of Criminal Procedure, 1898 reduces its value to nothing unless there is plausible explanation for such delay.

- ii) It is a cardinal principle of justice and law that only the intrinsic worth and probative value of the evidence would play a decisive role in determining the guilt or innocence of an accused person. Even evidence of an uninterested witness, not inimical to the accused, may be corrupted deliberately while evidence of an inimical witness, if found consistent with the other evidence corroborating it, may be relied upon.
- iii) It is a known and settled principle of law that the prosecution primarily is bound to establish guilt against the accused without a shadow of reasonable doubt by producing trustworthy, convincing and coherent evidence enabling the Court to draw a conclusion whether the prosecution has succeeded in establishing accusation against the accused or otherwise and if it comes to the conclusion that charges, so imputed against the accused, have not been proved beyond a reasonable doubt, then the accused becomes entitled to acquittal. In such a situation the Court has no jurisdiction to abridge such right of the accused.
- iv) It is a well settled principle of law that one who makes an assertion has to prove it. Thus, the onus rests on the prosecution to prove guilt of the accused beyond reasonable doubt throughout the trial. Presumption of innocence remains throughout the case until such time the prosecution on the evidence satisfies the Court beyond reasonable doubt that the accused is guilty of the offence alleged against him. There cannot be a fair trial, which is itself the primary purpose of criminal jurisprudence, if the judges are not able to clearly elucidate the rudimentary concept of the standard of proof that the prosecution must meet in order to obtain a conviction.
- v) Further, suspicion however grave or strong can never be a proper substitute for the standard of proof required in a criminal case, i.e. beyond a reasonable doubt.

- Conclusion:**
- i) It diminishes its evidentiary value.
 - ii) That only the intrinsic worth and probative value of the evidence would play a decisive role in determining the guilt or innocence of an accused.
 - iii) The Court has no jurisdiction to abridge such right of the accused.
 - iv) The onus rests on the prosecution to prove guilt of the accused beyond reasonable doubt throughout the trial.
 - v) Suspicion can never be used as a substitute for the standard of proof in criminal cases.

22. Lahore High Court
The State v. Abdul Rasheed
Murder Reference No.36 of 2022
Abdul Rasheed v. The State
Criminal Appeal No. 655-J of 2022
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Ch.Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC1844.pdf>

Facts: The petitioner was tried for the murder of Sardar Muhammad, allegedly committed during a family dispute arising out of complaints regarding the

mistreatment of the wife of a co-accused and paternal cousin of the deceased. The trial court convicted the accused and sentenced him to death, while acquitting the co-accused.

Issues

- i) What obligation rests upon a chance witness to justify their presence at the scene and time of the occurrence?
- ii) What is the effect of failing to prove a light source at the time and place of occurrence?
- iii) What conclusion can be drawn when witnesses remain unharmed despite being within firing range and subject to motive?
- iv) What inference may be drawn from the non-production of available witnesses by the prosecution?
- v) What is the usual duration for decomposition of the adult brain post-mortem?
- vi) What does delay in post-mortem examination indicate about the presence of witnesses?
- vii) What does delay in lodging the F.I.R. and failure to approach the police station suggest about the witnesses' presence?
- viii) Why is recovery evidence inadmissible when obtained without compliance with section 103 Cr.P.C.?
- ix) What is the evidentiary value of recovery when the ocular account is unreliable?
- x) Can one tainted piece of evidence corroborate another tainted piece of evidence?
- xi) Is a conviction justified on mere presumption when the prosecution fails to establish its eyewitnesses?
- xii) What principle regarding burden of proof is enshrined in Article 117 of the Qanun-e-Shahadat, 1984?
- xiii) Can Article 122 of the Qanun-e-Shahadat, 1984 shift the primary burden of proof from the prosecution to the accused?
- xiv) Can an accused be convicted solely for failing to explain the circumstances of the deceased's death?

Analysis:

- i) In view of the above mentioned facts, it can be validly held that the prosecution witnesses namely Muhammad Islam (PW-1) and Ghulam Ali (PW-2) were "chance witnesses" and therefore were under a duty to explain and prove their presence at the place of occurrence, at the time of occurrence.
- ii) The failure of the prosecution witnesses to prove the presence of any light source at the place of occurrence, at the time of occurrence, has repercussions, entailing the failure of the prosecution case.
- iii) The august Supreme Court of Pakistan in its binding judgments has repeatedly held that in a scenario where the motivation was against the complainant or the witnesses but the accused did not cause any harm to them, notwithstanding being within the range of their firing, would reveal that the said witnesses had not witnessed the occurrence.

iv) the failure of the prosecution to produce the said inhabitants of the place of occurrence before the learned trial court, reflects poorly upon the veracity of the prosecution case. Article 129 of the Qanun-e-Shahadat, 1984 provides that if any evidence available with the parties is not produced, then it shall be presumed that had that evidence been produced, the same would have been gone against the party producing the same.

v) In support of the duration required for the autolysis of the brain, in Chapter 15 'POST-MORTEM CHANGES AND TIME SINCE DEATH', at page 353 and page 361 of Rai Bahadur Jaising P. Modi's A Textbook of Medical Jurisprudence and Toxicology (26th Edition 2018) ,it has been discoursed as under:- "(2) Putrefaction or Decomposition and Autolysis. Putrefaction is a certain sign of death. It is a slow process and consists of softening and liquefaction brought about by the digestive action of enzymes, released after death from tissue cells. This autolysis, can occur even in sterile conditions, such as seen in a macerated dead foetus. Also, ferments are produced by living saprophytic micro-organisms, which resolve the complex organised tissues of the body into simpler, inorganic compounds. These microorganisms are both aerobic and gas forming anaerobic, predominantly being *C welchii*, *A proteus*, *E coli*, streptococci and staphylococci and during life are found in large numbers in the alimentary canal, but within a short time after death, are found scattered in the blood and in all the tissues and organs. Post-mortem haemolysis is caused by the enzyme lecithinase, which also helps in the hydrolysis and hydrogenation of the body fat. As a result of their action, the dead body invariably putrefies, unless special means are taken to prevent their access or the tissues are rendered unfit for their use. The skeletal remains and the teeth resist putrefaction the most.

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(h) Adult Brain. The putrefaction of the adult brain initially begins at its base, and then proceeds to the upper surface. It is hastened if any injury to the brain or skull is present. The brain becomes soft and pulpy within 24 to 48 hours in summer, and becomes a liquid mass from three to four days"

vi) This clearly establishes that the witnesses claiming to have seen the occurrence were not present at the time of occurrence and the delay in the post mortem examination was used to procure their attendance and formulate a false narrative after consultation and concert. It has been repeatedly held by the august Supreme Court of Pakistan that such delay in the post mortem examination is reflective of the absence of witnesses and the sole purpose of causing such delay is to procure the presence of witnesses and to further advance a false narrative to involve any person.

vii) when the F.I.R of the case is not lodged at the Police Station, a conclusion can be drawn that the F.I.R. had been registered after pondering and inquiry at the spot. (...) the delay in reporting the matter to the police and the failure of the prosecution witnesses to proceed to the Police Station evidences their absence at the time of occurrence, at the place of occurrence.

viii) The provisions of section 103 Code of Criminal Procedure, 1898, unfortunately, are honoured more in disuse than compliance. (...) Therefore, the evidence of the recoveries of the Pistol (P-5) on 01.07.2019 and the motorcycle (P-7) on 05.07.2019 from the appellant cannot be used as incriminating evidence against the appellant, being evidence that was obtained through illegal means and hence hit by the exclusionary rule of evidence.

ix) It is an admitted rule of appreciation of evidence that recovery is only a corroborative piece of evidence and if the ocular account is found to be unreliable, then the recovery has no evidentiary value.

x) Even otherwise a tainted piece of evidence cannot corroborate another tainted piece of evidence.

xi) Moreover, the prosecution is bound to prove its case against an accused person beyond a reasonable doubt at all stages of a criminal case and in a case where the prosecution asserts the presence of some eye-witnesses and such claim of the prosecution is not established by it, there the accused person could not be convicted merely on the basis of a presumption that since the murder of a person had taken place in his house, therefore, it must be he and none else who would have committed that murder.

xii) The law on the burden of proof, as provided in Article 117 of the Qanun-e-Shahadat, 1984, mandates the prosecution to prove, and that too, beyond any doubt, the guilt of the accused for the commission of the crime for which he is charged. (...) On a conceptual plain, Article 117 of the Qanun-e-Shahadat, 1984 enshrines the foundational principle of our criminal justice system, whereby the accused is presumed to be innocent unless proved otherwise.

xiii) In a criminal case, the burden of proof is on the prosecution and article 122 of the Qanun-e-Shahadat, 1984 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution to establish facts which are " especially " within the knowledge of the accused and which he could prove without difficulty or inconvenience. If the article was to be interpreted otherwise, it would lead to the very startling conclusion that in a murder case the burden lies on the accused to prove that he did not commit the murder because who could know better than he whether he did or did not. Article 122 of the Qanun-e-Shahadat, 1984 cannot be used to undermine the well-established rule of law that, save in a very exceptional class of cases, the burden is on the prosecution and never shifts.

xiv) An accused person cannot be convicted merely because he did not explain the circumstances in which the deceased had lost his life.

- Conclusion:**
- i) A chance witness must explain and prove their presence at the place and time of occurrence.
 - ii) Failure to prove a light source has repercussions entailing failure of the prosecution case.

- iii) When witnesses remain unharmed despite motive and proximity, it reveals they had not witnessed the occurrence.
- iv) Non-production of available witnesses reflects poorly upon the veracity of the prosecution case.
- v) See above analysis No.v.
- vi) Delay in post-mortem is reflective of absence of witnesses and formulation of a false narrative.
- vii) Delay in F.I.R. and failure to report to police evidences absence of witnesses at the occurrence.
- viii) Evidence obtained in violation of Section 103 Cr.P.C. is hit by the exclusionary rule.
- ix) Recovery is only corroborative and has no value if ocular account is unreliable.
- x) A tainted piece of evidence cannot corroborate another tainted piece of evidence.
- xi) Accused cannot be convicted merely on presumption when eyewitnesses are not established.
- xii) Article 117 of QSO, 1984 mandates prosecution to prove guilt beyond doubt; accused is presumed innocent.
- xiii) Article 122 of QSO, 1984 applies only after prosecution proves guilt; burden never shifts in ordinary cases.
- xiv) Accused cannot be convicted merely for not explaining the circumstances of the death.

23.

Lahore High Court

Waqar Ali v. The State

Criminal Appeal No. 587-J of 2021

Mr. Justice Sultan Tanvir Ahmad and Mr. Justice Sadiq Mahmud Khurram

<https://sys.lhc.gov.pk/appjudgments/2025LHC1544.pdf>

Facts:

The appellant was tried by the learned Additional Sessions Judge/Model Criminal Trial Court, in respect of offences under sections 302,452,354,337-F(i) and 337-F(ii) P.P.C. for committing Qatl-i-Amd. The learned trial court convicted and sentenced the appellant. Feeling aggrieved, the appellant lodged this Criminal appeal through jail assailing his conviction and sentences. The learned trial court submitted Murder Reference under section 374 Cr.P.C. seeking confirmation or otherwise of the sentence of death awarded to the appellant before the High Court.

Issues

- i) Whether an injured witness can be presumed to be also a truthful witness?
- ii) What is effect of non-production of source of light before the trial court?
- iii) Whether closely related witnesses would remain watching the proceedings as mere spectators?
- iv) What is legal requirement for extending benefit of doubt to an accused?

Analysis:

- i) The stamp of injuries on the person of a witness may be proof of her presence at the place of occurrence, at the time of occurrence, however the same can never

guarantee a truthful deposition. Injuries received by a witness during an incident do not warrant acceptance of her evidence without scrutiny...Even otherwise, it is not the simple presence of a witness at the crime scene but his credibility, which makes him a reliable witness.

ii) The non-production of the electric bulb which was lit at the place of occurrence is all the more a matter of disquiet for the reason that if the said source of light was indeed available then the complainant of the case could have easily produced the same before the learned trial court. The failure of the complainant of the case to produce the same before the learned trial court leads to only one conclusion and that being that no such source of light was available at the place of occurrence which could have enabled to have identified the assailant during the occurrence...The failure of the prosecution witnesses to prove the presence of any light source at the place of occurrence, at the time of occurrence, has repercussions, entailing the failure of the prosecution case.

iii) No person with ordinary prudence would believe that such closely related witnesses would remain watching the proceedings as mere spectators for as long as the occurrence continued without doing anything to rescue the deceased or apprehend the assailant...We thus, trusts the existence of this fact, by virtue of the Article 129 of the Qanun-e-Shahadat, 1984, that the conduct of the witnesses, as deposed by them, was opposed to the common course of natural events, human conduct.

iv) It is a settled principle of law that for giving the benefit of the doubt it is not necessary that there should be so many circumstances rather if only a single circumstance creating reasonable doubt in the mind of a prudent person is available then such benefit is to be extended to an accused not as a matter of concession but as of right.

- Conclusion:** i) An injured witness cannot be presumed to be also a truthful witness.
 ii) See above analysis No.ii
 iii) See above analysis No.iii
 iv) See above analysis No.iv

24. Lahore High Court
The State Vs. Muhammad Rafi alias Muhammad Rafique
Murder Reference No.49 of 2022
Muhammad Rafi alias Muhammad Rafique Vs. The State and another.
Criminal Appeal No. 576 of 2022
Muhammad Shafique Vs. The State and another.
Criminal Appeal No. 518 of 2022
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC1627.pdf>

- Facts:** Two individuals were tried for committing Qatl-i-Amd, attempt to commit Qatl-i-Amd and causing bodily injury. The trial court convicted one appellant with death sentence and the other with imprisonment. Both convicts filed criminal appeals against their convictions, while a murder reference was submitted by the trial

court for confirmation of the death sentence.

- Issues:**
- i) Whether the testimony of related witnesses can be relied upon in a criminal trial?
 - ii) Does prompt FIR enhance the credibility of prosecution witnesses and narrative?
 - iii) What is the effect of omission to collect blood-stained clothes on witness credibility.
 - iv) Whether absence of details and independent evidence render the alleged motive unproven?
 - v) What is the effect of unproven motive on sentencing in criminal cases.

- Analysis:**
- i) The mere relationship of the prosecution witnesses with the deceased and *inter-se* is not sufficient to discredit their testimony.
 - ii) The promptitude in reporting the matter to the police also corroborates the case of the prosecution as against the appellants. This promptitude in reporting the matter to the police establishes the presence of the witnesses at the place of occurrence, at the time of occurrence and supports their narrative.
 - iii) In this regard it is observed that not taking the blood-stained clothes of witnesses into possession can be an act of lethargy by the Investigating Officer of the case, however, can never be considered as proof of the absence of the prosecution witnesses.
 - iv) There is a haunting silence with regard to the minutiae of motive alleged. No independent witness was produced by the prosecution to prove the motive as alleged... So, this leads us to the conclusion that the prosecution remained unable to prove the motive as alleged.
 - v) It has been held in number of judgments of the august Supreme Court of Pakistan that if a specific motive has been alleged by the prosecution, then it is duty of the prosecution to establish the said motive through cogent and confidence inspiring evidence and non-proof of motive may be considered a mitigating circumstance in favour of the accused.

- Conclusion:**
- i) Yes, the testimony of related witnesses can be relied upon if it is found to be trustworthy and confidence inspiring.
 - ii) Yes, the promptitude in reporting the matter to the police establishes the presence of the witnesses and supports their narrative.
 - iii) The omission to collect blood-stained clothes reflects on the lethargy of the Investigating Officer and not on the credibility of the witnesses.
 - iv) Yes, the prosecution remained unable to prove the motive as alleged due to absence of details and independent evidence.
 - v) Non-proof of motive may be considered a mitigating circumstance in favour of the accused.
-

25. **Lahore High Court**
Aftab and five others v. The State and another
Crl. Appeal No.947-LD of 2022 and Murder Reference No.94-LD of 2022.
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Ch. Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC1963.pdf>

Facts: A group of accused was convicted by the trial court for committing Qatl-i-Amd and injuring several persons in a sudden clash arising from prior hostility. A murder reference was sent for confirmation of the death sentence awarded to one of the convicts, and the others challenged their convictions through a criminal appeal.

Issues:

- i) Whether a plea not specifically raised during trial or under section 342 Cr.P.C can be considered by the Court at the appellate stage?
- ii) Whether the existence of mutual injuries and withheld facts by both parties establishes the occurrence as a free fight attracting Exception 4 to the erstwhile section 300 PPC?
- iii) Whether the intentional act of causing death during a free fight, without undue advantage or cruelty, falls under section 302(c) PPC instead of 302(b) PPC?
- iv) What are the five recognized philosophies of sentencing and their respective purposes?
- v) What is indeterminate sentencing and how does it reflect the intent of Legislature to promote rehabilitation?
- vi) What is the consequence of non-payment of daman under section 337-Y(2) PPC?

Analysis:

- i) The appellants did not raise this plea during the trial at the time when the prosecution witnesses were subjected to cross-examination or even while getting their statements recorded under section 342 Cr.P.C however there is no bar to raise such a plea despite having not taken the said plea specifically during trial and the Court can deduce the same from the evidence if the same is acceptable.
- ii) The prosecution as well as the defence withheld some material facts from placing on record to fix the whole responsibility of aggression on an individual party. (...) While reviewing the entire evidence produced by the prosecution and the plea taken by the defence, the total responsibility of inviting trouble by an individual party cannot reasonably be put either on the accused or the complainant party. (...) Exception 4 of the erstwhile section 300 of the P.P.C. covered those cases where an offender causes death 'without premeditation in a sudden flight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner'. The help of Exception 4 can be invoked if death is caused: (a) without premeditation; (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. It is to be noted that the word 'fight' occurring in Exception 4 contained in the erstwhile section 300, P.P.C. is not defined in PPC. It takes two to make a fight. Heat of

passion requires that there must be no time for the passions to cool down. 'Sudden fight' implies mutual provocation and blows on each side. The homicide committed is then clearly not traceable to unilateral provocation, nor in such cases could the whole blame be placed on one side. For if it were so, the exception more appropriately applicable would be Exception 1 provided in the erstwhile provisions of section 300 P.P.C. (...) Exception 4 provided in the erstwhile provisions of section 300, P.P.C. jurisprudentially must be reckoned as a humane provision accepting the fact that even the most rational of men may, under the heat of passion, do acts which they may not have done or would not do if saner faculties were to prevail.

iii) The benefit of Exception 4 provided in the erstwhile section 300 P.P.C. cannot be ordinarily denied on the ground that the act committed in a free fight was intentional, rather the benefit is extended subject to the fulfilment of the conditions and taking not undue advantage or acting in a cruel manner. The intention alone, in the absence of other essential conditions, in such cases cannot be pressed for the application of section 302(b), P.P.C. In the case of culpable homicide not amounting to murder, the act of causing death is either done with the intention to cause death or with that knowledge. In the present case, the act of the appellant namely Aftab son of Zafar Iqbal, of causing injuries to the deceased was done by him with the intention to cause death but having been done during the course of free fight, with no undue advantage and not in a cruel manner, the case should fall within the purview of Exception 4 to the erstwhile section 300 P.P.C. to be saddled with the responsibility of committing an offence under section 302 (c) P.P.C.

iv) There are the five philosophies of sentencing. The first one is retribution and the purpose is to emphasize taking revenge on a criminal, perpetrator or offenders. The next philosophy is incapacitation which means a way to reduce the chances of an offender committing another crime. Then is the deterrence in which a criminal is made to fear going back to jail or prison. Rehabilitation is also another philosophy of sentencing by which an effort is made to reform and rehabilitate a criminal, such as trying to give him a second chance. Reparation is the last of the five philosophies of sentencing in which effort is made to repay victim(s).

v) Indeterminate sentencing means that criminal punishment that promotes rehabilitation through the use of unspecific sentences. The offence under section 324 P.P.C. has been made punishable with imprisonment of either description for a term which may extend to ten years whereas the offence under section 337-D P.P.C. has been made punishable with imprisonment of either description for a term which may extend to ten years whereas the offence under section 337-A(i) P.P.C. has been made punishable with imprisonment of either description for a term which may extend to two years whereas the offence under section 337-F(iii) P.P.C. has been made punishable with imprisonment of either description for a term which may extend to three years. The very intention of the Legislature for providing indeterminate sentencing, by using the words “may extend to” in sections 324, 337-D, 337-A(i) and 337-F(iii) P.P.C. was that it would provide for

the rehabilitation of a convict. Such provisions of law providing for the unspecific sentences are indicative that the Courts have to appreciate circumstances indicative of the reformation of a convict before deciding about the quantum of sentence

vi) Section 337-Y(2), P.P.C. provides that "in case of non-payment of daman, it shall be recovered from the convict and until daman is paid in full to the extent of his liability, the convict may be kept in jail and dealt with in the same manner as if sentenced to simple imprisonment or may be released on bail if he furnishes security equal to the amount of daman to the satisfaction of the Court."

- Conclusion:**
- i) A plea not raised during trial or under section 342 Cr.P.C may still be considered and inferred from the evidence by the appellate court if found tenable.
 - ii) The mutual participation, absence of premeditation, and provocation on both sides attracted Exception 4 to the erstwhile section 300 PPC.
 - iii) An intentional killing during a sudden fight without cruelty or undue advantage is punishable under section 302(c) PPC, not 302(b) PPC.
 - iv) The five philosophies of sentencing are retribution, incapacitation, deterrence, rehabilitation, and reparation—each addressing a distinct penal objective.
 - v) Indeterminate sentencing under the PPC reflects legislative intent to enable rehabilitation by allowing courts to assess reformation before fixing sentence duration.
 - vi) See Above analysis vi.

26. Lahore High Court
Criminal Appeal No. 525 of 2024.
Raja Shahid Ahmad v The State and another
Criminal Appeal No. 526 of 2024.
Haq Nawaz Abbasi v The State and another)
Criminal Appeal No. 520 of 2024.
Aurangzeb v The State and another)
Criminal Appeal No. 534 of 2024.
Malik Muhammad Safdar v The State and another)
Mr. Justice Sadiq Mahmud Khurram
<https://sys.lhc.gov.pk/appjudgments/2025LHC1782.pdf>

Facts: The accused persons (convicts) were tried by the learned Sessions Judge/Special Judge Anti-Corruption in case registered in respect of offences under sections 409, 420 468 and 471 P.P.C. and under section 5 of the Prevention of Corruption Act.

Issue:

- i) Whether a single circumstance is sufficient to extend benefit of doubt in favour of an accused person?
- ii) What considerations should guide courts in seeking subjective justice?
- iii) Why a guilty person should not be taken into task, whose guilt is not proved under the law?

- Analysis:**
- i) It is a settled principle of law that for giving the benefit of doubt, it is not necessary that there should be so many circumstances rather, if only a single circumstance, creating reasonable doubt in the mind of a prudent person, is available, then such benefit is to be extended to an accused not as a matter of concession but as of right.
 - ii) The zeal to punish an offender even in derogation or violation of the law would blur the distinction between arbitrary decisions and lawful judgments. No doubt, the duty of the courts is to administer justice; but this duty is to be performed in accordance with the law and not otherwise. The mandatory requirements of the law cannot be ignored by labelling them as technicalities in pursuit of the subjective administration of justice.
 - iii) One guilty person should not be taken to task at the sacrifice of the very basis of a democratic and civilized society, i.e., the rule of law. Tolerating acquittal of some guilty, whose guilt is not proved under the law is the price which the society is to pay for the protection of their invaluable constitutional right to be treated in accordance with the law. Otherwise, every person will have to bear the peril of being dealt with under the personal whims of the persons sitting in executive or judicial offices, which they in their own wisdom and subjective assessment consider good for the society.

- Conclusion:**
- i) It is a settled principle of law that for giving the benefit of doubt, it is not necessary that there should be so many circumstances. The zeal to punish an offender even in derogation or violation of the law would blur the distinction between arbitrary decisions and lawful judgments. Tolerating acquittal of some guilty, whose guilt is not proved under the law is the price which the society is to pay for the protection of their invaluable constitutional right to be treated in accordance with the law.

27. **Lahore High Court**
Liaqat ali v. The state etc.
Criminal Appeal No. 883-23
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC1715.pdf>

- Facts:** Appellants were tried and convicted and other were acquitted in a double murder case during a violent incident involving multiple accused; both the convicts were sentenced to death along with imprisonment, fine and compensation to the victims' legal heirs. Convicts filed appeals against their conviction, and trial court filed reference for confirmation of their death sentences.
- Issues:**
- i) Whether a court is justified in drawing inferences from the available evidence and surrounding circumstances, even when the narrative presented by the parties is incomplete?

- ii) Whether exception 4 to erstwhile Section 300, P.P.C. is attracted in cases involving a sudden fight arising from mutual provocation between parties with prior enmity?
- iii) Whether cases covered by the Exceptions in the old section 300 P.P.C. are to be dealt with under clause (c) of the section 302 PPC?

Analysis:

- i) Court cannot be deterred by the incompleteness of the tale from drawing the inference that properly flows from the evidence and circumstances of the case. In this regard, reliance is placed on “Syed Ali Beopari v. Nibaran Mollah and others” (PLD 1962 Supreme Court 502).
- ii) Exception 4 provided in the erstwhile provisions of section 300, P.P.C. jurisprudentially must be reckoned as a humane provision accepting the fact that even the most rational of men may, under the heat of passion, do acts which they may not have done or would not do if saner faculties were to prevail. To such persons, law in a humane manner, permits mitigation if and only if it is proved that the passion happened to run in a sudden fight upon a sudden quarrel. The present case, fulfilling all the necessary elements of free fight i.e. the preparation of the parties with some background of enmity or grudge against each other and looking for the opportunity to damage the opponent or the happening of something suddenly between the parties, each participant is burdened with the liability of the act committed by him. These factors of the case squarely attract Exception 4 provided in the erstwhile provisions of section 300 P.P.C.
- iii) The case in hand was surely a case of lack of premeditation, the incident was one of a sudden fight which was a result of the heat of passion developed upon a sudden quarrel and no undue advantage had been taken by the appellants nor had they acted in a brutal or unusual manner. In these circumstances Exception 4 contained in the erstwhile section 300 P.P.C. squarely stood attracted to the case in hand and, thus, the case against the appellants falls within the purview of the provisions of section 302(c) P.P.C.

Conclusion:

- i) See above analysis No.1
- ii) Exception 4 to erstwhile Section 300, P.P.C. is attracted in cases involving a sudden fight arising from mutual provocation between parties with prior enmity.
- iii) The cases covered by the Exceptions in the old section 300 P.P.C. are to be dealt with under clause (c) of the section 302 PPC.

28. Lahore High Court
Shamshad Sanni alias Lallou and three others v. The State and another.
Criminal Appeal No. 679 of 2022
Criminal Appeal No. 687 of 2022
Criminal Appeal No. 691 of 2022
Murder Reference No. 41 of 2022
Mr. Justice Sadiq Mahmud Khurram
<https://sys.lhc.gov.pk/appjudgments/2025LHC1811.pdf>

Facts: The appellants/convicts were involved in a case registered under Sections 302,

337-A(i), 337-F(i), 337-F(ii), 337-F(v), 337-H(2), 148, and 149 PPC and were tried by the court of learned Sessions Judge. The learned trial court seized the matter and convicted the appellants/convicts under Section 302(b) PPC, awarding the death penalty to two of them and life imprisonment to others, along with sentences under various other sections. Feeling aggrieved by the judgment of the learned trial court, the appellants impugned the same by way of filing Criminal Appeals before the High Court.

- Issues:**
- i) Whether the existence of a sudden fight without premeditation excludes the offence from the scope of murder under Section 302(b) PPC and attracts Exception 4 to the erstwhile Section 300 PPC, thereby bringing the case within Section 302(c) PPC?
 - ii) Whether a conviction under Section 148 PPC (rioting with deadly weapons) is sustainable in situations where the altercation was sudden, unplanned, and not backed by a pre-formed unlawful assembly with a common object?
 - iii) Whether a court can still draw legal inferences and reach a conviction when both the prosecution and defence have not stated the whole truth, and have concealed material facts from the court?

- Analysis:**
- i) Exception 4 of the erstwhile section 300 of the P.P.C. covered those cases where an offender causes death ‘without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender’s having taken undue advantage or acted in a cruel or unusual manner’. The help of Exception 4 can be invoked if death is caused: (a) without premeditation; (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. The benefit of Exception 4 provided in the erstwhile section 300 P.P.C. cannot be ordinarily denied on the ground that the act committed in a free fight was intentional, rather the benefit is extended subject to the fulfillment of the conditions and taking not undue advantage or acting in a cruel manner. The intention alone, in the absence of other essential conditions, in such cases cannot be pressed for the application of section 302(b), P.P.C. In the case of culpable homicide not amounting to murder, the act of causing death is either done with the intention to cause death or with that knowledge. In the present case, the acts of the appellants of causing injuries to the deceased were done by them with the intention to cause death but having been done during the course of free fight, with no undue advantage and not in a cruel manner, the case should fall within the purview of Exception 4 to the erstwhile section 300 P.P.C. to be saddled with the responsibility of committing an offence under section 302 (c) P.P.C.
 - ii) The encounter probably was not planned or premeditated but each party, having a constant fear of attack by the other side, on facing each other, became active to deal with the situation. While reviewing the entire evidence produced by the prosecution and the plea taken by the defence, the total responsibility of inviting trouble by an individual party cannot reasonably be put either on the accused or the complainant party. The circumstances of the case do not prove the

defence plea or the aggression of the complainant party rather it being a free fight and a melee, which undoubtedly was not an arranged occurrence of either party rather both sides, under compelled circumstances, were to participate in it.

iii) Both the parties have not come to the Court with clean hands and have not stated the whole truth. In such a situation, the Court cannot be deterred by the incompleteness of the tale from drawing the inference that properly flows from the evidence and circumstances of the case.

- Conclusion:** i) The existence of a sudden fight without premeditation excludes the offence from the scope of murder under Section 302(b) PPC and attracts Exception 4 to the erstwhile Section 300 PPC, thereby bringing the case within Section 302(c) PPC.
- ii) See analysis ii above.
- iii) See analysis iii above.

29.

Lahore High Court

The State v. Muhammad Jehangir

Capital Sentence Reference No. 06/T of 2021

Muhammad Jehangir v. The State and another

Criminal Appeal No. 289 of 2021

Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Sultan Tanvir Ahmad

<https://sys.lhc.gov.pk/appjudgments/2025LHC1512.pdf>

Facts: The accused was tried for committing Qatl-i-Amd of three individuals during a land demarcation process. The incident occurred during daytime and was witnessed by many persons. The trial court convicted the accused under section 302(b) PPC, awarding three death sentences, while acquitting him under section 7(a) of the Anti-Terrorism Act. The accused filed a criminal appeal against his conviction and sentence and simultaneously the learned trial court submitted Reference under section 374 Cr.P.C. read with section 30(2) of Anti-Terrorism Act, 1997 for confirmation or otherwise of the sentences of death awarded to the convict.

Issues:

- i) Whether it is plausible that related or interested prosecution witnesses would falsely implicate the accused by substituting him for the actual offender in a murder case?
- ii) Whether the occurrence in broad daylight rules out mistaken identity or substitution?
- iii) Whether prompt reporting of the incident establishes witness reliability?
- iv) Whether relevancy is a prerequisite for the admissibility of a witness's statement?
- v) Procedure of Confrontation for contradictions in a witness's previous statement.
- vi) Whether the recovery of the pistol without associating independent witnesses, in violation of Section 103 Cr.P.C. renders it inadmissible as evidence?

- vii) Whether the prosecution case can be sustained solely on the basis of credible ocular and medical evidence despite the exclusion of motive and recovery?
- viii) Whether failure to prove a specifically alleged motive can be treated as a mitigating circumstance for the accused?

Analysis:

i) Substitution is a phenomenon of a rare manifestation because even the interested witnesses would not normally allow the real culprit for the murder of their relations let off by involving an innocent person.

ii) Furthermore, as mentioned above, the occurrence in question had admittedly taken place in broad daylight at **11.00 a.m** and the same, therefore, could not have gone un-witnessed nor could have the culprit escaped unobserved... Reliance is also placed on the case of “*Shaheen Ijaz Alias Babu Versus The State*” (**2021 S C M R 500**) wherein it has been held as under:-

“.....petitioner's nomination in a broad daylight incident by resident witnesses hardly admits a space to entertain any hypothesis of mistaken identity or substitution. Prompt recourse to law straight at the police station excludes every possibility of deliberation or consultation.”

iii) We have also appreciated the fact that the occurrence in this case took place at about 11.00 a.m and was reported by PW-7 with reasonable promptitude. According to the prosecution evidence, the oral statement (Exh. P.L.) of PW-7 was recorded by CW-13...at 02.45 p.m. on the day of the occurrence and thereafter the formal F.I.R. was registered at 03.00 p.m at the Police Station, when the distance between the place of occurrence and the Police Station was as much as **ten kilometres**. Thus, it is apparent that the oral statement (Exh. P.L.) of the prosecution witness PW-7 was recorded without delay and the formal F.I.R was registered with promptitude, especially when during the incident as many as *three persons* had died... This promptitude in reporting the matter to the police also establishes the presence of the witnesses at the place of occurrence, at the time of occurrence and supports their narrative.

iv) The question of the admissibility of a statement of a witness comes after the question of the relevancy of the said statement. The first requirement is that the evidence to be introduced during the trial should be relevant to the charge, second the oral, as well as documentary evidence, should be admissible and then comes the question of appreciation or giving weight to such evidence

v) For bringing any improvement made by a prosecution witness in his previous statement earlier recorded, then during cross-examination by the defence , his attention has to be drawn to that part of the statement made by him which contradicts his statement in the witness box and ideally the relevant portions of the statement used for contradicting a prosecution witness must be extracted fully in the deposition and marked separately and if he admits to have made the previous statement then no further proof is necessary to prove the contradiction however if the prosecution witness, after going through the earlier statement ,denies having made that part of the statement then it must be mentioned in the deposition and thereafter when the investigating officer or the witness who

recorded the said statement is examined in the court, his attention should be drawn to the passage marked for contradiction and after going through the statement, if the witness admits that the prosecution witness had made that earlier statement only then the contradiction can be said to have been proved.

vi) The Investigating Officer of the case, did not join any witness of the locality during the recovery of the said *Pistol (P-4)* from the appellant which was in clear violation of section 103 Code of Criminal Procedure, 1898 and therefore cannot be used as incriminating evidence against the appellant, being evidence which was obtained through illegal means and hence hit by the exclusionary rule of evidence.

vii) We have disbelieved the evidence of the prosecution qua the motive and recovery of the *Pistol* in this case. However, if the evidence of motive and recovery of the *Pistol* is excluded from consideration, even then there is sufficient incriminating evidence available on the record against the appellant... As discussed earlier, the prosecution case was fully proved through the evidence of the eye-witnesses namely PW-5, PW-6 and PW-7. The said eye-witnesses stood the test of lengthy cross-examination, but their evidence could not be stunned. Their evidence is quite natural, straightforward and confidence inspiring. The ocular account of the prosecution qua the motive and recovery of the *Pistol* in this case. However, if the evidence of motive and recovery of the *Pistol* is excluded from consideration, even then there is sufficient incriminating evidence available on the record against the appellant... As discussed earlier, the prosecution case was fully proved through the evidence of the eye-witnesses namely PW-5, PW-6 and PW-7. The said eye-witnesses stood the test of lengthy cross-examination, but their evidence could not be stunned. Their evidence is quite natural, straightforward and confidence inspiring. The ocular account of the prosecution as given by the abovementioned eye-witnesses is fully supported by the medical evidence furnished by Dr. CW-7. The ocular account of the prosecution as given by the abovementioned eye-witnesses is fully supported by the medical evidence furnished by Dr. CW-7.

viii) It has been held in a number of judgments of the august Supreme Court of Pakistan that if a specific motive has been alleged by the prosecution then it is duty of the prosecution to establish the said motive through cogent and confidence inspiring evidence and non-proof of motive may be considered a mitigating circumstance in favour of the accused.

- Conclusion:**
- i) See above analysis No i.
 - ii) Occurrence which took place in broad daylight could not have gone unwitnessed.
 - iii) This promptitude in reporting the matter to the police establishes the presence of the witnesses at the place of occurrence, at the time of occurrence and supports their narrative.
 - iv) See above analysis No iv.
 - v) See above analysis No v.

- vi) The Investigating Officer did not join any witness of the locality during the recovery of the said *Pistol (P-4)* which is clear violation of section 103 Code of Criminal Procedure, 1898.
- vii) See above analysis No vii.
- viii) Non-proof of motive may be considered a mitigating circumstance.

30. Lahore High Court
Muhammad Abid v. The State
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Ch. Sultan Mahmood
CrI. Appeal No.34-J of 2023
Murder Reference No.1 of 2023
<https://sys.lhc.gov.pk/appjudgments/2025LHC1923.pdf>

Facts: FIR was registered against accused for intentionally murdering the deceased by firing multiple gunshots. The trial court convicted the appellant under Section 302(b) PPC and sentenced him to death along with compensation. However, the High Court found prosecution evidence unreliable due to contradictions and lack of corroboration, leading to acquittal of the accused.

Issues:

- i) What is requirement for a chance witness to make his statement trust worthy?
- ii) What would be presumed if mouth and eyes of deceased were found open at the time of preparation of inquest report?
- iii) What would be presumed if the persons residing or working near the place of occurrence are not produced as witness?
- iv) What is legal effect of delay in post mortem examination?
- v) What would be consequences if recovery of weapon of offence is affected from accused in absence of any person from the locality?
- vi) What would be the status of report of PFSA if empty shells were sent for comparison after arrest of the accused?
- vii) What is yardstick for extending benefit of doubt to the accused?

Analysis:

- i) In this manner, the prosecution witnesses namely...can be validly termed as “chance witnesses” and therefore were under a bounden duty to provide a convincing reason for their presence at the place of occurrence, at the time of occurrence and were also under a duty to prove their presence by producing some physical proof of the same.
- ii) The mouth and eyes of the deceased were found open at the time of preparation of the inquest report (Exh.PL), thus, if the witnesses were present then, at least after the death, as is a consistent practice of such close relatives, they would have closed the eyes and mouth of the deceased on his expiry, however, they did not. Thus, the open eyes and mouth of the deceased force a hostile interpretation against the prosecution's version regarding the presence of the prosecution witnesses... This fact by itself indicates that none was present with the deceased till his death.
- iii) Another grave fact of the prosecution case is that none of the persons who had their residences or their shops near or around the place of occurrence appeared

either during the investigation of the case or before the learned trial court in support of the prosecution case... The failure of the prosecution to produce the said persons who had their shops and houses at and around the place of occurrence has convinced us that had they been produced before the learned trial court, they would not have supported the prosecution case. Article 129 of the Qanun-e-Shahadat, 1984 provides that if any evidence available with the parties is not produced, then it shall be presumed that had that evidence been produced, the same would have gone against the party producing the same. Illustration (g) of the said Article 129 of the Qanun-e-Shahadat Order, 1984... The Investigating Officer was under a binding duty to collect evidence and his failure to record the statement of the residents of the houses and shops around the place of occurrence has to be taken as a circumstance belying the prosecution's case. The purpose of the trial is the discovery of truth. As long as men keep lying, the only causality would be the reality. The prosecution's case suffers from inherent defects which are irreconcilable as they are. Compounding the failures of the prosecution is the fact that the persons, admittedly residents around the place of occurrence were not produced as witnesses.

iv) It has been repeatedly held by the august Supreme Court of Pakistan that such delay in the post mortem examination is reflective of the absence of witnesses and the sole purpose of causing such delay is to procure the presence of witnesses and to further advance a false narrative to involve any person.

v) Regarding the recovery of the Pistol (P-2) from the appellant, the same cannot be relied upon as the Investigating Officer of the case, did not join any witness of the locality during the recovery of the Pistol (P-2) from the appellant which was in clear violation of section 103 Code of Criminal Procedure, 1898... The provisions of section 103 Code of Criminal Procedure, 1898, unfortunately, are honoured more in disuse than compliance.

vi) the empty shells of the bullets taken into possession from the place of occurrence on 22.04.2022 were sent to Punjab Forensic Science Agency, Lahore on 28.04.2022 though there was no reason for keeping the shells of the bullets, which were taken into possession of on the day of occurrence, at the Police Station and not sending them to the office of Punjab Forensic Science Agency, Lahore till 28.04.2022 i.e. after the appellant had been arrested on 26.04.2022. In this manner the report of Punjab Forensic Science Agency, Lahore. (Exh. PN) regarding the comparison of the shells of the bullets taken from the place of occurrence with the Pistol (P-2) recovered from the appellant, has no evidentiary value as the possibility of fabrication is apparent.

vii) It is a settled principle of law that for giving the benefit of the doubt it is not necessary that there should be so many circumstances rather, if only a single circumstance creating reasonable doubt in the mind of a prudent person is available, then such benefit is to be extended to an accused not as a matter of concession but as of right.

- Conclusion:**
- i) See above analysis(i)
 - ii) It indicates absence of prosecution witnesses at the time of occurrence.
 - iii) It leads to draw presumption against the prosecution.
 - iv) Delay in post mortem examination reflects absence of witnesses.
 - v) Recovery of weapon of offence affected in absence of any witness from locality cannot be relied upon.
 - vi) Such report has no evidentiary value as the possibility of fabrication is apparent.
 - vii) Only a single circumstance creating reasonable doubt in the mind of a prudent person is sufficient for giving benefit of doubt.

31. Lahore High Court
The State v. Saadat Hussain
Murder Reference No.07 of 2023
Saadat Hussain Vs. The State.
Criminal Appeal No. 105-J of 2023
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Ch. Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC1892.pdf>

Facts: This murder reference and appeal against conviction is filed in a criminal case registered for the offence of murder by the appellant.

Issues:

- i) What is the effect when inhabitants of house, where offence took place, are not produced as witnesses?
- ii) What is effect of delayed submission of application for registration of case?
- iii) What is effect of delay in recording statement of prosecution witness u/s 161 of the CrPC?
- iv) How DNA is generated by touching an object by an individual?
- v) Whether the admission of guilt by accused absolve prosecution from the burden to prove the case?
- vi) Whether a single circumstance is enough to extend benefit to an accused?

Analysis: i) For the fact that the occurrence took place at 9.00 a.m, the presence of the said wife and two daughters of Muhammad Usman (PW-2) inside their house was very much possible and therefore, they were the best witnesses who could have narrated the facts of the case, however, none of them was produced before the learned trial court, resulting in the loss of precious evidence. Article 129 of the Qanun-e-Shahadat, 1984 provides that if any evidence available with the parties is not produced, then it shall be presumed that had that evidence been produced, the same would have gone against the party producing the same. Illustration (g) of the said Article 129 of the Qanun-e-Shahadat Order, 1984 reads as under:-

“(g) that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it.”

The failure of the prosecution to produce the wife and two daughters of Muhammad Usman (PW-2), the residents of the place of occurrence and the most

natural witnesses, before the learned trial court, has convinced us that had they been produced before the learned trial court they would not have supported the prosecution case.

ii) No justification, much less credible, has been given by the prosecution at any stage for such deferral in the presenting of the written application (Exh.PB) even after the arrival of the police at the hospital, which had arrived at the hospital at 09.00 a.m. whereas the written application (Exh.PB), was submitted by Muhammad Usman (PW-2) to Muhammad Ayyub, SI (PW-12) at the THQ hospital Minchinabad at 11.50 a.m. . The reason for this delay in presenting the written application (Exh.PB) is obvious, being that both the prosecution witnesses namely Muhammad Usman (PW-2) and Muhammad Tariq (PW-3) were not present at the place of occurrence, at the time of occurrence and the delay was used to procure their attendance. This inordinate delay in presenting the written application (Exh.PB) conclusively proves that the said written application (Exh.PB) and the formal F.I.R (Exh.PB/1) were documents laced with malafide content. Sufficient doubts have arisen and inference against the prosecution has to be drawn in this regard and the delay in the presentation of the written application (Exh.PB) and the failure of the prosecution witnesses to proceed to the Police Station evidences their absence at the time of occurrence, at the place of occurrence. Furthermore, the August Supreme Court of Pakistan has already declared that when an application for the registration of FIR is not presented at the police station, an inference can be drawn that such application was a result of deliberations and preliminary investigation.

iii) It is trite that the delayed recording of the statement of a prosecution witness under section 161 of the Code of Criminal Procedure, 1898 reduces its value to nothing unless there is a plausible explanation for such delay.

iv) When an individual touches an object, epithelial cells are left behind. Touch DNA is also known as epithelial DNA. The same traditional DNA analysis procedures are used to analyze and examine these remaining epithelial cells as are used to analyze and examine bodily fluids. The amount left behind is often less than 100 picograms and is also called low copy DNA. This is evidence with “no visible staining that would likely contain DNA resulting from the transfer of epithelial cells from the skin to an object. Due to development, lower amounts of human DNA can be detected and, possibly, a full or partial STR profile can be generated. DNA evidence has emerged as a powerful tool to identify perpetrators of unspeakable crimes and to exonerate innocent individuals accused of similarly heinous actions. The technology has advanced to Polymerase Chain Reaction (PCR) based short tandem repeat (STR) testing. This system multiplies a single copy of a DNA segment to allow for the analysis of the genetic makeup of a small sample. Current analysis makes it possible to determine whether a biological tissue matches a suspect with near certainty. DNA is comprised of “coding” and “non-coding regions. The loci examined are found on “junk DNA,” which are segments of the DNA not known to code for any specific trait, but known to be different between individuals. “Junk DNA” are the non-coding regions which

contain valuable information about identity, but do not contain information regarding coding for other genetic traits. This allows the development of a DNA profile without an examination into other genetic markers.

v) Moreover, the onus to prove the facts in issue never shifts and always lies on the prosecution. That the law is quite settled by now that if the prosecution fails to prove its case against an accused person, then the accused person is to be acquitted even if he had taken a plea and had thereby admitted killing the deceased, which at least was not the plea of the appellant namely Saadat Hussain son of Sarfraz in this case.

vi) It is a settled principle of law that for giving the benefit of the doubt it is not necessary that there should be so many circumstances rather if only a single circumstance creating reasonable doubt in the mind of a prudent person is available then such benefit is to be extended to an accused not as a matter of concession but as of right.

- Conclusion:**
- i) An adverse presumption would be drawn in terms of Article 129 illustration (g) of QSO, if the inhabitants of the house, where offence was allegedly committed, are not produced as PWs.
 - ii) Delay in submission of application for registration of case would make the presence of witnesses highly doubtful and the presence of element of deliberation.
 - iii) delayed recording of the statement of a prosecution witness under section 161 of the Code of Criminal Procedure, 1898 reduces its value to nothing unless there is a plausible explanation for such delay.
 - iv) When an individual touches an object, epithelial cells are left behind. The same traditional DNA analysis procedures are used to analyze and examine these remaining epithelial cells as are used to analyze and examine bodily fluids.
 - v) The onus to prove the facts in issue never shifts and always lies on the prosecution; even the admission of an accused does not absolve the prosecution to prove the guilt of accused person.
 - vi) It is not necessary that there should be many circumstances, the benefit of even a single doubt is to be extended to an accused as a matter of right.

32. Lahore High Court
Shabbir Hussain v. Muhammad Shabbir Naveed (deceased) through L.R
Namely Mian Rasheed Ahmad Qamar Qadri.
Civil Revision No.441-D of 2018
Mr. Justice Ahmad Nadeem Arshad
<https://sys.lhc.gov.pk/appjudgments/2025LHC2111.pdf>

Facts: The petitioner had instituted a suit for specific performance of an agreement to sell, which was in continuation of previous agreement to sell. This Civil Revision is directed against the judgments and decrees of learned Courts below whereby the petitioner's suit for specific performance was dismissed concurrently.

Issues

- i) Whether a Scribe of a document can be competent witnesses in terms of Articles 17 & 79 of Qanun-e-Shahdat Order, 1984?
- ii) Whether a document can be used in evidence without the evidence of second attesting witnesses?
- iii) What is scope of Revisional Jurisdiction under section 115 of the Code of Civil Procedure, 1908?

Analysis:

i) No doubt the agreement to sell (Exh.P-1) was executed in presence of *Wasiqa-Navees* as he maintained said fact while recording his statement being PW-1 but he could not be attained status of marginal witness. A scribe of a document can only be a competent witness if he has put his signature as an attesting witness of the document and not otherwise...In this regard reliance can safely be placed upon the case titled “Hafiz TASSADUQ HUSSAIN versus MUHAMAMD DIN through Legal Heirs and others” (PLD 2011 Supreme Court 241) wherein it was held as under: -

“Scribe of a document could only be competent witnesses in terms of Articles 17 & 79 of Qanun-e-Shahdat Order, 1984, if he had fixed his signature as an attesting witness of the document and not otherwise. Signing of documents in the capacity of a writer did not fulfill and meet mandatory requirement of attestation by him separately. Scribe of document could be examined by concerned party for corroboration of evidence of marginal witnesses or in the eventuality those were conceived by Article 79 of Qanun-e-Shahadat, Order, 1984, itself not as a substitute. Mandatory provision of law had to be complied with.”

ii) It is settled law that so long as the attesting witnesses are alive, capable of giving evidence and subject to the process of Court, no document can be used in evidence without the evidence of such attesting witnesses. If execution of a document is specifically denied the best course is to call the attesting witnesses to prove the execution. Non-compliance of said requirement will render the document inadmissible in evidence. Neither due process of law was adopted to procure attendance of the second marginal witness, nor any evidence was produced to establish that he was residing in Dubai. In this way, the petitioner who basically sought performance of said agreement to sell (Exh.P-1), failed to comply with the stringent condition mentioned in the Article 79 of the Qanun-e-Shahadat Order, 1984.

iii) Even otherwise this Court has a narrow and limited scope to interfere in the concurrent findings arrived at by the learned Courts below while exercising powers under section 115, CPC. Said power has been entrusted and assigned to the Court in order to secure effective exercise of its superintendence. Such power cannot be invoked against conclusion of law and fact which does not in any way affect the jurisdiction of the Court but it is confined to the extent of misreading or non-reading of evidence, jurisdictional error or an illegality in the judgment which may have material effect on the result of the case, or the conclusion drawn

therein is perverse or contrary to the law. Interference in the revisional jurisdiction can be made only in the cases in which the order passed or a judgment rendered by a subordinate Court is found to be perverse or suffering from a jurisdictional error or the defect of misreading or non-reading of evidence and the conclusion drawn is contrary to law.

- Conclusion:** i) Scribe of a document could only be competent witnesses in terms of Articles 17 & 79 of Qanun-e-Shahdat Order, 1984, if he had fixed his signature as an attesting witness of the document and not otherwise.
 ii) No document can be used in evidence without the evidence of second attesting witnesses
 iii) See above analysis No.iii

33. Lahore High Court
Qurban Ali v. The State, etc.
Crl. Misc. No.796-B of 2025
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC1400.pdf>

Facts: The petitioner seeks his post arrest bail in a case FIR registered against him for being a fake advocate, for the offences under sections 419/468/471/349 of the PPC.

- Issues:** i) What procedure is prescribed by the Legal Practitioners and Bar Councils Act, 1973 and the Punjab Legal Practitioners & Bar Council Rules, 2023?
 ii) Whether the complainant could join the inquiry proceeding before the Bar Council against the accused person?
 iii) How the criminal proceedings would be initiated, if the inquiry under the rules ends in affirmative?
 iv) Which court would have jurisdiction upon such complaint by the Bar Council?

Analysis: i) The notified Rules prescribe procedure to deal with complaints against ‘fake advocates’. Rule 4.17 of PLPBCR, 2023 is as under;
 “All applications, references or complaints etc., against any person posing or purporting to be an advocate or purporting to hold a law degree, or is alleged to be a ‘fake advocate’ shall be made to the Secretary, which shall be forwarded to the Executive Committee”.
 Such applications etc., addressed to Secretary Punjab Bar Council shall be placed for further action before the duly notified Executive Committee of Punjab Bar Council and such committee if found that the allegations made in the complaint/application are proceedable then notice shall be issued to the respondent/advocate within in 15 days as mentioned in Rule 4.23 of PLPBCR, 2023 and then holding of an inquiry per authorization of Rule 4.19 of PLPBCR, 2023
 ii) Though notice is issued to the person under allegations yet the complainant shall also be associated into the inquiry for the purpose of procuring any record

judicial or private against respondent/advocate and also to ensure fair and transparent proceedings. Inquiry must be completed within four months as per Rule 4.25 of PLPBCR, 2023.

iii) Above Rule connotes two-fold course for initiation of prosecution against the person under allegation; either through filing a complaint before the concerned Court or lodging of FIR under section 154 of Cr.P.C., but by and under the authority of Executive Committee of Punjab Bar Council. Thus, a private person individually at his own cannot initiate criminal proceedings until the process highlighted above is exhausted, because neither in the Legal Practitioner & Bar Councils Act 1973, nor in Rules of 1976 or in PLPBCR, 2023, there is any express provision that cognizance of offence under section 58 of the Legal Practitioners & Bar Councils Act, 1973 shall only be taken by the Court on the complaint of concerned Bar Council. Thus, under the principle that when anything is prescribed in law to be done in a manner, it must be done in that particular manner or not otherwise, private individuals must hold on to initiate the criminal proceedings until Punjab Bar Council fails to do so.

iv) any Court can assume jurisdiction within whose limits the offence is committed or the consequences ensued, or by the Court where the office of Punjab Bar Council situates (Lahore). If there is a conflict between two Courts, then High Court under Section 185 (1) of the Cr.P.C. shall decide that which of the Courts should inquire or try the offence.

- Conclusion:**
- i) For proceeding against fake advocates application shall be made to the Punjab Bar Council, which shall conduct an inquiry and proceed for prosecution, if allegations are found correct, after notice to the respondent.
 - ii) The complainant shall also be associated into the inquiry.
 - iii) The prosecution could be initiated through filing a complaint before the court concerned or lodging of FIR, by and under authority of Executive Committee of Punjab Bar Council. A private person individually cannot initiate criminal proceedings.
 - iv) Jurisdiction could be assumed by any court where offences is committed or the consequence ensued, or by the court where the office of the Punjab Bar Council is situated (Lahore). In case of any conflict of jurisdiction the High Court u/s 185 of the CrPC shall decide the matter.

34. Lahore High Court
Muhammad Adeel v. Province of Punjab & 03 others
W. P. No. 7157 / 2024
Mr. Justice Abid Hussain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC2193.pdf>

Facts: The petitioner assails the act of the respondents regarding non-issuance of appointment letter due to concealment of previous criminal record.

Issues: i) What is the purpose of giving affidavit at the time of submitting application for

recruitment in Police Department?

ii) Whether after exoneration or discharge of a candidate in registered FIR(s) against him before the date of application for recruitment, he is still liable for due disclosure of registration of such FIRs with respect to his appointment in the Police Department?

iii) What is effect of concealment or giving false information, upon the processing for a particular task?

iv) Whether recruitment to a particular post is a vested right?

v) Whether the criminal record information, automatically disqualify an individual from recruitment?

Analysis:

i) The collective reading of contents of the Oath contained in the application form and the affidavit submitted by the Petitioner makes it abundantly clear that purpose of the same is to seek correct and truthful information from the candidate regarding his particulars and antecedents to examine his suitability for appointment. Each word i.e. ‘arrested’, ‘charged’, ‘convicted’ or ‘involved’ appearing in the application form has distinct legal as well as ordinary dictionary connotation and unambiguously depict that the Petitioner was required to disclose the registered FIR(s) against him irrespective of the fact if the same is /are pending or he has been exonerated or discharged till the date of filing of the application form. The affidavit was an instrument through which such information could have been accurately and completely disclosed and explained. The nondisclosure of the same would amount to concealment rendering the candidate unfit for recruitment.

ii) Real issue is not regarding innocence or honorable exoneration of the Petitioner or that if he does or does not hold criminal record, rather, it is regarding deliberate and willful concealment of material information solicited by the Police Department as prerequisite for taking part in the recruitment process. Such concealment is viewed as a conscious act on the part of the Petitioner with the intention to effectively escape scrutiny regarding suitability to appointment. The solicited facts do not entail automatic disqualification but only allows the Department to examine the suitability of a candidate although it may lead to disqualification. It is not uncommon for various departments or institutions to solicit certain information in order to process a particular assignment.

iii) For processing a particular task, certain information is required to be provided based on applicable criteria within the ambit of applicable law deemed necessary to process the task or assess the suitability or otherwise of the claim or right. The grant or refusal of such claim or right is dependent on the solicited information. Therefore, if such material information is deliberately and willfully wrongly or incorrectly provided or suppressed by its non-provision and it is accordingly discovered by the concerned quarter at the time of processing the task or subsequently, the claim or right can be denied and even if initially granted, can be withdrawn later.

iv) Likewise, recruitment to a particular post is not a vested right of an individual.

It is subject to eligibility as per terms and conditions of recruitment set by the competent authority in accordance with law based on peculiar needs and requirements with respect to particular employment. Therefore, any action in furtherance of such settled terms and conditions cannot be construed as an infringement of fundamental rights guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973.

v) Hence, if the terms of recruitment seek provision of mandatory information and the same is withheld or falsely provided, the applicant may validly be disqualified for consideration in that recruitment process although he may have successfully sailed through the recruitment process. However, it is importantly noted that if a candidate has accurately and completely disclosed solicited information regarding criminal cases against him, he cannot be automatically disqualified from the recruitment process for the reason that mere registration of criminal case or existence of past criminal record may not be an impediment to take part in the recruitment process, however, in event of being successful, the competent authority may assess the suitability of the successful candidates depending upon the facts and circumstances of each case by structuring discretion based upon judicially recognized and established sound principles of justice, fair play and equity.

- Conclusion:**
- i) The purpose of taking affidavit is to seek correct and truthful information from the candidate regarding his particulars and antecedents to examine his suitability for appointment.
 - ii) After exoneration or discharge of a candidate in registered FIR(s) against him before the date of application for recruitment, he is still liable for due disclosure of registration of such FIRs with respect to his appointment in the Police Department.
 - iii) The grant or refusal of such claim or right is dependent on the solicited information. The task could be denied if such information is false or concealed.
 - iv) The recruitment to a particular post is not a vested right of an individual. It is subject to eligibility as per terms and conditions of recruitment set by the competent authority.
 - v) The criminal record information automatically does not disqualify an individual from recruitment, if disclosed correctly. The recruiting authority may assess the suitability of the successful candidates depending upon the facts and circumstances of each case.

35. Lahore High Court
M/s Taiga Apparel (Pvt) Ltd. v. M/s International Fabrication Company.
Civil Revision No.60145/2024
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC1247.pdf>

Facts: The petitioner and respondent entered into two separate agreements for different phases of construction of the petitioner's factory. Both agreements contained

independent arbitration clauses. Disputes arose concerning alleged withheld payments. The respondent issued notices for the appointment of a sole arbitrator and filed a single application under Sections 8 & 20 of the Arbitration Act, 1940. The petitioner contested the maintainability of the application, contending that it was premature and improperly filed. The Civil Court dismissed the application; however, the Appellate Court reversed this decision and remanded the matter for appointment of an arbitrator.

- Issues:**
- i) Whether the two agreements form a composite contract for arbitration purposes?
 - ii) Whether the Court can appoint an arbitrator without the parties first exhausting the procedure stipulated in the arbitration agreement?
 - iii) Whether disputes under interdependent agreements can be referred to arbitration through a single application under the arbitration clause of one agreement and Whether interdependent agreements permit a single arbitral reference?
 - iv) Whether overlapping disputes alone justify composite arbitration under separate agreements?
 - v) Two-step procedure for appointment of the arbitrators.
 - vi) Whether failure to appoint an arbitrator by mutual consent justifies invoking Section 8(1) of the Act?
 - vii) Whether the Court can appoint an arbitrator if no appointment is made within fifteen days of notice?
 - viii) Whether a party's appointed arbitrator can act as sole arbitrator if the other party fails to appoint within the stipulated time?

- Analysis:**
- i) The test is to consider whether such contracts are 'indivisible whole contract' or whether they are separate and independent from each other. The Supreme Court held as under:
 "8. A proper approach to construction therefore requires the court to give effect, so far as the language used by the parties will permit, to the commercial purpose of the arbitration clause..."
 - ii) Arbitration is fundamentally a contractual arrangement and therefore, before the Court embarks on any exercise regarding reference to the arbitration under inter-connected agreements, it must first and foremost have regard to the intention of the parties, as gathered from the plain words of their agreements... the parties must be held to their bargain. They cannot be allowed to circumvent the procedure for arbitration provided in the arbitration clause. The procedure for appointment of the arbitrator, as provided in the agreements, must be given effect, and the Appellate Court below ought not to have proceeded to direct the Civil Court for the appointment of an arbitrator without the parties first exhausting the mechanism agreed in the arbitration clause(s).
 - iii) In other words, there can be multiple agreements that are apparently inter-connected because they relate to the same transaction or project, and the question

is whether disputes under those multiple contracts ought to be referred to composite arbitration pursuant to the arbitration clause in any one agreement. In such cases, Courts will first and foremost examine the text of the contracts and the arbitration clauses in those agreements to assess whether it was the intention of the parties that the disputes under those multiple agreements should be resolved through composite arbitration... where the disputes, though arising partially under the ancillary agreement are integrally connected with the main agreement, Courts have taken the view (*per* decision in *Olympus Superstructures/AIR 1999 SC 2102*), that the disputes under the ancillary agreement can be referred to arbitration pursuant to the arbitration clause in the main agreement. A somewhat similar view was taken by the Supreme Court of Pakistan in the case of *Sezai Turkes Feyzi Akkaya Construction Company/1997 SCMR 1928*, in which it has been held that where an agreement executed later in time was dependent on and inter-connected with the terms of an earlier agreement then even though the later agreement did not contain an arbitration clause, the disputes arising under it can be referred to arbitration under the arbitration clause in the earlier main agreement. In this view of the matter, this Court is of the opinion that a single application, can be filed for disputes under two separate agreements, provided the same are interdependent and constitute ‘indivisible whole contract’ and single arbitrator can be appointed.

iv) It is imperative to observe that just because there is an element of overlapping in disputes between the parties, it cannot be the sole ground for the Court to direct the parties to go for a composite arbitration where there are two agreements with two separate arbitration clauses.

v) In the first step, the parties are to appoint a sole arbitrator by mutual consent, however, if parties are not agreeing upon a sole arbitrator, then in the second step, each party would appoint one arbitrator, and if the two arbitrators so appointed are not able to agree on a decision, they will appoint an umpire and refer the matter for decision to the umpire.

vi) Section 8(1) of the Act empowers a party to serve a notice on another party to concur in the appointment of an arbitrator etc., where the arbitration agreement provides that the reference shall be to one or more arbitrators to be appointed by consent of the parties, and the parties do not, after differences have arisen, concur in the appointment or appointments.

vii) Section 8(2), *inter alia*, provides that if the appointment is not made within fifteen clear days after the service of the said notice, the Court may, on the application of the party which gave the notice and after giving the other parties an opportunity of being heard, appoint an arbitrator or arbitrators or umpire, as the case may be.

viii) Section 9 of the Act applies in a situation where an arbitration agreement provides that a reference shall be to two arbitrators, one to be appointed by each party. Section 9(b) provides that, in such a case, if one party fails to appoint an arbitrator, either originally or by way of substitution, for fifteen clear days after the service by the other party of a notice in writing to make the appointment, such

other party having appointed his arbitrator before giving the notice, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent.

- Conclusion:**
- i) See above analysis No i.
 - ii) The parties must be held to their bargain. They cannot be allowed to circumvent the procedure for arbitration provided in the arbitration clause.
 - iii) See above analysis No iii.
 - iv) Mere overlap in disputes does not justify composite arbitration under separate agreements.
 - v) See above analysis No v.
 - vi) See above analysis No vi.
 - vii) The Court may appoint an arbitrator after giving the other parties an opportunity of being heard.
 - viii) See above analysis No viii.

36. Lahore High Court
Nazia Saddique v. Additional District Judge, etc.
Writ Petition No.3974 of 2024
Mr. Justice Syed Ahsan Raza Kazmi
<https://sys.lhc.gov.pk/appjudgments/2025LHC2078.pdf>

Facts: A guardian petition was filed under Section 25 of the Guardian and Wards Act, 1890, seeking custody of a minor boy. The petitioner and respondent were previously married and had one child from the marriage but the marriage was later dissolved. The trial court granted custody to the father. The appellate court upheld the decision. The petitioner, who had since remarried and was residing with her second husband and another child, challenged both judgments through a writ petition, asserting that she had raised the minor since birth and that removing him from her custody would adversely affect his well-being.

Issues:

- i) Primary consideration in custody matters.
- ii) Whether the mother's remarriage disqualifies her from having custody of the minor?
- iii) Does filing a maintenance suit by the mother imply her financial dependence for determining custody?
- iv) Whether the father's conduct and his application seeking custody only after being sued for maintenance by the mother of the minor, disqualify him from claiming custody?

Analysis: i) It has, by now, been well settled that in matters of custody, the primary consideration is the welfare and best interests of the minor while all other factors, including the rights and interests of the parents, are secondary. This principle is

enshrined in Sections 7 and 17 of the Act, which emphasize that the child's welfare is the paramount concern in determining custody arrangements.

ii) Generally, a mother has the right to custody of a minor, however, this right may be forfeited if she enters into a second marriage, but this is not an absolute rule. In exceptional circumstances, the court may consider it in the best interest of the minor to keep it with the mother, even if she has remarried. The Court's primary concern is always the welfare and well-being of the child... the minor throughout his life has been remaining with the Petitioner and shifting the custody from the mother solely due to her remarriage is not a standard or definitive decision. Such a drastic shift of the custody would likely cause significant trauma to the minor.

iii) It can be observed that the lower courts erred in concluding that the Petitioner's filing of a maintenance suit implies her financial dependence, when in fact, it is the father's obligation to provide for his child's maintenance.

iv) Father's inaction and silence following the separation and remarriage of Petitioner, coupled with his failure to attempt to meet the minor or timely filing of the custody petition, suggest a lack of genuine concern for the child's welfare. His decision to seek custody only after being sued for maintenance appears to be opportunistic and motivated by self-interest which makes him disentitled for custody of the minor.

Conclusion: i) In matters of custody, the primary consideration is the welfare and best interests of the minor.

ii) See above analysis No ii.

iii) See above analysis No iii.

iv) See above analysis No iv.

37.

Lahore High Court

Sheikh Naseem Akhtar v. Commissioner Inland Revenue (Legal) etc.

I.T.R. No.1 of 2017

Mr. Justice Jawad Hassan, Mr. Justice Malik Javid Iqbal Wains

<https://sys.lhc.gov.pk/appjudgments/2025LHC2021.pdf>

Facts:

Applicant drove income in the sale and purchase of kitchen/table glassware, he filed a return for Tax Year 2015, which was assessed and a notice under Section 122(5A) was issued, alleging incorrect application of turnover tax under Section 113; applicant challenged the matter in appellate tribunal with contention that the goods qualified for a reduced tax rate as fast-moving items but same was rejected by the appellant tribunal, hence this reference.

Issues:

i) Whether a legislative amendment can be applied retrospectively to create new liabilities or disturb past and closed transactions?

ii) Whether unequal tax treatment without a rational basis violates the constitutional guarantee of equality under Article 25?

iii) Whether tax policies lacking explicit legislative backing and consistency violate the statutory mandate of uniform taxation under the Sales Tax Act, 1990?

- Analysis:**
- i) The study of above referred case law clearly shows that retrospective effect to legislation can only be given if it appears beneficial for any person. An attempt on part of Respondent/Department to bring the case of applicant within the 'exclusion ambit' of the amended definition clause of "fast moving consumer goods" simply meant to deprive him of the benefit of the reduced tax rate. So much so, it also means to create a new liability and to disturb past and closed transaction. The plea of retrospective effect of the amendment, taken by the Respondent/Department is, therefore repelled.
 - ii) It is very clear that Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973 guarantees equal protection of the law and prohibits arbitrary discrimination between similarly situated persons henceforth. Imposing a higher sales tax on distributors of table glassware than on electronic appliances creates an unwarranted tax disparity, violating the principle of uniformity in taxation. The Supreme Court in case Messrs Elahi Cotton Mills Ltd. and others vs. FEDERATION OF PAKISTAN through Secretary M/o Finance, Islamabad and 6 others (PLD 1997 Supreme Court 582), has held that fiscal laws must conform to the principles of fairness, reasonableness, and equal treatment and that discriminatory tax policies must have a clear and rational basis.
 - iii) The Sales Tax Act, 1990 is the primary law governing taxation on goods and services in Pakistan. Section 3 of the Act mandates a uniform sales tax rate unless exemptions or variations are explicitly provided by law. Hence the glassware distributors are subjected to a higher sales tax rate than electronics distributors without any specific legislative backing, making the policy inconsistent with statutory requirements.

- Conclusion:**
- i) See above analysis No.1.
 - ii) Unequal tax treatment without a rational basis violates the constitutional guarantee of equality under Article 25
 - iii) Tax policies lacking explicit legislative backing and consistency violate the statutory mandate of uniform taxation under the Sales Tax Act, 1990.

38. Lahore High Court
Muhammad Rizwan and another v. The State and others
Criminal Misc. No.1885-M of 2025
Mr. Justice Muhammad Jawad Zafar
<https://sys.lhc.gov.pk/appjudgments/2025LHC2033.pdf>

Facts: The trial court allowed an application under Section 540 Cr.P.C. permitting an eyewitness omitted in the challan to testify. The revisional court set aside this order, which was challenged before the High Court.

Issues: i) Whether Section 244(1) Cr.P.C. makes it mandatory for the Magistrate to take

all evidence produced by the prosecution and the defence?

- ii) What is the scope of the Court's power under Section 94 Cr.P.C. for production of documents or objects during proceedings?
- iii) Whether the trial court is empowered and obligated under Section 540 Cr.P.C. to summon or examine a witness at any stage of proceedings?
- iv) Whether the nature of the criminal justice system in Pakistan is inquisitorial in the context of provisions like Sections 94, 244, 265-F, 540 Cr.P.C., Article 161 QSO, and Rule 2, Chapter 1-E of the Lahore High Court Rules?
- v) Whether the trial court can summon a witness under Section 540 Cr.P.C. despite their omission in the challan, absence of a statement under Section 161 Cr.P.C., or belated invocation of the provision?

Analysis:

- i) It is evident from perusal of the aforementioned provision that the legislature, while explicitly using the term "shall", has made it compulsory for all the magisterial courts to take in all evidence of the prosecution and defence (...). Resultantly, it is concluded that the provision of Section 244 of the Code is mandatory and the learned Trial Court is under a bounden duty to take all such evidence in support of the prosecution, as well as the defence.
- ii) Powers under Section 94 of the Code can be exercised at any stage of "any proceedings" where the Court conducting the proceedings, inquiry or trial, as the case may be, considers the production of a document or other thing, i.e., an object, necessary. However, while exercising such powers, the learned Court can only summon such a person to produce the document or other thing in whose possession or power such a document or other thing is believed to be.
- iii) Likewise, Section 540 of the Code enables the learned Trial Court to, at any stage of an inquiry, trial, or other proceedings under the Code: (a) summon any person as a witness; (b) examine any person in attendance, though not summoned as a witness; or, (c) recall and re-examine any person already examined as a witness. Although this part of Section 540 of the Code is discretionary, the second part of the provision is mandatory and casts a duty upon the learned Trial Court to exercise the powers where it appears that the evidence of the person in question is essential for a fair and just decision. This power, akin to the power under Section 94 of the Code, can be exercised at any stage, even before the production of defence evidence.
- iv) It ought not to be out of place to observe here that the insertion of provisions like Sections 94, 244, 265-F and 540 in the Code or Article 161 of QSO, or Rule 2 of Chapter 1-E, Volume III of the Rules and Orders of the Lahore High Court for that matter, is because the criminal justice system, particularly in relation to criminal trials, is inquisitorial in nature as opposed to adversarial.
- v) Therefore, in addition to prosecution evidence and defence evidence, the legislature has granted power to the learned Trial Court to summon such a person as a witness, irrespective of whether any statement under Section 161 of the Code of such a person is recorded or otherwise. Regarding belated invocation of Section 540 of the Code, it needs no reiteration that the Honourable Supreme

Court of Pakistan in “Muhammad Azam v. Muhammad Iqbal” held that it is mandatory for the learned Trial Court to summon evidence if it is essential for a fair and just decision and in “Abdul Latif Aassi v. The State” it was held that any delay in this regard is immaterial if evidence is necessary for securing the ends of justice (...) furthermore, the learned Trial Court should accept evidence, in addition to that presented by the prosecution with the challan in the shape of witnesses and documents it intends to reply upon, where the same is essential for a fair and just conclusion, for securing the ends of justice, irrespective of delay.

- Conclusion:**
- i) Section 244(1) Cr.P.C. imposes a mandatory duty on the Magistrate to record all evidence presented by both the prosecution and the defence during trial.
 - ii) Under Section 94 Cr.P.C., the Court may summon a person to produce a document or object at any stage if it is believed to be in their possession and necessary for the proceedings.
 - iii) The trial court is both empowered and duty-bound under Section 540 Cr.P.C. to summon or examine a witness at any stage if their evidence is essential for a fair and just decision.
 - iv) See Above analysis.
 - v) The trial court can summon a witness under Section 540 Cr.P.C. if their evidence is essential, regardless of omission, absence of statement, or delay.

39. Lahore High Court
Mst. Sadiqan Begum v. Muhammad Siddique
Civil Revision No. 27145 of 2017
Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC1405.pdf>

Facts: Through this Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, 1908 (CPC), the petitioner calls into question the concurrent findings of facts recorded by the Courts below. The petitioner is aggrieved of dismissal of her Suit for Declaration and Permanent Injunction, seeking cancellation of gift mutation in favour of her brother. The Suit was dismissed by the learned Civil Judge (Trial Court), which Judgment and decree was upheld by the learned Additional District Judge, (Appellate Court).

Issues

- i) What are the principles be strictly adhered to while dealing with a case in the context of oral gift in favour of male family members depriving the females from inheritance?
- ii) Whether the evidence can cure the inherent defect of pleadings?
- iii) When male members deprive their female relatives from their entitlement to inheritance, whether they violate Shariah and Law?

Analysis: i) The threshold tests of such transactions are now etched in our jurisprudence as tablet of stone, hardly requiring any further quest, however, if one needs

reiteration, following principles be strictly adhered to, particularly in the context of the case in hand:

- a) Beneficiary of the impugned transaction of gift/transfer of immovable property(s) bears the heavy onus to prove the transaction¹;
 - b) The beneficiary of a gift has to plead and prove three mandatory ingredients of gift i.e. declaration/offer by the donor, acceptance of gift by the donee; and, delivery of possession under the gift²;
 - c) The possession of immovable property by one of the siblings/LRs to the exclusion of others will be treated as constructive possession on behalf of all others, unless proved otherwise.¹;
 - d) In case of oral transactions, it is mandatory for a beneficiary of oral transaction to prove the same through positive evidence by supplying mandatory material particulars in the pleadings i.e. the time & date, the venue, the persons/witnesses in whose presence the alleged transaction was brought about.²
 - e) The oral transaction of transfer of immovable property, be it sale, gift/tamleek, surrender or will etc. has to be proved separate from its incorporation/attestation in revenue record by way of sanctioning of the mutation since a mutation cannot by itself be considered a document of title.⁵;
 - f) Where a gift, which excluded a legal heir, irrespective of whether such transaction is evidenced by registered deed, the Donee is required to prove original transaction and must justify the disinheritance of a legal heir from the estate.⁶;
 - g) Parties are bound by their pleadings; no amount of evidence can be led beyond the scope of pleadings; and in case any such evidence is brought on record, the Court cannot consider and rely upon the same and has to discard it.⁷;
 - h) Mere efflux of time does not extinguish the right of inheritance, thus, the question of limitation in case of inheritance and fraud is not attracted and becomes insignificant³;
- ii) No amount of evidence can cure this inherent defect of pleadings, which conspicuously fail to put forth the name of the witnesses of the oral transaction, the exact date, time and venue thereof.
- iii) It is an unfortunate fact that male members of families deprive their female relatives of their legal entitlement to inheritance and in doing so Shariah and law is violated⁶. Supreme Court of Pakistan in the case of Ghulam Ali supra⁷ had observed that 'relinquishment' by female members of the family was contrary to public policy and contrary to Shariah. Competing claims, notwithstanding, Plaintiff/Petitioner's entitlement in her father's estate is a common ground; being a female in a Muslim household, it was her due, conferred by Divine Law, recognized by the law of the land; it is so ordained in Sura Al-Nisa (4/10). Given the preponderance of conferment, such a right, rooted into Personal Law, has to

be jealously guarded, therefore, a heavy onus is cast upon the claimant to demonstrate that a female legatee had parted with her entitlement by choice and for considerations, consciously, without duress or uncalled for persuasions, by those placed qua her in advantageous positions¹⁴. Frequent practice of male heirs resorting to fraud and other tactics to deprive female heirs from their share of inheritance while such deprivation caused suffering to those deprived, it also unnecessarily taxed the judicial system of the country, resulting in a needless waste of resources. Each and every day that a male heir deprived a female heir was also an abomination because it contravened what has been ordained by Almighty Allah⁸

Conclusion: i) See above analysis No.i
 ii) No amount of evidence can cure this inherent defect of pleadings, which conspicuously fail to put forth the name of the witnesses of the oral transaction.
 iii) See above analysis No.iii

40. Lahore High Court
Hafiz Salman Ahmed v. Board of Intermediate and Secondary Education Sahiwal etc.
W.P. No. 73296 of 2019
Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC2137.pdf>

Facts: The petitioner was appointed as Estate Officer, on contract basis; after rendering approximately four years of service, he, along with similarly placed colleagues, sought regularization of service, but the request was not entertained by **Board of Intermediate and Secondary Education (BISE)**. During the pendency of the first constitutional petition, the petitioner was removed from service through the impugned order, prompting him to file the present petition. The competent authority at BISE imposed the major penalty of removal from service, thereby terminating the petitioner's contract appointment.

Issues

- i) Is a constitutional petition under Article 199 of the Constitution is maintainable without exhausting alternate remedies if the impugned order is arbitrary, illegal, or unjust?
- ii) What does the expression “adequate remedy” signify in legal terms?
- iii) Whether a major penalty of removal from service can be imposed without holding a regular inquiry, particularly in cases involving disputed facts such as absence due to alleged abduction?
- iv) Can an authority base its decision on matters beyond the show cause notice?
- v) What are the minimum legal requirements for a valid show cause notice under PEEDA Act 2006?
- vi) What is the distinction between a “regular inquiry” and a “preliminary or fact-finding inquiry”?
- vii) Is it necessary for the authority to ensure that the punishment corresponds to the nature and extent of the guilt?

- viii) What protection does Article 4 of the Constitution guarantee to individuals?
- ix) Are judicial, quasi-judicial, and administrative authorities required to exercise their powers fairly and reasonably?

Analysis:

- i) It is well-settled by now that the rule regarding invoking constitutional jurisdiction in terms of Article 199 of the Constitution, only after exhausting all other remedies, is one of convenience and discretion by which the Court regulates its proceedings and is not a rule of law affecting the jurisdiction of this Court. A constitutional petition is competent if an order is passed by a Court or Authority by exceeding its jurisdiction or exercising its jurisdiction in an arbitrary, illegal or unjust manner, even if the remedy of appeal/revision against such order is available, depending upon the facts and circumstances of each case¹
- ii) The expression "adequate remedy" signifies an effectual, accessible, advantageous and expeditious remedy².
- iii) This Court is mindful of the latest enunciation of law by the Supreme Court of Pakistan, whereby it is settled that in cases of willful absence from duty, the process of regular inquiry may be dispensed with⁷, however each case has its own merits and the facts of the case in hand are such that mere allegation of willful absence from duty could not have been proved without holding a proper inquiry as it is the case of the petitioner that he was unlawfully abducted and remained a victim of enforced disappearance.
- iv) It is well settled by now that an authority while adjudicating a case on the basis of show cause notice, has to confine itself within the allegations of show cause notice and rendering any findings or forming basis of the final order on elements beyond the allegations/charges of show cause notice, is not sustainable under the law.⁸
- v) a show cause notice must conform to at least seven essential elements, and these include: (a) it should be in writing and should be worded appropriately; (b) it should clearly state the nature of the charge(s), date, and place of the commission or omission of acts, along with apportionment of responsibility; (c) it should clearly quote the clause of the PEEDA under which the delinquent is liable to be punished; (d) it should also indicate the proposed penalty in case the charge is proved; (e) it should specify the time and date within which the employee should submit his explanation in writing. It is also preferable to add in the show cause notice that if no written explanation is received from the accused within the prescribed date, the enquiry will be conducted ex-parte; (f) it should be issued under the signature of the competent authority and (g) it should contain the time, date and place of the inquiry and the name of the inquiry officer.
- vi) It is further settled by respectable authority that a distinction also needs to be drawn between a regular inquiry and preliminary/fact finding inquiry. A regular inquiry is triggered after issuing show cause notice with statement of allegations and if the reply is not found suitable then inquiry officer is appointed and regular inquiry is commenced (unless dispensed with for some reasons in writing) in which it is obligatory for the inquiry officer to allow an even-handed and fair

opportunity to the accused to place his defence and if any witness is examined against him, then a fair opportunity should also be afforded to cross-examine the witness.

vii) It is well settled that the punishment should commensurate with the element of guilt¹⁸ otherwise the law dealing with the subject will lose its efficacy. It is also well settled that for safe administration of justice, the Authority vested with discretion to award punishment to an employee shall ensure that such punishment should commensurate with the magnitude of guilt.

viii) Article 4 of the Constitution is the bedrock of the rule of law and an antithesis to the rule of men in our country, it is a restraint on the executive and judicial organs of the State to abide by the rule of law. Article 4 ordains that it is inalienable right of every citizen wherever he may be and any person whenever he is in Pakistan to have and enjoy the protection of law and to be treated in accordance with law.

ix) It is well settled by now that all judicial, quasi judicial, and administrative authorities must exercise power in a reasonable manner and also must ensure justice as per the spirit of law and instruments regarding exercise of discretion. Obligation to act fairly on the part of administrative authority has been evolved to ensure the rule of law and to prevent failure of justice.

- Conclusion:**
- i) Constitutional petitions are maintainable even without exhausting alternate remedies if the impugned action is arbitrary or unlawful.
 - ii) See analysis No.ii.
 - iii) In cases of alleged abduction, regular inquiry cannot be dispensed with on mere claims of wilful absence.
 - iv) Authorities must restrict their decisions strictly to the contents of the show cause notice.
 - v) See analysis No.v.
 - vi) A regular inquiry involves formal procedure and fair opportunity, unlike a preliminary or fact-finding inquiry.
 - vii) Punishment must proportionately match the seriousness of the misconduct for justice to be served.
 - viii) Article 4 of the Constitution guarantees every individual the right to legal protection and lawful treatment.
 - ix) All authorities must act fairly, reasonably, and within the bounds of justice to uphold the rule of law.

41. Lahore High Court
Riaz Ahmad v. The State etc.
Crl. Misc. No.8612-B/2025.
Mr Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC2094.pdf>

Facts: By way of this petition under section 497 Cr.P.C., the petitioner has sought his release on post-arrest bail in the case registered under Sections 420, 468, 471,

109, 419 PPC along with the provisions of Prevention of Corruption of Corruption Act, 1947

- Issues:**
- i) What is the definition of “*valuable security*”?
 - ii) Whether the sale deed fall within the definition of valuable security?
 - iii) Which provision attracts on the forgery of sale deed?
 - iv) Who can report the commission of offence of cheating to authorities?

- Analysis:**
- i) Any document, which on the face of it purports to create right in immovable property, is a “valuable security”.
 - ii) Sale deed is a document, which transfers right to property/ownership, as such the same is covered by the definition of “Valuable security” as provided by Section 30 of PPC.
 - iii) Forgery of a sale deed (valuable security) shall attract the charge under section 467 PPC.
 - iv) It was not a rule of universal application that a crime of fraud/forgery can only be reported by a person, who is directly affected thereby. Such like nefarious activities, which are crimes not only against any individual, but against the public at large, can be brought into the knowledge of concerned authorities by any person of the public.

- Conclusion:**
- i) Valuable security is a document, which create right in immovable property.
 - ii) Yes. Sale deed is a valuable security with in purview of Section 30 of PPC.
 - iii) Section 467 PPC applies on forgery of a sale deed.
 - iv) See above analysis No. iv

42. Lahore High Court
Muhammad Nawaz v. The State and another.
Crl. Misc. No.6705-B/2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC2089.pdf>

Facts: The petitioner sought his post arrest bail in a case FIR registered for offence under Section 17/22, Emigration Ordinance, 1979, 3/6 The Prevention of Smuggling of Migrants Act, 2018, registered with Police Station FIA, Anti Human Trafficking & Smuggling Wing (AHTC/AHS).

Issues:

- i) Whether the principle that for the purpose of bail lesser punishment shall be considered; has any exception?

Analysis:

- i) So far as question of taking into consideration of lesser penalty of fine for the purpose of bail was concerned, there was no cavil to the proposition that Honourable Superior Courts ruled in plethora of the judgments that lesser penalty provided for the offence should be taken into consideration for the purpose of bail, but at the same time the august Supreme Court considered the higher penalty provided for the offence in exceptional cases, where the circumstances were

unusual, anomalous, harsh and presenting a dreadful picture and tentative assessment thereof was prima facie leading to an inference that most probably the higher sentence provided for the offence was likely to be awarded. In this regard, I have sought guidance from the case of Haji Shahid Hussain and others v. The State and another (2017 SCMR 616). I am further fortified by another judgment in the case of Jehanzeb alias Bhobi v. The State (2002 SCMR 1380), wherein apex Court was pleased to decline bail to the accused in a case for offences under Section 17/22 of Emigration Ordinance, 1979.

Conclusion: i) In exceptional circumstances where the case presents an unusual, anomalous, harsh and presenting a dreadful picture and tentative assessment thereof was prima facie leading to an inference that most probably the higher sentence provided for the offence was likely to be awarded.

43. Lahore High Court
Imran alias Mana v. The State
Murder Reference No.54 of 2020 & Criminal Appeal No.9714-J of 2020
Mrs. Justice Abher Gul Khan & Miss. Aalia Neelum Chief Justice.
<https://sys.lhc.gov.pk/appjudgments/2025LHC1417.pdf>

Facts: The Sessions Court convicted the appellant under section 302(b) PPC, on the charge of murder of complainant's brother, and sentenced him to death as ta'zir. Three co-accused were acquitted by the learned trial court. Hence the appeal was filed by the convict; a separate appeal was filed by the complainant against the acquittal of co-accused. Murder reference was also sent to the Hon'ble Lahore High Court.

Issues:

- i) Whether to prove the promptness of FIR the production of witness who despatched the complaint to police station is essentially required?
- ii) When the presence of a witness is not in accordance with the daily pursuit of his life, whether deposition of such witness is to be discarded?
- iii) What is the importance of a supplementary statement in which the source of information is not provided?
- iv) How the medical evidence support the case of prosecution?
- v) What is the value of positive PFSA report if safe custody of recovered weapon is not proved?
- vi) Who will suffer if the motive set up by the prosecution is not proved?
- vii) What would be the effect of reasonable doubts in a criminal case?

Analysis: i) Firstly, it is noticed that the complaint (Exh.PF) was prepared at Allied Hospital and was dispatched to Police Station Gulberg, Faisalabad, for registration of formal F.I.R through Riaz Head Constable. In our view, the deposition of the above-said witness was essentially required to prove the prompt registration of F.I.R. Besides that, the defence/accused had a right to cross-examine him to extract the truth.

- ii) In the given circumstances, when the presence of Tanvir Qamar (PW.6) at the crime scene was not in accordance with the daily pursuit of his life, he was legally obliged to put forth some compelling reason for his acclaimed attendance, but this burden was not discharged during the trial. The presence of both the PWs at the spot, in the manner they claimed, makes them chance witnesses and their depositions suspect evidence. As a necessary corollary, the depositions of Tanvir Qamar (PW.6) and Rana Mujataba (PW.7) are to be discarded from consideration.
- iii) Likewise, in the supplementary statement the complainant had not mentioned the source of his information as to how he came to know about the culpability of accused Nasir and as such no reliance on such statement can be placed.
- iv) It is by now well-settled principle that medical evidence is a type of supporting evidence, which may confirm the prosecution version about locale and nature of injury, kind of weapon used in the occurrence and the duration between death and postmortem but does not provide the identity of the assassin.
- v) In the wake of this fact, the positive report received from the PFSA is of no use to the prosecution because the chain of safe custody is missing, which creates serious doubt about the recovery of the .12 bore pump action alleged to be used as a weapon at the crime scene.
- vi) It is well settled that once the motive is set up by the prosecution and the same is not proved, the prosecution shall suffer.
- vii) Needless to say, if any doubt emerges from the prosecution's case, there is no reason to withhold its benefit on the ground that the case is of a heinous nature. According to the golden principle laid down for the appraisal of evidence, the benefit of every reasonable doubt is to be extended to the accused, which can best be provided through the judgment of acquittal.

- Conclusion:**
- i) To prove the promptness of FIR the production of witness who despatched the complaint to police station is required.
 - ii) The deposition of such witness is to be discarded from consideration.
 - iii) No reliance on such statement can be placed.
 - iv) See above analysis No.iv
 - v) The positive PFSA is of no use to the prosecution if the chain of safe custody is missing.
 - vi) Once the motive is set up by the prosecution and the same is not proved, the prosecution shall suffer
 - vii) The benefit of every reasonable doubt is to be extended to the accused, which can best be provided through the judgment of acquittal.

44.

Lahore High Court**The State v. Ihsan Illahi alias Shani****Murder Reference No. 33 of 2020****Criminal Appeal No. 67614 of 2019****Ms. Justice Aalia Neelum Chief Justice, Mrs. Justice Abher Gul Khan**<https://sys.lhc.gov.pk/appjudgments/2025LHC2060.pdf>

- Facts:** The appellant was involved in a case registered under Sections 302, 324, and 34 PPC. The trial court convicted the appellant under Section 302(b) PPC and sentenced him to death as *ta'zir*, along with a direction to pay Rs. 500,000/- as compensation to the legal heirs of the deceased and in case of default, to undergo six months' simple imprisonment. Feeling aggrieved by the judgment of the learned trial court, the appellant challenged his conviction and sentence by filing Criminal Appeal before the Lahore High Court. Simultaneously, Murder Reference was sent by the trial court under Section 374 Cr.P.C. for confirmation of the death sentence.
- Issues:**
- i) Whether unexplained delay of over 31 hours in lodging an FIR, without credible justification, fatally undermines the prosecution's case?
 - ii) Whether failure to record the statement of an injured victim who remained alive and conscious for 18 days amounts to a fatal flaw in investigation?
 - iii) Whether a positive forensic report (ballistic match) is admissible and reliable when the chain of custody of the crime empties and weapon is not proven?
- Analysis:**
- i) From this aspect, it manifests that the matter was reported to police with the delay of about 31 hours. We have thoroughly scanned the record and have failed to find out any explanation for such an unwarranted delay in the registration of FIR. The question in such circumstance arises that what precluded the eyewitnesses to keep mum for about 31-hours in reporting the crime to the police, is mystery and goes against the prosecution. As per settled principles laid down for the appraisal of evidence, the delay in reporting the matter to the police gives rise to possibility of concoction and fabrication of facts mentioned in the crime report warranting more cautious approach from the court. In such situation, the delay of 31-hours in chalking out the FIR raises eyebrow regarding the authenticity of the prosecution case.
 - ii) It has been noted by us that after the incident deceased remained alive for almost 18-days and according to Medical Officer (PW.6) he was stable but no application was moved by any of the Investigating Officer to record his statement. Such conduct of the Investigating Officer also makes the prosecution case highly doubtful. Thus there was no question of mistaken identity but the injured did not disclose the name of the appellant before the doctor.
 - iii) Prosecution also produced (PW.5) who deposed that on 02.11.2017 I.O handed over to him two sealed parcels said to contain blood stained cotton and crime empties of pistol .30 bore which he kept the same in safe custody in Malkhana and on 08.12.2017 he handed over the above said parcel to I.O for depositing the same in the office of PFSA. However, I.O did not utter a single word regarding the fact that on 02.11.2017 he handed over the parcel of crime empties to (PW.5) and took the said parcel from him on 08.11.2017 for depositing the same in the office of PFSA. In the wake of this fact, the positive report received from the PFSA is of no use to the prosecution because the chain of safe custody is missing, which creates serious doubt about the recovery of the .30 bore pistol alleged to be used as a weapon at the crime scene.

- Conclusion:** i) The delay of 31-hours in chalking out the FIR raises eyebrow regarding the authenticity of the prosecution case and fatally undermines it.
 ii) See analysis ii above.
 iii) See analysis iii above.

LATEST LEGISLATION/AMENDMENTS

1. Vide The Punjab Infrastructure Development Cess (Amendment) Act, 2025 dated 18-03-2025, insertion of section 5A is made in The Punjab Infrastructure Development Cess Act, 2015.
2. Vide The Punjab Khal Panchayat (Repeal) Act, 2025 dated 18-03-2025; The Punjab Khal Panchaya Act, 2019 was repealed.
3. Vide The Punjab Local Government (Amendment) Act, 2025 dated 24-03-2025, the amendment in section 102 is made in The Punjab Local Government Act, 2022.
4. Vide The Punjab Vagrancy (Amendment) Act, 2025 dated 24-03-2025; amendment in section 2, substitution of sections 10, 19 & 20 is made in The Punjab Vagrancy Act, 1958.
5. The Punjab Public Private Partnership Act, 2025 dated 24-03-2025 is promulgated to provide for promotion of Public Private Partnerships in Punjab.
6. The Punjab Public Private Partnership Act, 2025 dated 24-03-2025 is promulgated for forensic examination of documents, materials, equipment, impressions or other objects.
7. The Punjab Sahulat Bazaars Authority Act, 2025 dated 24-03-2025 is promulgated for launching, constructing, monitoring, regulating and maintaining Sahulat Bazaars and supplying essential commodities to the general public on notified rates and creating business opportunities.
8. Vide The Notaries (Amendment) Act, 2025 dated 24-03-2025, the amendments in long title and preamble, sections 1 to 6, 9, 10, 12, 13 and omission of sections 14 & 16-A is made in The Notaries Ordinance 1961.
9. Vide The Provincial Motor Vehicles (Amendment) Act, 2025 dated 24-03-2025; the amendment in sections 2, 39, 106 & 115, insertion of sections 44-B, 44-C & chapter V-B and addition of sixteenth schedule is made in The Provincial Motor Vehicles Ordinance, 1965.
10. Vide notification No.SOR-III(S&GAD)1-13/2025 dated 11-04-2025; amendment in Appendix-A & B is made in the Punjab Judicial Service Rules, 1994.
11. Vide notification No.SOR-III(S&GAD)1-13/2025 dated 08-04-2025; amendments in Punjab Civil Judges Departmental Examination Rules 1991 and the Punjab Judicial Service Rules, 1994.
12. Vide notification No.SOR-III(S&GAD)1-13/2025 dated 08-04-2025; amendment is made in rule 7D of the Punjab Service Rules, 1994.

13. Vide notification No.Estt.I-4/2025-PPSC/181 dated 26-02-2025; amendment in regulation No.6 is made in the Punjab Public Service Commission Regulations, 2022.
14. Vide notification No.SO(Cab-I)2-12/2014(P) dated 26-02-2025; amendment is made in second schedule under heading 'Women Development Department' of The Punjab Government Rules of Business, 2011.
15. Vide notification No.FD-SR-III-4-239/2023 dated 26-02-2025; The Punjab Defined Contribution Pension Scheme Rules, 2025 are made.
16. Vide notification No.PSDA/Regul./Financial Powers-2023/31 dated 26-02-2025; The Punjab Skills Development Authority (Delegation of Financial Powers Regulations) 2023 is made.
17. Vide notification No.SOFT(EXT)IV-2/2023 dated 10-03-2025; The Punjab Forest Offences Rules, 2024 are made.
18. Vide notification NO.S.O.(O&M-ADMN)8-4/2022 dated 10-03-2025; the clause 3.51 (vi) is added in the The Manual of Secretariat Instructions, 2023 under the heading "Weeding and destruction of file".
19. Vide notification No.SO(P&C)5-2/2024 dated 19-03-2025; The Punjab Government (Revised) Advertisement Policy, 2025 is approved for all departments of the Government of Punjab.
20. Vide notification No.SOR-III(S&GAD)2-15/87(I) dated 13-03-2025; Amendment is made in Notification No.SOR-III(S&GAD)2-15/87(1) dated 14.05.2004 at serial No.IV.
21. Vide notification No.SOR.IV(S&GAD)14-1/2025 dated 17-03-2025; The Punjab Civil Servants (Performance Evaluation Reports) Rules, 2025 are made.
22. Vide notification No.SOR-III(S&GAD)1-7/2025 dated 24-03-2025; amendment in the schedule at serial No.1 is made in The Punjab Agriculture Department (On-Farm Water Management) Recruitment Rules, 2003.
23. Vide notification No.SO(Cab-I)2-18/2018 (ROB) dated 04-04-2025; amendments in first and second schedule are made in The Punjab Government Rules of Business, 2011.

SELECTED ARTICLES

1. MANUPATRA

<https://articles.manupatra.com/article-details/The-Role-of-Arbitration-in-Resolving-Dispute-in-Multiverse>

The Role of Arbitration in Resolving Dispute in Multiverse by Amogh Aggarwal

Metaverse is a digital reality that constructs a virtual world similar to the real-world using technologies like Virtual Reality (VR) and Augmented Reality (AR). The Augmented Reality puts forward the visual elements, sound and other sensory inputs to enhance the senses whereas the virtual Reality is entirely based on simulating

fictitious environment particularly focusing on creating visually rich experience. Mark Zuckerberg have described “Metaverse is the next Generation of Internet” highlighting its future potential which further puts forward a problem that will arise in the metaverse. In legal context particularly the complex problems similar to that of Cyber Crimes will arise as metaverse introduces complexities due to its borderless and decentralized nature. As it faces such problems the role of Arbitration and Other dispute resolution Mechanism also comes into picture. Arbitration in particular truly aims to resolve dispute by allowing the parties to agree on a particular set of laws/rules/procedure that will govern the dispute hence creating a neutral platform to resolve dispute irrespective of the physical location. This ensures that Dispute is resolved amicably and efficiently.

2. MANUPATRA

<https://articles.manupatra.com/article-details/Demystifying-the-Conundrum-Instituting-a-Code-of-Conduct-for-the-Committee-of-Creditors>

Demystifying the Conundrum: Instituting a Code of Conduct for the Committee of Creditors by Siddhant Kumar and Balveer Godara

The Deputy Governor of the Reserve Bank of India (“RBI”) Shri Rajeshwar Rao recently at an international conference, advocated for an enforceable or mandatory code of conduct for the Committee of Creditors (“CoC”) in the process of insolvency resolution. CoC has a key role in the Corporate Insolvency Resolution Process (“CIRP”) under the Insolvency and Bankruptcy Code, 2016 (“IBC” or “Code”) but Shri Rajeshwar Rao raised his concerns over its workings citing issues like lack of coordination among members, ineffective management, undue prioritisation of individual creditors’ interest over the collective interest, undervaluation, disagreement over the distribution of the proceeds, misuse of authority, delaying the process by corporate debtors and most importantly over the data of the last financial year which indicates that the creditors under the IBC now recover 27% (twenty seven percent) of their dues, which was around 54% (fifty four percent) in the initial years of the Code.

3. MANUPATRA

<https://articles.manupatra.com/article-details/Sovereign-Debt-Legal-Implications-Economical-Overview>

Sovereign Debt: Legal Implications & Economical Overview by Achyuta Narayanan

Sovereign debt is an interesting contradiction between sovereignty and the willingness to repay borrowed funds. While ‘the term debt’ tends to denote a legally enforceable obligation, the term sovereignty indicates the independence of a nation free from external influences. Despite this apparent contradiction, states tend to borrow and, in the majority of cases, repay their debt. This is prompted by reasons such as keeping an attractive international image, retaining access to capital

markets, and avoiding diplomatic backlash.² The restrictive theory of sovereign immunity developed over the last century has allowed states to admit their debts in foreign courts. Nevertheless, enforcement of repayment remains a challenging endeavour. Sovereign states enjoy immunity against seizure of their assets, and it is difficult for creditors to enforce judgments against them. Unlike corporations, sovereign states do not go through bankruptcy proceedings or asset liquidation. Instead, enforcement is rather based on international conventions and economic sanctions, such as exclusion from financial markets.

4. Lawyers Club India

<https://www.lawyersclubindia.com/articles/child-witness-testimony-what-is-the-law-on-child-witness-evidence-in-india--17616.asp>

Child Witness Testimony: What is the law on child witness evidence in India? By Sankalp Tiwari

The treatment of child witnesses in criminal trials has always been a mixture of legal conservatism, cultural bias, and institutional suspicion. The law historically treated children as inherently untrustworthy, too fanciful, or vulnerable persons whose memories could be manipulated. The evidentiary standard applied to children was therefore higher, reflecting a pervasive assumption that only adults were capable of contributing significantly to judicial truth-finding. This method had especially severe consequences in cases of child sexual abuse and domestic violence, where the child was usually the only direct witness and where physical or corroborative evidence was minimal. Indian law has progressively shifted away from this exclusionary and strict criterion towards a sensitive and inclusive framework. This shift has not occurred in isolation but is the result of several converging factors evolving child psychology, international norms like the United Nations Convention on the Rights of the Child, legislative laws like the POCSO Act, and liberal judicial interpretations reflecting an increasing need to balance evidentiary stringency with child-sensitive protection. Significantly, courts have now started recognizing the trauma which legal processes can inflict on children and the need to reform legal practices to limit this harm without sacrificing the rights of the accused to a fair trial. Contemporary jurisprudence sees that although children can have development vulnerabilities, they are not unable to tell the truth. Indeed, in intra-familial abuse cases, children will often be the sole source of information available, and their exclusion can lead to terrible injustices. The movement, then, has moved from exclusion to accommodation—protecting the child from being retraumatized by legal processes, yet permitting them to speak their truth with dignity and security.

5. Lawyers Club India

<https://www.lawyersclubindia.com/articles/what-to-do-after-a-car-accident-that-was-not-your-fault-in-california-17603.asp>

What to Do After a Car Accident That Was Not Your Fault in California by Yaksh Sharma

Experiencing a car accident can be a jarring event, especially when it's not the driver's fault. In California, it's essential to take immediate and appropriate steps to protect one's rights and ensure a smooth recovery process. Knowing what actions to take can significantly influence the outcome of the situation, from securing medical attention to beginning the claims process. After ensuring everyone's safety, the next crucial step is to gather evidence at the scene. This includes exchanging information with the other driver, photographing the accident scene, and speaking to any witnesses. These details will be vital when filing a claim with the insurance company or pursuing legal action.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*
Volume - VI, Issue - VIII
16 - 04 - 2025 to 30 - 04 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(16-04-2025 to 30-04-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles
Prepared & Published by the Research Centre Lahore High Court

JUDGMENTS OF INTEREST

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1.

Supreme Court of Pakistan**Muhammad Sajid v. Mst. Shamsa Asghar, etc.****C.P.L.A.3284-L/2022****Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi**https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3284 1 2022.pdf**Facts:**

The respondent instituted a suit for recovery of maintenance allowance and dowry against the petitioner before the trial court, which was partially decreed to the extent of dowry and maintenance. Feeling aggrieved, both parties filed appeals before Additional District Judge, who enhanced the value of dowry but rejected the claim for maintenance. Subsequently, the petitioner preferred a civil revision before the High Court, which was dismissed (“impugned order”). Hence, the instant petition for leave to appeal.

Issues:

- i) What types of the property, are defined by legislature and how do they originate?
- ii) What does section 5 of Dowry and Bridal Gifts (Restriction) Act, 1976 (“Act”) provide for?
- iii) What is the legislative intent of section 5 of the Act in respect of securing the independent proprietary status of the bride?
- iv) What does the purposive interpretation of section 5 of the Act indicate?
- v) In what matters, section 7 of the Family Courts Act, 1964, read with the Schedule [Part I] appended thereto, invests jurisdiction upon the Family Court and empowers a wife to initiate proceedings?
- vi) Whether the right of a bride to her property and belongings under Section 5 of the Act is reinforced by the constitutional guarantees?
- vii) What sort of interpretation is required to be made while construing Section 5?
- viii) What is the Islamic jurisprudential foundation for right of a bride to her property and belongings?
- ix) Whether the “presents” given to the groom’s family can be claimed by the bride?
- x) What kind of definitional framework is provided in Sections 2(a), (b), and (e), read in conjunction with Section 5?
- xi) In what sense, the term “present” under Section 2(e) is to be interpreted?
- xii) What are the social realities surrounding the practice of dowry and Islamic concept of Mehr?
- xiii) How and in what way this ruling is required to be construed?
- xiv) How should the society react the practice of dowry and Mehr?

Analysis:

- i) The legislature has drawn a clear distinction between three categories of property exchanged in connection with marriage: “dowry,” “bridal gifts,” and “presents”. Dowry originates from the bride’s parents to the bride; bridal gifts are conferred by the groom or his parents upon the bride; and presents constitute a residual category of gifts given to either party to a marriage (i.e., bride or groom) or their relatives in connection with the marriage.

ii) All property given to the bride as dowry, bridal gifts, or presents shall vest absolutely in her. The use of the phrase “shall vest absolutely” confers exclusive and unqualified proprietary rights upon the bride, thereby barring any adverse claim by the husband or his relatives. The subsequent part “and her interest in property however derived shall hereafter not be restrictive, conditional or limited” acts as a safeguard to protect the bride’s proprietary autonomy from customary or familial encumbrances. This absolute vesting of rights in the bride remains unaffected by any subsequent separation or divorce, thereby reinforcing her enduring and independent entitlement to such property.

iii) The legislative intent underpinning Section 5 is to secure the independent proprietary status of the bride and to shield her from dispossession, particularly in the event of marital breakdown.

iv) A purposive interpretation of this provision necessarily confines the scope of recoverable property to that which is demonstrably intended for the bride.

v) Section 7 of the Family Courts Act, 1964, read with the Schedule [Part I] appended thereto, vests the Family Court with jurisdiction to adjudicate claims relating to “dower”, “maintenance”, “dowry”, and “personal property and belongings of a wife”. This framework empowers a wife to initiate proceedings for the recovery of property, whether classified as dower, dowry, bridal gifts or presents (given to the bride). In such cases, these items vest absolutely in her as personal property and are recoverable under the Family Courts Act.

vi) The right of a bride to her property and belongings under Section 5 is further reinforced by the constitutional guarantees enshrined in Articles 237 and 248 of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”), which recognize her right to hold, and dispose of her property irrespective of her marital status. It is further buttressed by Article 25 of the Constitution which guarantees equality before the law and equal protection of the law, obligating the State to eliminate all forms of discrimination against women. Additionally, Article 35 of the Constitution obligates the State to protect the marriage, the family, the mother, and the child.

vii) In construing Section 5, courts must therefore interpret the statutory language in harmony with these constitutional principles, ensuring that women’s economic autonomy is upheld and not subordinated to any patriarchal or customary practices.

viii) A parallel foundation for this interpretation exists in classical Islamic jurisprudence. As articulated in D. F Mulla’s Principles of Mohammadan Law, any property, movable or immovable, given to the wife at the time of the marriage, whether by her own family, the husband, or his family, is presumed to be her exclusive property unless clear and cogent evidence is led to rebut this presumption. Under Hanafi law, gifts (hiba) made to the bride in connection with marriage are deemed irrevocable and confer absolute ownership in the bride. This includes dowry, Mehr and any other wedding gifts. Although such gifts exchanged between spouses are considered irrevocable, neither party may subsequently seek their recovery or revocation. The presumption of exclusive

ownership reflects a deliberate policy of financial empowerment of women. Any interpretive approach that seeks to include property never delivered to or intended for the bride would distort both the legislative intent and well-settled Islamic principles.

ix) “Presents” given to the groom’s family cannot be claimed by the bride under the Act unless it is clearly established that they were intended solely for her use or benefit.

x) The definitional framework provided in Sections 2(a), (b), and (e), read in conjunction with Section 5, establishes a clear threshold: only property that legally vests in the bride is afforded protection under the statute.

xi) The term “present” under Section 2(e) must be interpreted restrictively to exclude items given to the groom’s family or relatives, as such items do not vest in the bride and are therefore not recoverable by her.

xii) While this judgment is confined to interpreting the statutory protections afforded to the bride, we find it necessary to acknowledge the broader social realities surrounding the practice of dowry. When socially imposed, dowry can exert severe pressure on families, especially those with limited financial resources. In contrast, Islam designates Mehr as the sole obligatory provision, an unconditional gift from the groom to the bride, intending to secure her financial autonomy without burdening her family. Dowry, unless given voluntarily and free from coercion, or social pressure, perpetuates inequality and exploitation, running contrary to the ideals of equitable marriage enshrined in both constitutional and Islamic frameworks.

xiii) This ruling must not be misconstrued as an endorsement of dowry; rather, it serves as a firm reminder that any property received by the bride remains exclusively hers and is not subject to claim or appropriation by the groom or his family. No misplaced expectations or entitlements should arise in this regard.

xiv) Society must strive to abandon regressive dowry practices, and instead promote a model of marriage rooted in simplicity, mutual dignity, and the groom’s financial responsibility through Mehr. As a matter of public policy, any gifts or contributions made by the bride’s family should be entirely voluntary, and given without societal pressure, thereby preserving familial dignity and reaffirming the constitutional commitment to equality and human dignity.

Conclusion: i) “Dowry,” “bridal gifts,” and “presents” are the three categories of property exchanged in connection with marriage. Dowry are given from the bride’s parents to the bride, bridal gifts are awarded by the groom or his parents to the bride and presents are rest of the category of gifts given to either party to a marriage.

ii) All property given to the bride in shape of dowry, bridal gifts and presents shall vest in her and the same will remain unaffected by any subsequent separation or divorce.

iii) The legislative intent of section 5 is to protect the possession and proprietary status of the bride.

iv) A purposive interpretation of section 5 indicate that this provision restricts the

scope of the property intended for the bride.

v) Section 7 of the Family Courts Act, 1964, read with the Schedule [Part I] confers the jurisdiction upon the Family Court to adjudicate the claims relating to dower, maintenance, dowry, and personal property and belongings of a wife. As these items vest in her so the same are recoverable under the Family Courts Act.

vi) See above analysis No. vi.

vii) The interpretation of section 5 must be in harmony with the constitutional principles.

viii) Any property given to the wife at the time of the marriage, is presumed to be her exclusive property unless such presumption is rebutted through clear and cogent evidence.

ix) See above analysis No. ix

x) The definitional framework establishes a threshold that the property vests in the bride is protected under the statute.

xi) The term “present” is to be interpreted restrictively.

xii) See above analysis No. xii.

xiii) The ruling affirms that dowry remains the bride’s exclusive property and cannot be claimed by the groom or his family.

xiv) Society should reject regressive and instead promote marriages founded on simplicity, mutual dignity, and the groom’s financial responsibility through Mehr. Any gifts or contributions from the bride’s family should be voluntary, and free from social pressure.

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- 2. Supreme Court of Pakistan**
The Chief Commissioner Regional Tax Officer, Bahawalpur, etc. v. Shaheen Yousaf
C.P.L.A. No. 808/2023
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 88 2023 160420 25.pdf

Facts: The respondent, whose husband, an employee of the Income Tax Department, passed away, was appointed as a Lower Division Clerk (LDC) under the Prime Minister’s Assistance Package. Her contract was extended multiple times until it was terminated based on an Office Memorandum stating that a widow becomes ineligible for compassionate employment upon remarriage. The respondent challenged this termination in the High Court, which directed the Federal Board of Revenue to address her grievance. After her representation was rejected, she filed a second writ petition, which was allowed vide (“impugned judgment”), resulting in her reinstatement. Hence, the instant petition seeking leave to appeal against the impugned judgment.

Issues: i) Whether the right to compassionate employment extended to a widow under the Prime Minister’s Assistance Package can be withdrawn on the pretext that she has subsequently remarried?

ii) Whether the judgments of Supreme Court operate prospectively?

Analysis:

i) Turning to the O.M. dated 15.12.2015, it is manifestly discriminatory as it singles out widows, the female spouses of deceased government employees for disqualification from compassionate employment upon remarriage, without imposing a corresponding restriction on widowers, notwithstanding the Prime Minister's Assistance Package which offers compassionate employment to both a widow and a widower.⁵ This gender-specific disqualification amounts to direct discrimination based on sex, contravening Articles 25(1) and 25(2) of the Constitution, which guarantee equality before the law and prohibit discrimination on the basis of sex.⁶ The O.M.'s discriminatory nature is further underscored by its inapplicability to widowers in identical circumstances, rendering it inherently unequal, arbitrary, and devoid of constitutional justification. It therefore fails the test of reasonable classification and cannot be sustained in law.⁷ It also offends the guarantees of non-discrimination in public service (Article 27)⁸. By conditioning continued employment on a widow's remarriage status, the O.M. reinforces outdated patriarchal assumptions, treating widows as passive dependents entitled to benefits only while they remain unmarried. This violates the fundamental rights to livelihood and dignity under Article 14 of the Constitution.⁹ It penalizes a woman for choosing to remarry, a constitutionally protected liberty by extinguishing her employment rights.

ii) It is well settled that the judgments of this Court operate prospectively, unless declared otherwise.

Conclusion:

i) No, this violates the fundamental rights under the Constitution.

ii) Yes, the judgments of Supreme Court operate prospectively, unless declared otherwise.

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3. **Supreme Court of Pakistan**
Senior Joint Director Foreign Exchange Operations Division SBP v. Federation of Pakistan and others
Civil Petition No. 1477 of 2023
Mr. Justice Amin-ud-Din Khan, Senior Judge, Mr. Justice Jamal Khan Mandokhail, Mr. Justice Naeem Akhter Afghan, Mr. Justice Shakeel Ahmad, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1477 2023 2003 2025.pdf

Facts:

Section 23C (4) of the Foreign Exchange Regulation Act, 1947 and rule 8 of the Adjudication Proceedings and Appeal Rules, 1998 were challenged before Lahore High Court and same were declared unconstitutional and in violation of fundamental right of access to justice. The order was challenged before Supreme Court of Pakistan and the same was upheld.

Issues:

i) Whether right of appeal is fundamental rights of a citizen?

- ii) Whether imposition of unreasonable condition upon admission of appeal amount to violation of fundamental rights?
- iii) What is the legal status of an enactment which is inconsistent with the constitution?
- iv) What would be an “unreasonable” condition attached to an appeal?

Analysis:

- i) There is always a possibility of error, mistake of facts or law in a decision at the level of initial forum, therefore, the right of appeal is a substantive right of an aggrieved person. It existed since the establishment of judiciary, with its primary function to protect against miscarriage of justice. A right of access to justice and a right to a fair trial and due process is a fundamental right of a citizen, guaranteed by Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973 (‘Constitution’), which includes an appeal to a higher, independent and impartial forum to scrutinize the decision of the fora below. It plays a role to review very carefully, to interpret and apply law in most accurate and uniform manner within the limits of legal procedure, in order to eliminate a slightest instance of miscarriage of justice. Denial of right of appeal violates the fundamental rights of a citizen, the principles of natural justice and the injunctions of Islam.
- ii) The Constitution guarantees that every person enjoys the protection of law and is to be treated in accordance with law, therefore, no clog, condition or restriction should be imposed by a simple act or law on a fundamental right conferred upon him by the Constitution, except in specific situation and according to due process, only in the larger interest of public... . It is well settled that the right of appeal derives through a Statute. The Constitution does not restrict the Legislature to impose conditions or restrictions, while granting the right of appeal. However, those conditions or restrictions must be with due regard to the public requirement and reasonable. Making a fundamental right subject to any clog, condition or restriction, contrary to the constitutional provisions or beyond the parameters of reasonableness, would be violative of the fundamental rights guaranteed by the Constitution...
- iii) The authority of the Parliament to legislate is derived from the Constitution, which must be consistent with and in accordance with the Constitution. Any enactment, a part of it or amendment introduced in it, if inconsistent or in violation of any provision of the Constitution, shall to the extent of such inconsistency or violation, be void.
- iv) Unreasonable conditions attached to an appeal would likely be one that is not justified, disproportionate or infringed upon the fundamental rights or the legal process. An unreasonable condition could make it impossible or unfairly difficult to exercise the right to appeal. Similarly, conditions that obstruct the normal and fair functioning of the due process for an appellant, such as, the payment of excessive amount could be considered as unreasonable.

Conclusion: i) Yes, right of appeal to a higher forum is fundamental rights of a citizen.

- ii) Yes, imposition of unreasonable condition upon admission of appeal amount to violation of fundamental rights.
- iii) Enactment inconsistent or in violation of any provision of the Constitution, shall to the extent of such inconsistency or violation, be void.
- iv) See above analysis iv.

4. Supreme Court of Pakistan
Federation of Pakistan through Secretary Finance Division and another v. Abdul Rasheed Memon
Civil Petition. No. 1124-k of 2023
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1124 k 2023.pdf

Facts: The respondent, a civil servant, sought re-fixation of his salary based on a 15% increase ordered by the President in 2007, claiming the revised pay fell short of the mandated percentage. His appeal was allowed by the Tribunal relying on an earlier decision which had already been set aside by the Supreme Court; the said judgment is challenged through instant civil petition by the Federation of Pakistan.

Issues:

- i) What is the scope and application of the point-to-point pay fixation formula in revised pay scales?
- ii) What is the accounting concept of rounding off, and how is it applied in financial standards?
- iii) What is the protocol followed by the Supreme Court regarding communication of its judgments?
- iv) What is the binding effect of the Supreme Court's pronouncements under Article 189 of the Constitution?
- v) When is a court's decision considered to be rendered *per incuriam*?
- vi) What is the doctrine of stare decisis, when does it apply, and what is the rationale behind its adherence in the judicial system?

Analysis:

- i) For all intents and purposes, it commands the fixation of pay in the revised pay scale, if any, at the stage in the relevant revised basic pay scale that corresponds to as many stages above the stage occupied by a civil servant/employee above the minimum of the modified/revised basic scale.
- ii) According to the accounting/mercantile system or practice, a number is simplified by keeping its value intact but rounding it to the nearest whole number. This process, termed as "rounding off", may be applied to whole numerals or decimals at several places; to hundreds, tens or tenths, in order to maintain the value (...) The arithmetic rounding off method is the most common rounding algorithm and is based on the "round to nearest" rule. It rounds a number to the nearest whole number, with numbers exactly halfway between two whole numbers rounded to the nearest even number. The International Financial Reporting Standards (IFRS), developed by the International Accounting

Standards Board (IASB), is a set of accounting standards which includes guidelines on rounding financial numbers in financial statements, such as the requirement of rounding amounts to the nearest whole number or the nearest multiple of 10. Similarly, the Generally Accepted Accounting Principles (GAAP) in the United States includes similar guidelines on rounding financial numbers as IFRS.

iii) It is common protocol that, in cases of affirming, setting aside, or even modifying any order or judgment of any court, tribunal, or quasi-judicial authority, a copy of the judgment is transmitted by this Court for information, future guidance, or implementation.

iv) Where the Supreme Court deliberately, and with the intention of settling the law, pronounces upon a question of law, such pronouncement is the law declared by the Supreme Court within the meaning of Article 189 of the Constitution of the Islamic Republic of Pakistan and is binding on all of the courts of Pakistan (...) even obiter dicta enjoy a highly respected position as if they contain a definite expression of the Court's view on a legal principle or the meaning of a law.

v) The verdict of a court is considered *per incuriam* when it is rendered in ignorance of a statute or rule having the force of statute (...) *per incuriam* means “*per ignorantiam*”, that is, ignorance of a statute or of a rule having statutory effect which would have affected the decision if the Court had been aware of it (...) where a case or statute had not been brought to the Court's attention and the Court gave the decision in ignorance or forgetfulness of the existence of the case or statute, it would be a decision rendered in *per incuriam*.

vi) The doctrine of *Stare Decisis* is a Latin term that connotes “let the decision stand” or “to stand by things decided” (...) The doctrine of precedents, *vis-à-vis* *stare decisis*, has fundamental value in ensuring an objective of certitude and firmness in the legal system. The rule of adherence to judicial precedents finds its expression in the doctrine of *stare decisis*. This doctrine posits that, when a point or principle of law has officially been decided or settled by the ruling of a competent court in a case where it was directly and necessarily involved, it will no longer be considered as open to re-examination or to a new ruling. This policy of the courts is conveniently termed as the doctrine of *stare decisis*. The rationale behind this policy is the need to promote certainty, stability, and predictability in the law.

- Conclusion:**
- i) The point-to-point fixation formula mandates corresponding stage-wise pay adjustment above the minimum in the revised scale.
 - ii) Rounding off is an accounting process of simplifying figures to the nearest value, recognised by IFRS and GAAP.
 - iii) The Supreme Court transmits copies of its judgments for information, guidance, or implementation as a matter of protocol.
 - iv) Pronouncements of the Supreme Court on questions of law are binding under Article 189, and even obiter dicta carry authoritative weight.
 - v) A decision is rendered *per incuriam* when given in ignorance of a relevant

statute or binding precedent.

vi) The doctrine of stare decisis requires courts to follow settled legal principles decided by competent courts to ensure consistency, stability, and predictability in the law.

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5. **Supreme Court of Pakistan**
The Province of Sindh through Chief Secretary, Government of Sindh, Karachi & others v. Abid Ali Jatoti & others
Civil Petitions No.220-K to 442-K of 2025
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 220 k 2025.pdf

Facts: Differently-abled persons sought enforcement of their right to employment under the 5% quota reserved by law. The High Court directed government authorities to ensure compliance with the quota and process pending applications. The government of Sindh filed an appeal before Supreme Court which is the subject of this decision.

Issues:

- i) Whether differently-abled persons are entitled to enforcement of the employment quota?
- ii) Whether the Constitution of Pakistan guarantees equality and prohibits discrimination among citizens in matters of law, protection, and employment opportunities?
- iii) Whether the Sindh Empowerment of Persons with Disabilities Act, 2018 effectively incorporates the UN Convention principles and provides a framework for the protection and certification of persons with disabilities?
- iv) Whether the effective enforcement of beneficial legislation, including judicial review, is essential for ensuring justice, equality, and protection of rights?

Analysis: i) The State is obliged under Article 3 of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”) to ensure the elimination of all forms of exploitation and work towards the gradual fulfillment of the fundamental principle of “from each according to his ability, to each according to his work”. The foremost objective of all laws in our country related to disabled/differently-abled persons is to protect and safeguard their rights, including provisions for employment commensurate with their capabilities and capacities to work. Furthermore, if we examine the principal objective of the United Nations Convention on the Rights of Persons with Disabilities, 2006 (“UN Convention”), it *inter alia* envisions the promotion and protection of the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, along with respect for their inherent dignity. Persons with disabilities include those who have longterm physical, mental, intellectual, or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others. Discrimination on the basis of disability means any distinction, exclusion, or restriction that impairs or nullifies the recognition, enjoyment, or exercise of all human rights and

fundamental freedoms on an equal basis in the political, economic, social, cultural, civil, or any other field.

ii) According to Article 25 of the Constitution, all citizens are equal before the law and are entitled to equal protection of the law, and there shall be no discrimination on the basis of sex. The catchphrase 'equal laws' emphasizes that there should be no discrimination between individuals in the context of law and policy if both are evidently on the same footing. Our constitution does not only command equality but also safeguards and guarantees equal opportunity among the persons within the same class or genre, without illogical distinctions or partialities. Article 4 of the Constitution encompasses the doctrine of equality before the law and equal protection, ensuring that no action detrimental to a person's life, liberty, body, reputation, or property can be taken except in accordance with the law. The Objectives Resolution, made a substantive part of the Constitution by virtue of Article 2-A, unequivocally enjoins that the principles of equality, social justice, and economic justice, as enunciated by Islam, will be fully observed and guaranteed as fundamental rights. Furthermore, the Principles of Policy contained in Article 38 of the Constitution also provide that the State should secure the well-being of the people by raising their standards of living, ensuring an equitable adjustment of rights between employers and employees, and providing for all citizens, within the available resources of the country, facilities for work and adequate livelihood, while reducing income disparities among individuals.

iii) The preamble of the 2018 Act clearly demonstrates and intelligibly epitomizes that it was promulgated to give effect to the UN Convention and for matters connected therewith or incidental thereto. The United Nations General Assembly adopted this Convention on the 13th of December, 2006, laying down the following principles for the empowerment of persons with disabilities: (a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (b) non-discrimination; (c) full and effective participation and inclusion in society; (d) respect for difference and acceptance of 'Persons with Disabilities' as part of human diversity and humanity; (e) equality of opportunity; (f) accessibility; (g) equality between men and women; (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities. According to the 2018 Act, the Islamic Republic of Pakistan ratified the UN Convention on 25th October, 2011. Since it is now a provincial subject, the Provincial Assembly of Sindh, in an effort to promote and ensure full and effective inclusion of persons with disabilities in the community, promulgated the 2018 Act with an institutional framework to protect their rights, in general, and in particular, to align with the UN Convention by ensuring meaningful and effective access to various physical and intangible resources tailored to fulfill the special needs of persons with disabilities. As per Section 2 (h) (Definitions Clause), 'Disabilities/Specified disabilities' refers to the disabilities specified in the Schedule. The Schedule appended to the Act in extenso delineates the

description/categories under distinct heads, such as: Physical disabilities, Neuro-Developmental Disorders, Disabilities caused due to chronic neurological conditions, Multiple Disabilities i.e., more than one of the above specified disabilities causing severe communication, developmental, social and educational problems), and any other category as may be notified by the Government (not otherwise specified). Additionally, Section 25 of the 2018 Act provides a guiding principle and procedure, including a right of appeal for an aggrieved person for 'Certification of Persons with Disabilities', under which the Government is obligated to designate 'District Committees', in each district of Sindh, composed of persons with the requisite qualifications, experience, and competency to assess the extent of specified disabilities in individuals.

iv) Obviously, the 2018 Act is beneficial legislation enacted for the empowerment of persons with disabilities, focused on a particular subject. Therefore, this law ought to be enforced and implemented in letter and spirit across the board without any bias and discrimination. Mere legislation is not sufficient, nor does it serve any purpose unless it is specifically enforced and administered. Implementing and enforcing laws in the right dimensions represent the unfeigned strategy through which government authorities put the laws into action for effective and meaningful compliance under their beneficiaries. The effectual and proficient implementation of the law is not only essential for maintaining order, but it also guarantees justice, even-handedness, and equality in society with impartiality. Contemporaneously, the tool of judicial review is also a significant *modus operandi* that authorizes the courts to dwell on legislative competence, the constitutionality of law, and executive actions, to analyze whether the law aligns with constitutional mandates and whether its implementation is fair and just, without any arbitrariness or discrimination. This is necessary for safeguarding and upholding the rights of people as a key element in strengthening the rule of law.

- Conclusion:**
- i) Yes, differently-abled persons are entitled to enforcement of their employment rights through judicial directions.
 - ii) Yes, the Constitution guarantees equality and prohibits discrimination among citizens in law, protection, and employment.
 - iii) Yes, the 2018 Act incorporates UN principles and establishes a framework for the protection and certification of persons with disabilities.
 - iv) Yes, effective enforcement and judicial review are essential for achieving justice, equality, and safeguarding rights.

6. **Supreme Court of Pakistan**
Commissioner Inland Revenue, Corporate Zone, Regional Tax Office,
Faisalabad v. M/s National Public Welfare Society, Jinnah Colony,
Faisalabad and another
Civil Petition No.687-L of 2024
Mr. Justice Munib Akhtar, Mrs. Justice Ayesha A. Malik, Mr. Justice Aqeel
Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 687 1 2024.pdf

- Facts:** The Civil Petition contests the High Court's dismissal of an income tax reference by the Commissioner Inland Revenue. The Petitioner's counsel claims the High Court misinterpreted the Income Tax Ordinance, 2002, regarding a welfare society's tax credit eligibility for the 2019 tax year. The taxpayer received a show cause notice for not having valid approval for tax credit, as their previous approval had expired. The assessment order and subsequent appeal upheld this view, the Tribunal ruled in favor of the taxpayer, stating their approval was valid from 2016, not retrospectively from 2007. The High Court affirmed the Tribunal's decision.
- Issues:** i) Whether Rule 214 of Income Tax Rules, 2002 as amended by the SRO will apply retrospectively?
- Analysis:** A bare reading of Rule 214 clarifies that it will apply for the subsequent three years meaning that it will apply prospectively as the words subsequent three years do not suggest that this amendment will apply retrospectively. Admittedly, the SRO does not contain any provision which suggests that the said SRO will apply retrospectively. Under the circumstances the contention of the Petitioner that the approval obtained by the taxpayer in the year 2007 is no longer valid, as it expired in 2010, on account of the SRO, is misconceived as the argument suggests a retrospective application of the SRO. This goes against the settled law that retrospective application of the law cannot be made unless specifically provided for, particularly in tax cases.
- Conclusion:** i) It will apply prospectively.

7. **Supreme Court of Pakistan,**
Mst. Ramzanu Bibi v. Ibrahim (deceased) through L.Rs, etc.
CA No. 113-L/2010
Mr. Justice Amin-Ud-Din Khan, Mr. Justice Shahid Waheed.
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 113_l_2010.pdf

- Facts:** The appellant has filed this appeal challenging the dismissal of her claim over inherited land by the Courts blow. She asserts that the land, which she inherited from her mother, was fraudulently and deceitfully shown as gifted by her to respondent No.1 and the predecessor of respondents No.2 to 5 through impugned mutation.
- Issues:** i) Whether the entry into the Rozenamcha Waqiyati can serve as the instrument of the gift?
 ii) Whether a mutation based on an entry in the Rozenamcha Waqiyati confers ownership rights?
 iii) What is the nature of mutation proceedings, and do they confer title to the property?

- iv) Whether parties relying on a mutation are required to prove the original transaction when the authenticity of the mutation is challenged?
- v) What role does the burden of pleading play in framing issues?
- vi) How does the evidentiary burden establish the factual basis in a case?
- vii) What role does the burden of persuasion play in determining legal entitlement?
- viii) Whether the party asserting the gift is legally obligated to specify the date, time, location, and witnesses to substantiate the claimed transaction?
- ix) What is the importance of providing a reason for a gift?
- x) Whether the Courts have the power to scrutinize the motives behind a gift to protect inheritance rights?
- xi) What role do fingerprints play in establishing an individual's identity in civil cases?
- xii) In what cases does Article 95 of the Limitation Act of 1908 apply?
- xiii) Whether Article 95 applies when a mutation is illegally approved by a revenue officer?
- xiv) Which Article of the Limitation Act, 1908 applies to a suit for declaration and possession where a mutation is challenged on the ground of fraud?
- xv) Whether a declaratory suit seeking to establish title to property represents a subsisting right?
- xvi) Whether the right to institute a declaratory suit is a continuing right?
- xvii) When does the right to sue arise?
- xvii) Whether each successive act of denial gives rise to a new cause of action?

Analysis:

- i) The entry into the Rozenamcha Waqiat does not itself serve as the instrument of the gift.
- ii) Even if a mutation—based on an entry in the Rozenamcha Waqiat—is attested, this documentation does not confer ownership rights.
- iii) This Court has consistently held that mutation proceedings are not judicial in nature; they are administrative processes that merely embody the ownership changes to ensure the realisation of land revenue but do not inherently confer title to the property involved.
- iv) When the authenticity of any mutation is brought into question, it is incumbent upon the parties asserting their rights through the mutation to refer back to the original transaction that led to the mutation's attestation. They must then substantiate their claims concerning this original transaction, which underpins the entry and validation of the mutation.
- v) The burden of pleading ensures proper framing of issues.
- vi) The evidentiary burden establishes factual basis.
- vii) The burden of persuasion is the ultimate determinant of legal entitlement.
- viii) The respondents were obligated to clearly articulate the date, time, and location of the transaction, as well as the names of the witnesses, who were present when Ramzanu Bibi purportedly proposed to gift her inherited land, and the respondents affirmed their acceptance of this gift at that time.

- ix) The importance of providing a reason for making a gift is amplified in light of empirical studies, which indicate that superficial or frivolous gifts are often made, particularly to disadvantage female family members and undermine their inheritance rights.
- x) The courts retain the power to scrutinise the motives and circumstances surrounding a gift, ensuring that rightful ownership is protected and that established lines of inheritance are respected.
- xi) Here, we will pause to highlight and underscore fingerprint's vital role in revealing an individual's true identity. Whether concerning living persons or those who have passed away, known or unknown persons, fingerprints serve as critical evidence to support or challenge the claim of the parties involved in civil cases.
- xii) This Article applies only to cases where a party has been, by means of fraud, induced to enter into some transaction, execute some deed, or do some other act, and desires to be relieved from the consequences of such act.
- xiii) The mutation, as stated above, does not confer title in favour of any party but constitutes merely an official record for fiscal purposes. As such, its illegal approval by the revenue officer had no bearing on the appellant's title and could be treated as a nullity. Given the situation, Article 95 was inapplicable to her case.
- xiv) A careful examination of the plaint reveals that the appellant's claim was based on her asserting ownership over the disputed property. Central to her allegations was the assertion of fraud, particularly that mutation No. 914 was sanctioned in her absence, accompanied by alleged collusion between the respondents and certain revenue officials. The legal framework governing such a claim, particularly for a suit seeking a declaration and a request for consequential relief—such as possession—falls under Article 120 of the Limitation Act, 1908.
- xv) It is important to understand that a declaratory suit that seeks to establish title to a particular property represents a subsisting right.
- xvi) The right to institute such a suit is a continuing right, remaining intact as long as the claimant (plaintiff) possesses rights to the disputed property.
- xvii) The pivotal point at which the right to sue accrues arises when the opposing party denies or challenges the specific rights associated with the property in question or at least exerts an unequivocal threat to infringe that right.
- xviii) In situations characterised by successive acts of denial, a new cause of action arises each time there is a significant challenge to the claimant's (plaintiff's) rights.

- Conclusion:**
- i) Entry in Rozenamcha Waqiyati is not the instrument of gift.
 - ii) Mutation based on Rozenamcha entry does not confer ownership rights.
 - iii) Mutation proceedings are administrative, not judicial, and do not confer title to property.
 - iv) When a mutation's authenticity is challenged, the claimant must prove the original transaction it is based on.
 - v) See above analysis No.v).

- vi) See above analysis No.vi).
- vii) See above analysis No.vii).
- viii) The party is obligated to specify the date, time, location, and witnesses of the transaction when the gift was proposed and accepted.
- ix) Providing a reason for making a gift is crucial to prevent superficial gifts that undermine female family members' inheritance rights).
- x) Courts can scrutinize the motives and circumstances of a gift to protect ownership and respect inheritance rights.
- xi) Fingerprints play a vital role in establishing identity, serving as key evidence in civil cases for both living and deceased individuals.
- xii) Article 95 of Limitation Act 1908 applies when a party, induced by fraud, seeks relief from the consequences of a transaction or act.
- xiii) The mutation serves only as an official record and, if illegally approved, does not affect title; therefore, Article 95 is inapplicable.
- xiv) See above analysis No.xiv).
- xv) A declaratory suit seeking title to property represents a subsisting right.
- xvi) The right to file declaratory suit persists as long as the claimant holds rights to the disputed property.
- xvii) The right to sue arises when property rights are denied, challenged, or clearly threatened.
- xviii) New cause of action arises with each successive denial of claimant's rights.

8. Supreme Court of Pakistan
Muhammad Aslam v. The State
Criminal Appeal No.77 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. 77 2023.pdf

Facts: Accused who was a relative of the complainant's wife, had been residing at the complainant's house for three days before the occurrence. On the date of occurrence, the complainant and two witnesses found the accused attacking the complainant's two sons with a wooden cricket bat and scissors, resulting in their deaths. The accused allegedly fled the scene with the murder weapons. The accused was later arrested, and a blood-stained bat and scissors were recovered. The trial court convicted the accused under Section 302(b) PPC, sentencing him to death twice and imposing compensation. The Hon'ble High Court upheld the conviction. The accused challenged these decisions in the present appeal, claiming false implication due to familial enmity and lack of credible evidence.

Issues:

- i) Whether the accused is entitled to the benefit of doubt due to material inconsistencies and uncertainties in the prosecution's case?
- ii) Whether recovery of the weapon of offence alone can form the basis for conviction of the accused when the substantive evidence is doubtful or disbelieved?

- Analysis:**
- i) It is a settled proposition of law that in matters where the prosecution case contains doubts and mysteries, then in such situation the benefit of the same has to be given to the accused, who is considered to be the favorite child of the law.
 - ii) The recovery of a weapon of offence is "only a corroborative piece of evidence; and in absence of substantive evidence, it is not considered sufficient to hold the accused person guilty of the offence charged. When substantive evidence fails to connect the accused person with the commission of offence or is disbelieved, corroborative evidence is of no help to the prosecution as the corroborative evidence cannot by itself prove the prosecution case."
- Conclusion:**
- i) In matters where the prosecution case contains doubts then in such situation the benefit of the same has to be given to the accused.
 - ii) Recovery of a weapon of offence is only a corroborative piece of evidence; in absence of substantive evidence, it is not considered sufficient to hold the accused person guilty of the offence charged.

9. Supreme Court of Pakistan
Muhammad Ashraf v. The State
Criminal Appeal No.188 of 2023
Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 188 2023.pdf

Facts: The Sessions Court (Trial Court) convicted the appellant under section 302 (b) PPC, on the charge of murder of complainant's brother, and sentenced him to death. The appeal of the appellant was failed from the High Court. Hence the Criminal appeal was filed by the convict before the Hon'ble Supreme Court.

Issues:

- i) What is the effect of delay in lodging the FIR?
- ii) What is depicted from the un-natural conduct of the prosecution eye-witnesses?
- iii) What, inter alia, constitutes the contradiction between the ocular account and the medical evidence?
- iv) Whether conviction and sentence can be maintained mere on the basis of recovery of hatchet and positive FSL report, if direct evidence is disbelieved?
- v) What is the effect of doubt in criminal justice system?

Analysis:

- i) All the above mentioned facts show that FIR was lodged after consultation/ deliberation and there was no plausible explanation for the gross delay in lodged the FIR. The abovementioned gross delay in lodging the FIR has created doubt regarding the truthfulness of the prosecution story.
- ii) The abovementioned un-natural conduct of the prosecution eye-witnesses shows that in-fact they were not present at the spot at relevant time, hence their evidence is not worthy of reliance.

iii) According to his (Doctor) opinion, the probable time that elapsed between the injury and the death was instantaneous, whereas the time that elapsed between the death and the post-mortem examination was 9 to 10 hours, which means that the occurrence took place on 28.12.2012 at 12.00 (night) to 1.00 a.m and as such the medical evidence contradicted the ocular account of the prosecution.

iv) It is noteworthy that as we have already disbelieved the direct prosecution evidence, therefore, the conviction and sentence of the appellant cannot be maintained merely on the basis of alleged recovery of hatchet and positive FSL report.

v) It is by now well settled that if there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused.

- Conclusion:**
- i) Delay in lodging the FIR creates doubt regarding the truthfulness of the prosecution story.
 - ii) It depicts that they were not present at the spot at relevant time.
 - iii) See above analysis No.iii
 - iv) If direct evidence is disbelieved then the conviction and sentence cannot be maintained mere on the basis of recovery of hatchet and positive FSL report.
 - v) The doubt in prosecution case is sufficient to acquit the accused.

10.

Supreme Court of Pakistan

Muhammad Azeem, etc. v. The State, etc.

Criminal Petition No.1315-L of 2022

Ms. Justice Musarrat Hilali, Mr. Justice Aqeel Ahmed Abbasi.

https://www.supremecourt.gov.pk/downloads_judgements/crl.p.1315_l_2022.pdf

Facts: The petitioners got lodged an FIR under section 302, 147 & 149 PPC against respondent No.2; Accused party also got registered cross version; After investigation, police placed the names of the petitioners in column No.2 of the report under section 173 of Cr.P.C. Trial Court did not concur with police opinion and summoned them to face the trial. This Order was assailed through Criminal Revision, which was dismissed by High Court, and the same has been impugned through instant petition.

Issues: i) Whether the Trial Court is justified in taking cognizance under Section 190 Cr.P.C. without calling the Investigating Officer or highlighting any investigation flaw?

Analysis: i) The cognizance has been taken under Section 190 Cr.P.C. by the learned Trial Court, however, without summoning the Investigating Officer or pointing out any error or illegality in the process of investigation.

Conclusion: i) See above analysis No.i)

- 11. Supreme Court of Pakistan**
Qayum Nawaz v. Gulab Khan and others
C.P.L.A.3586/2023
Ms. Justice Musarrat Hilali, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3586_2023.pdf

- Facts:** Petitioner challenged the sale of a piece of land through a pre-emption suit, claiming lawful performance of Talabs; another person also filed a separate pre-emption suit for the same property, leading to consolidation of both suits, with the petitioner treated as a rival pre-emptor; Trial Court dismissed both suits, and subsequent appeals by the petitioner were also dismissed by the appellate and revisional courts; petitioner has filed a civil petition for leave to appeal against judgment of High court in revision petition.
- Issues:** i) Whether service of Talb-e-Ishhad notice without proof of delivery satisfies Section 13(3) of the KPK Pre-emption Act, 1987?
 ii) Whether the bar under Section 19 and the waiver under Section 15 of the Khyber Pakhtunkhwa Pre-emption Act, 1987 apply to pre-emption claims due to the pre-emptor's omission?
- Analysis:** i) According to Section 13(3) of the Khyber Pakhtunkhwa Pre-emption Act, 1987, the pre-emptor is required, after making Talb-i-Muwathibat to make Talb-e-Ishhad soon thereafter not later than two weeks from the date of knowledge, by sending a notice in writing attested by two truthful witnesses, under registered cover acknowledgement due, to the vendee, confirming his intention to exercise the right of pre-emption, whereas, merely sending a notice in writing without establishing that such notice has been duly served under registered cover acknowledgement due upon the vendee does not meet the requirements of law.
 ii) In terms of Section 19 of the Khyber Pakhtunkhwa Pre-emption Act, 1987, the bar on such like pre-emption cases is also attracted in the instant case. Such an omission otherwise constitutes waiver on the part of pre-emptor to pre-empt the sale in view of the provisions of Section 15 of the Khyber Pakhtunkhwa Pre-emption Act, 1987.
- Conclusion:** i) Merely sending a notice in writing without establishing that such notice has been duly served under registered cover acknowledgement due upon the vendee does not meet the requirements of law.
 ii) See analysis No. ii.

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- 12. Supreme Court of Pakistan**
Senior Member Board of Revenue, Punjab, Lahore, etc. v. Abdul Shakoor (deceased) through his L.Rs.
C.P.L.A.No.1718-L of 2015
Justice Shahid Bilal Hassan, Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1718_1_2015.pdf

- Facts:** The order of the Senior Member was assailed before the High Court in its writ jurisdiction which was found to be outside of the Senior Member's jurisdiction. High Court in its order (Impugned Order) reasoned that the Senior Member exercised the power of review suo motu i.e. without an application for review moved by an aggrieved party, which power was never vested in the Senior Member in terms of Section 8 of the Board of Revenue Act, 1957. The petitioner(s) have filed the instant petition seeking indulgence of this Court while granting leave to appeal against the said order.
- Issues:**
- i) How Board of Revenue can exercise power of review under section 8 of the Board of Revenue Act, 1957?
 - ii) Whether the Member of Board of Revenue can exercise power of review Suo Motu?
 - iii) Whether a judicial order can be set aside through administrative order?
- Analysis:**
- i) It is observed that power to review in revenue jurisdiction is vested in the Board of Revenue under Section 8 of the Act on a very limited score, at the motion of "any aggrieved person" within a period of 90 days from the date of decree or order, as the case may be, on the ground(s) inter alia, 1) On the discovery of new and important matter or evidence, which despite due diligence, was not within the knowledge of review petitioner or could not be produced by him at the time when the decree or order was passed or made, 2) On account of some mistake or error apparent on the face of the record and lastly 3) for any other sufficient reasons. The Board may, after due notice to the parties affected and after hearing them, pass such decree or order as the circumstances of the case require.
 - ii) Suo motu power to review does not vest in the Board of Revenue.² The Punjab Board of Revenue Act, 1957 does not permit exercise of any suo motu review jurisdiction.⁴ Therefore, purported exercise of jurisdiction thereunder by the Member (Colonies), Board of Revenue was ex facie without lawful authority.
 - iii) The review proceedings by Senior Member were initiated on the administrative side in respect of an order which was passed on the judicial side by Member (Judicial-II). There is no cavil with the proposition that a judicial order is not liable to be set aside through an administrative order. This Court in Commissioner of Income Tax East Pakistan⁷ and Chuttan⁸ has laid down that the power exercised on the judicial side cannot be set at naught through exercising the power on the administrative side, even more so, when the order on the judicial side had attained finality. It is true that the Board of Revenue acts in a dual capacity. On the administrative side, it controls the consolidation proceedings and on the judicial side it deals with disputes arising out of it. But once a dispute has been decided on the judicial side, the exercise of executive authority to nullify the effect of judicial decisions would be an improper exercise of authority. Nullifying the effect of judicial decisions even by legislative process has never received universal backing, although it is not unknown to our system of law. Examples of

this can be found in our legislative history nevertheless revoking of a judicial decision by an administrative process is certainly something new and cannot be approved of.

- Conclusion:** i) See analysis Para No.i
 ii) Suo motu power to review does not vest in the Board of Revenue
 iii) See analysis Para No.iii.

13. Supreme Court of Pakistan
Muhammad Ashraf and others v. Muhammad Khan and others
C.P.L.A.No.2270-L of 2016
Mr. Justice Shahid Bilal Hassan, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2270_1_2016.pdf

Facts: The petitioners instituted a suit for declaration with consequential relief against the respondents, alleging unlawful attempts by the respondents to usurp the suit property which was dismissed after trial. On appeal, during its pendency, they sought withdrawal of the suit to file afresh citing a formal defect. The appellate court allowed it, but the High Court set aside the permission on revision.

Issues: i) What legally constitutes a ‘formal defect’ justifying withdrawal of a suit with liberty to file afresh?
 ii) What is the nature of the plaintiff’s right under Order XXIII Rule 1 CPC and its limitation under Rule 2?
 iii) What conditions must be satisfied for the court to permit withdrawal of a suit with liberty to file afresh?
 iv) Can a judgment or decree be nullified merely by withdrawing the suit without setting it aside through a formal order?

Analysis: i) However, in the present case, when the contents of application filed by the petitioner(s) are gone through, it appears and divulges that they could not refer to any ‘formal defect’ which could be: misdescription of parties, incorrect valuation, procedural errors or technical defects, which do not affect the merits of the case and if such defects go to the root of the case,
 ii) This proposition has been pondered upon and responded to by this Court in judgment¹ rendered by a Two Member(s) Bench, (...)sub-rule 2 (a)(b) is/are a kind of an exception to the sub-rules (1) and (3), in that, where a plaintiff wants to file a fresh suit after the withdrawal of his pending suit on the basis of the same cause of action about the same subject matter and the same defendant(s), he shall then be obliged to seek the permission of the Court in that regard; however such permission shall not be granted as a matter of right or as a matter of course/routine, rather the judicial conscious of the Court should be satisfied that, if the permission is not given the said suit shall fail on account of any formal defect,
 iii) a Three Member Bench of this Court after considering and making a detailed analysis of the law on the subject has held: (...) It is a condition precedent for

exercise of this power that the Court in order to grant such concession must be satisfied that the suit was likely to fail due to some formal defect or there are sufficient grounds for the exercise of the same. The defects should not go to the root of the case. It comes within the ambit of discretionary power, if aforementioned either of two conditions i.e. the formal defect or sufficient grounds are demonstrated and the Court is satisfied for the same.

iv) the same was responded to after pondering upon and discussing law and precedents as under: ‘Furthermore, if the parties are allowed to do away with the judgments rendered against them by simple withdrawal of the suit without making formal order respecting setting aside of the decree of the subordinate Courts, it would give impetus to the adventurer who would enter the arena of litigation and having failed before all the forums ultimately withdraws the suit which would tantamount to completely frustrating the concept of justice. The, judgments or decrees in such-like cases as the present one can only be set aside on merits.

Conclusion: i) See analysis No.i.

ii) Refiling a suit after withdrawal is not an automatic right; it requires court permission based on a genuine formal defect, not as a matter of routine.

iii) The court’s discretion to allow withdrawal depends on the presence of a formal defect or sufficient grounds that do not undermine the merits of the case.

iv) A judgment or decree cannot be undone simply by withdrawing the suit; it must be formally set aside on legal and substantive grounds to avoid misuse of process.

14. Supreme Court of Pakistan

Altaf Hussain v. The State

Criminal Petition No.876/2022

Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim

https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 876 2022.pdf

Facts: During a routine patrol, authorities discovered a trawler engaged in illegal fishing using prohibited wire nets within restricted waters. The accused fishermen operating the vessel were apprehended, while the proprietor of the trawler claimed ignorance of its unlawful use and contested the confiscation of his property. The High court ordered the confiscation of the trawler in the criminal case registered for illegal fishing activities. Hence; this criminal petition.

Issues:

- i) Whether the proprietor of a vessel can escape liability by pleading ignorance of the vessel’s involvement in illegal activities?
- ii) What is the application of the principle of constructive knowledge in cases involving proprietors of vessels used for illegal purposes?
- iii) Can a proprietor benefit from illegal activities conducted through their property without bearing corresponding responsibility?

Analysis: i) Despite the petitioner's assertion of ignorance, the overwhelming evidence of illicit fishing on his vessel is insufficient to absolve him of liability. Even if the

petitioner does not possess actual knowledge of certain facts or information, he is presumed to be aware of them as the proprietor of the trawler. This presumption is based on the fact that the information was reasonably accessible to him and that he should have been aware of the facts in light of his position, duty, and circumstances.

ii) Constructive knowledge is a critical legal principle that guarantees accountability by assuming knowledge in situations where it is reasonable to anticipate awareness. It also prevents individuals and organizations from evading liability by claiming ignorance when they had the ability and obligation to be aware of the pertinent information.

iii) The legal maxim 'Qui sentit commodum, debet et sentire onus' translates to 'He who derives a benefit ought also to bear a burden.' The petitioner, as the proprietor of the trawler, profits from the fishing activities that are conducted on it. Consequently, he is obligated to assume some responsibility for its use beyond legal channels.

- Conclusion:**
- i) Proprietors are presumed aware of unlawful use of their property despite claimed ignorance.
 - ii) Constructive knowledge prevents evasion of liability through ignorance.
 - iii) Benefit from property imposes responsibility for its misuse.

15. Supreme Court of Pakistan
Muhammad Abras v. The State
Criminal Appeal No. 655 of 2020
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 655 2020.pdf

Facts: The appellant was convicted by the Trial Court and was sentenced to death and ordered to pay compensation to the legal heirs of the deceased or in default whereof to further undergo S.I. for six months. He was also convicted under section 324 PPC for committing murderous assault and injuring and sentenced to 10 years R.I. The appellant challenged his convictions and sentences before the Islamabad High Court through an appeal which was dismissed; however, his sentence of death was converted into imprisonment for life. Hence, the present appeal was filed.

Issues:

- i) Can a witness whose statement under Section 161 Cr.P.C. was never recorded and who appeared in court for the first time months after the incident be treated as a credible eyewitness?
- ii) Does the presence of an injury on a witness automatically render their testimony credible and trustworthy?

Analysis: i) In this case, PW-2, the prosecution's star witness and an injured party, did not have his statement recorded under section 161 Cr.P.C, and his initial appearance before the court undoubtedly astonished the appellant. Prolonged silence

regarding the issue is adequate to invalidate the entire evidence, as his behavior was exceedingly irregular. Given the unusual circumstances of the case, the Trial Court had no alternative but to regard the witness's account as absolute truth, as it was not challenged by his prior statement. This has undoubtedly resulted in prejudice against the appellant, who was unable to confront the witness regarding the omissions and improvements made during his testimony in court.

ii) It is settled law that injuries of P.W are only indication of his presence at the spot but are not affirmative of his credibility and truth. It is indisputable that witness's/ PW presence as an injured party at the scene cannot be questioned. However, the veracity of his account, as presented to the court, must be assessed within the context of the surrounding facts and circumstances of the case. Injuries do not inherently grant access to the truth and, therefore, a narrative must resonate with authenticity to warrant trust.

Conclusion: i) Failure to record the statement of a crucial eyewitness under Section 161 Cr.P.C. without explanation creates procedural irregularity, prejudices the accused, and undermines the credibility of that testimony.
ii) Injuries on a witness are only indicative of presence at the crime scene; they do not guarantee the credibility or truth of the testimony.

16. Supreme Court of Pakistan
Ndukwe Udoaka Peter v. The State and another
Criminal Petition. No. 239/2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 239 2025.pdf

Facts: The petitioner was arrested pursuant to spy information for alleged possession of heroin; however, the recovery was made without independent witnesses or video evidence, and the petitioner alleged false implication and prior harassment, leading to a bail application that was dismissed by the High Court and challenged before the Supreme Court.

Issues: i) Whether absence of independent witnesses and video evidence in a narcotics case warrants judicial scrutiny for the purpose of bail?
ii) Whether allegations of false implication, procedural irregularities, and recovery of non-commercial quantity without neutral witnesses justify further investigation and grant of bail?

Analysis: i) Our findings indicate that, despite the existence of spy information, no independent witness was present to witness the purported recovery and no video was produced to substantiate the allegation of the narcotics being recovered from the petitioner's possession. (...) This case warrants judicial scrutiny for the purpose of determining bail due to its distinctive facts and circumstances.
ii) The petitioner's consistent allegations of false implication, alleged prior harassment, confiscation of CCTV evidence, absence of independent witnesses

and the prompt filing of complaints before senior police officials suggest that this is a case that warrants further investigation. Moreover, the quantity recovered, although substantial, does not reach commercial levels and was not conducted in the presence of neutral witnesses or substantiated by any video evidence.

Conclusion: i) Absence of independent witnesses and video evidence warrants judicial scrutiny for bail consideration.
ii) Allegations of false implication, procedural irregularities, and recovery of non-commercial quantity without neutral witnesses justify further investigation and grant of bail.

17. Supreme Court of Pakistan
Ghulam Mustafa v. The State
Criminal Appeal No. 23/2020
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 23_2020.pdf

Facts: FIR was registered against the appellant and 12 others under section 302,324,337,452,148,149 PPC. The appellant was convicted and sentenced to death along with order to pay compensation to legal heirs of the deceased while remaining accused were acquitted. Against conviction he preferred appeal before High court which got dismissed and hence appeal before Supreme Court of Pakistan.

Issues: i) If some of the accused are acquitted, can same set of evidence be used for conviction of one of the accused?
ii) Can an accused be convicted on the basis of evidence not put to him during his statement recorded u/s 342 Cr.P.C?

Analysis: i) The upsetting part of the ocular account is that on the basis of same statements made by the eyewitnesses, co-accused... had been acquitted by the courts below despite the fact that the abovementioned eyewitnesses had tarnished the said co-accused with the same brush. When 12 co-accused attributed the role of causing injuries to the deceased and other members of the complainant party had been acquitted in this case, it was incumbent upon the courts below to look for independent corroboration to the ocular account before convicting and sentencing the present appellant.
ii) The appellant was allegedly armed with 'Sota' at the time of occurrence and caused injury on the skull of the deceased with the said 'Sota' and the same had also been recovered from his possession but it is astonishing and disturbing to observe that the appellant was not confronted with the said piece of evidence at the time of recording his statement under section 342 Cr.P.C... The law is settled by now that if a piece of evidence or a circumstance is not put to an accused person at the time of recording his statement under section 342 Cr.P.C. then the

same cannot be considered against him for the purpose of recording his conviction.

- Conclusion:** i) Co-accused cannot be convicted on the basis of same set of evidence without independent corroboration.
 ii) Evidence not put to an accused person at the time of recording statement under section 342 Cr.P.C cannot be considered against him for the purpose of recording his conviction.

18. Supreme Court of Pakistan
Muhammad Miskeen v. The state
Criminal Appeal No.78/2023
Ms. Justice Musarrat Hilali, Mr. Justice Muhammad Hashim Khan
Kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 78 2023.pdf

Facts: The appellant allegedly murdered two persons, in the backdrop of a domestic dispute sometime prior to the present occurrence. The appellant was convicted by the trial court on two counts of an offence under section 302(b) PPC and was sentenced to death on each count and to pay compensation besides having been convicted and sentenced for offence under section 324 PPC. The conviction was challenged before Islamabad High Court but sentence recorder by the trial court was upheld. The appellant took the plea that he was under the influence of his father, hence this appeal.

Issue: i) Who may take a plea to commit an offence under the influence of an elder including father?

Analysis: i) The principle of influence of elders is limited to offenders of impressionable ages who are living under the influence of elders. Therefore, an accuse of mature age and comprehension cannot be considered to have acted on instigation. Under the guise of elders, including father, no universal authority could be granted to adult and elderly individuals to commit brutal, gruesome and wanton murder.

Conclusion: i) See above analysis No. i

19. Supreme Court of Pakistan
M/s Payoneer Inc., through its authorized officer. v. Federation of Pakistan through Secretary, Revenue Division, M/o Finance, Govt. of Pakistan, Islamabad and others.
Civil Petition No. 4177 of 2024
Mr. Justice Yahya Afridi, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 4177 2024.pdf

Facts: Notices for tax years 2019-20 under section 114(4) of the Income Tax Ordinance,

2001 (ITO) were served upon the petitioner for furnishing return of the income tax under sub-section (1) of section 114 of the ITO. The petitioner invoked the jurisdiction of the Islamabad High Court instead making compliance of the above and filed Writ Petition, which was dismissed, hence this petition for leave to appeal.

Issues: i) Whether the petitioner should have first availed remedies available under the ITO before approaching the High Court under Article 199 of the Constitution?
ii) Can a party directly approach the Supreme Court without first filing an Intra-Court Appeal (ICA) against a High Court's single-judge decision?

Analysis: i) The questions remain if a better and statutory recourse is not available to avail the alternate writ jurisdiction. The simple answer is that such statutory recourse is available under ITO which has provided forums to resolve the raised questions. Thus issuance of a show-cause notice cannot be equated to be one without jurisdiction hence the High Court was right in not exercising writ jurisdiction and left it to the petitioner to exhaust its remedy under the hierarchy of ITO.
ii) We have also noticed that the impugned judgment of the learned single Judge of the High Court in Writ Petition is directly assailed before this Court in the aforesaid petition without exhausting the remedy of an Intra Court Appeal. Only under exceptional circumstances, to be adjudged by this Court, such indulgence could be extended which does not exist in the case.

Conclusion: i) The petitioner should have first availed remedies available under the ITO before approaching the High Court under Article 199 of the Constitution.
ii) See analysis ii above.

20. Supreme Court of Pakistan
The intelligence Officer, Directorate of Intelligence & Investigation, FBR and others v. Abdul Karim.
Civil Appeals No. 1088, 1231 TO 1236/13
Mr. Justice Yahya Afridi, CJ, Mr. Justice Irfan Saadat Khan & Mr. Justice Muhammad Shafi Siddiqui
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1088_2013.pdf

Facts: The appellant department (Customs Authorities) detained/seized the vehicles of the respondents on the charges of smuggling. In number of Reference Applications, in reference jurisdiction, The High Court released the vehicles to the respondents. Hence the appellants (departments) filed 23 Civil Appeals separately before the Hon'ble Supreme Court.

Issues: i) How the goods/vehicles can be considered as smuggled?
ii) Whether the vehicles brought into Pakistan before 14.09.1998 can be considered a smuggled vehicle?

- iii) Whether a person, retaining the possession of vehicle under valid registration, can plead a “lawful excuse” for not showing the record of import of vehicle beyond a certain period?
- iv) When the defence of “lawful excuse” become infeasible?
- v) What can be presumed if the vehicle stands registered?
- vi) What presumption is attached to a verified registration book and official record, especially in favour of ultimate bonafide purchaser?
- vii) How the lawful authority is distinct from the lawful excuse?
- viii) Whether the principle of lawful excuse is applicable in case of tampered vehicle?
- ix) In seizing or confiscation process of a vehicle, what would mean the proper procedure?

Analysis:

- i) In terms of Section 2(s) read with the applicable notification thereunder it seems that vehicles can be considered smuggled if either (i) at the relevant time, the applicable notification in terms of Section 2(s)(ii) included vehicles, or (ii) in terms of Section 2(s)(iii) the vehicles were brought in by any route other than a route declared under Section 9 or Section 10 or from any place other than the customs station.
- ii) Any vehicle brought into Pakistan before 14.09.1998 could only be considered a smuggled vehicle if it is established that it was brought into Pakistan through a route other than the routes permissible under Section 2(s)(iii).
- iii) For the amended SRO’s effect, (wherein vehicles were included), the record of import is required to be kept in terms of Section 211(2) for a period of five years (“five” was substituted for the word “three” by the Finance Act, 2007). If the auction of the vehicle took place more than 3 years ago for cases prior to the Finance Act, 2007 and 5 years for cases thereafter, there would appear to be a “lawful excuse” to the person (retaining the possession of vehicle under valid registration), who is accused of an offence under Section 156(89) or (90) (for not showing required import documents), unless it can be demonstrated that he was told or knew that duties and taxes were not paid and the same were required to be paid.
- iv) In cases of registered vehicles, if at the time the vehicle being intercepted, more than 3 years have elapsed for cases prior to the Finance Act, 2007 and 5 years for cases thereafter, the defence of “lawful excuse” appears to be infeasible.
- v) This is also because it is reasonable to assume that if a vehicle stands registered, the government is presumed to have exercised due care and diligence with respect to its obligation to see whatever duties and taxes as payable to the government before a vehicle can be registered, stand paid. It must also be noted that the vehicles being registered, which registration was duly verified, is presumed to have been brought lawfully; after completion of notified period in case of used vehicles also.

vi) In most of the cases since first registration, the vehicles changed many owners on the strength of registration book and no adverse inference could be drawn for the ultimate bonafide owners unless otherwise proved contrary by appellant, in which exercise the appellant department has failed below. The verified registration book and official record is enough for bonafide presumption that a valid title exist. The Motor Vehicle Ordinance, 1965 provides the mechanism for registration of motor vehicles in terms of its sections from 23 to 43. Section 27 of ibid law even provides the production of the vehicle at the time of registration and if the registration of a vehicle passes through this statutory process conducted by officials responsible under M.V.O 1965, then presumption of truthfulness is eminent.

vii) The defence of lawful excuse may be sufficiently proved although no lawful authority exists for doing what is charged against the accused. Lawful excuse is an expression that is of wider import and lesser degree of burden than lawful authority. It follows from this that proving a lawful excuse, which falls short of lawful authority, it is the excuse put forward by the accused, rather than handling smuggled goods, that must be shown to be lawful.

viii) This principle however is distinguished for the case where vehicles were found with tampered chassis and engine numbers. If this is seemingly done to match the statistics of original vehicles auctioned or brought into Pakistan officially having different chassis/engine number, the lawful excuse may not be applicable in case of tampered vehicle.(---) However, where it is established that the chassis/engine numbers have been tampered with after auction or registration to match the description of the auctioned or registered vehicle, the lawful excuse is not available.

ix) Suffice to say that applying right procedure on wrong person and at the wrong time would not serve any purpose, rather is an abuse of process of law and such actions would be of no help for the department to take corrective measure to curb the smuggling. Such actions ought to have been taken at the time when vehicles were being registered.

Conclusion: i) See above analysis No.i

ii) The vehicle which was brought into Pakistan through a route other than the routes permissible under Section 2(s)(iii) can be considered a smuggled one.

iii) A person, retaining the possession of vehicle under valid registration, can plead a "lawful excuse" for not showing the record of import of vehicle if auction took place more than 3/5 years ago.

iv) if at the time the vehicle being intercepted, more than 3 years have elapsed for cases prior to the Finance Act, 2007 and 5 years for cases thereafter, the defence of "lawful excuse" becomes infeasible.

v) See above analysis No.v

vi) See above analysis No.vi

vii) See above analysis No.vii

viii) Principle of lawful excuse is not applicable in case of tampered vehicle.

ix) See above analysis No.ix

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- 21. Supreme Court of Pakistan**
Muhammad Akhtar Hussain Pirzada v. Medical Superintendent, THQ Hospital Lodhran and others
C.P.L.A.3984/2024
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3984 2024.pdf

- Facts:** The petitioner filed a Constitution Petition before the High Court, seeking issuance of directions to the Medical Superintendent, DHQ Hospital, to decide his application, pending before him for the constitution of Medical Board to conduct DNA Test of the petitioner, as well as respondents No.4 and 5 to ascertain as to whether the minor is his daughter or not. After providing right of audience to the learned counsel for the parties, the petition was dismissed. Dissatisfied with the same, the petitioner filed Intra Court Appeal, which was dismissed in limine. Hence this petition.
- Issues:** i) Can the ex-parte judgment and decree nullify the earlier judgment passed by a court of competent jurisdiction?
- Analysis:** i) The ex-parte judgment and decree relied upon by the learned counsel for the petitioner being subsequent to the judgment in family suit referred to above, in our view, cannot nullify the earlier judgment, passed by the court of competent jurisdiction, establishing the legitimacy of the minor.
- Conclusion:** i) It cannot nullify the earlier judgment, passed by the court of competent jurisdiction.

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- 22. Supreme Court of Pakistan**
Imtiaz Hussain Shah alias Tajjay Shah in/Cr.A. N0.201-L/2020) Muhammad Akram Bhatti in (Cr.A. No.202-L/2020) v. The State etc
Crl. Appeal No.201-L Of 2020, Crl.Appeal No.202-L Of 2020 and Crl. PLA No.596-L/2016
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 201 1 2020.pdf

- Facts:** The facts of the case are a night time shooting resulting in death, allegedly witnessed by relatives of the deceased who were not local residents. The trial court convicted the accused and sentenced them to death, while the High Court upheld the conviction but reduced the sentence to life imprisonment.
- Issues:** i) Whether the presence of the alleged eyewitnesses at the crime scene is credible in light of their unnatural conduct, failure to identify the dead body, and the inordinate delay in the post mortem examination?

- ii) Whether adverse inference can be drawn from the prosecution's failure to produce a material witness?
- iii) What is the legal effect of absence of a source of light in night-time incidents regarding the identification of accused persons?
- iv) What is the inference of law in cases where there is inordinate and unexplained delay in conducting the post mortem of the deceased?
- v) Can the benefit of doubt be given to the accused even on the basis of a single circumstance creating reasonable doubt?

Analysis:

- i) It seems quite improbable that the appellants were waiting for the arrival of the alleged eyewitnesses to reach the spot and then to initiate the occurrence so that they stood eyewitnesses against them. The inordinate delay in post mortem examination of the deceased coupled with the fact that none of the eyewitnesses is the identifier of the dead body of the deceased as well as their unnatural conduct like silent spectators at the time of occurrence are the strong circumstances which make their presence at the spot highly doubtful.
- ii) Under article 129 (g) of the Qanun-e-Shahadat Order, 1984, an adverse inference can be drawn that if he had testified, his statement would not have supported the prosecution's case.
- iii) This Court has repeatedly held that in the absence of the source of light having been mentioned in the FIR and recovery of such source, the identification of the accused becomes questionable.
- iv) In such eventuality the most natural inference would be that the delay so caused was for preliminary investigation and prior consultation to nominate the accused and plant eyewitnesses of the occurrence.
- v) It is settled principle of law that for giving the benefit of the doubt it is not necessary that there should be multiple circumstances rather a single circumstance creating reasonable doubt in a prudent mind is sufficient for extending its benefit to an accused.

Conclusion:

- i) See analysis No.i.
- ii) An adverse inference can be drawn in case of failure of prosecution to produce material witness.
- iii) Identification of the accused becomes questionable in the absence of source of light.
- iv) See analysis No.iv.
- v) A single circumstance creating reasonable doubt is sufficient for extending its benefit to an accused.

23.

Supreme Court of Pakistan

Mudassar Khursheed v. The State and another.

Crl.P.L.A. NO.255-L/2025

Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim

https://www.supremecourt.gov.pk/downloads_judgements/crl.p._255_l_2025.pdf

- Facts:** Through the instant petition under Article 183(3) of the Constitution of Islamic Republic of Pakistan, 1973, petitioner seeks leave to appeal against the order passed by High Court, whereby he was refused anticipatory bail in a criminal case registered against him for the offences under Sections 452, 354, 148, 149 PPC.
- Issues:**
- i) What is the legal position of regarding the bail of an accused whose role is at par with that of a co-accused who has already been admitted to bail?
 - ii) What is the principle of bail in the offences fall within non-prohibitory clause of Section 497 Cr.P.C.?
 - iii) If an accused is entitled to post-arrest bail, can his pre-arrest bail be cancelled?
- Analysis:**
- i) On the rule of consistency the petitioner was also entitled to be treated at par with his co-accused.
 - ii) offence under section 354 PPC is bailable whereas punishments of the offences under sections 452, 148 and 149 PPC do not fall within the Prohibitory Clause of Section 497 Cr.P.C. and in such like cases grant of bail is a rule and refusal thereof an exception.
 - iii) It is well settled principle of law that once court reaches at the conclusion that in case of dismissal of pre-arrest bail the accused would become entitled for post arrest bail, then it would be a mere futile exercise to send the accused to prison.
- Conclusion:**
- i) Rule of consistency furnish a ground for bail.
 - ii) Bail, in cases of non-prohibitory clause, is a rule and refusal is an exception.
 - iii) See above analysis No. iii.

24. Supreme Court of Pakistan
Muhammad Yamin etc. v. The State
Civil Petitions No.220-K to 442-K of 2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 621 2017.pdf

- Facts:** The petitioners were convicted for abduction and ransom and sentenced by the Anti-Terrorism Court, which was later upheld by the Lahore High Court. The case revolves around the applicability of Section 7(e) of the Anti-Terrorism Act, 1997, alongside Section 365-A PPC.
- Issues:**
- i) Whether the jurisdiction of the Anti-Terrorism Court extends to trying heinous offences that do not constitute terrorism under Section 6 of the Anti-Terrorism Act, 1997?
 - ii) Whether the conviction under Section 365-A PPC remains valid despite setting aside the conviction under Section 7(e) of the Anti-Terrorism Act, 1997?
 - iii) Whether heinous offences not amounting to terrorism but specified in the Third Schedule are triable by an Anti-Terrorism Court?
- Analysis:** i) In Ghulam Hussain's case (supra), this Court after thorough discussion arrived

at the conclusion that reading of the Third Schedule of the Act of 1997 shows that an Anti-Terrorism Court has been conferred jurisdiction not only to try all those offences which attract the definition of terrorism provided by the Act of 1997 but also some other specified cases involving heinous offences which do not fall in the definition of terrorism... It is also clarified that in such cases of heinous offences mentioned in entry No. 4 of the said Schedule an Anti-Terrorism Court can pass a punishment for the said offence and not for committing the offence of terrorism.

ii) It may be pertinent to mention here that the offence of abduction or kidnapping for ransom under section 365-A, PPC is included in entry No. 4 of the Third Schedule and kidnapping for ransom is also one of the actions specified in section 7(e) of the Anti-Terrorism Act, 1997... In the former case the convicted person is to be convicted and sentenced only for the offence under section 365-A, PPC whereas in the latter case the convicted person is to be convicted both for the offence under section 365-A, PPC as well as for the offence under section 7(e) of the Anti-Terrorism Act, 1997.

iii) It is clarified by this Court that such specified heinous offences are only to be tried by Anti-Terrorism Court and that court can punish the person committing such specified heinous offences only for commission of those offences and not for committing terrorism because such offences do not constitute terrorism... For the purposes of further clarity on this issue it is explained for the benefit of all concerned that the cases of the offences specified in entry No. 4 of the Third Schedule to the Anti-Terrorism Act, 1997 are cases of those heinous offences which do not per se constitute the offence of terrorism but such cases are to be tried by an Anti-Terrorism Court because of their inclusion in the Third Schedule.

- Conclusion:**
- i) Yes, the Anti-Terrorism Court's jurisdiction extends to trying heinous offences even if they do not constitute terrorism under Section 6 of the Act.
 - ii). Yes, the conviction under Section 365-A PPC remains valid despite setting aside the conviction under Section 7(e) of the Anti-Terrorism Act, 1997.
 - iii) Yes, heinous offences specified in the Third Schedule are triable by the Anti-Terrorism Court even if they do not constitute terrorism.

25. **Supreme Court of Pakistan**
Manzar Abbas v. The State.
Criminal Appeal No. 438 of 2023
Ali Afzal @ Machhi v. The State.
Criminal Appeal No. 439 of 2023
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 438_2023.pdf

Facts: Prosecution alleged that the appellants, armed with firearms, entered the house of the deceased, opened fire, causing his death on the spot. The incident was reportedly witnessed by close relatives of the deceased, who claimed to be present

at the time. However, these witnesses lived at a considerable distance from the crime scene and provided no independent corroboration of their presence. The FIR was lodged after an unexplained delay, followed by a further delay in conducting the post mortem examination. The appellants were convicted by the trial and appellate courts, but these findings were challenged in the Apex Supreme Court due to material contradictions, unexplained delays, and credibility concerns regarding the prosecution's version.

- Issues:**
- i) What is the legal effect of an unexplained delay in the lodging of an FIR on the credibility of the prosecution's case?
 - ii) What inference can be drawn in case of delay in conducting postmortem examination?
 - iii) Can non-production of a cited prosecution witness lead to the presumption that his testimony would have been unfavorable to the prosecution?
 - iv) Can motive alone, being a double-edged weapon, conclusively determine the truthfulness or falsity of the prosecution's case?
 - v) Is a single reasonable doubt sufficient to extend the benefit of doubt to an accused as a matter of right?

- Analysis:**
- i) It is settled law that unexplained delay in lodging FIR creates doubt in the prosecution's case, favoring the accused. In case titled, *Mst. Asia Bibi Vs The State and others* (P L D 2019 Supreme Court 64), it has been held that in absence of any plausible explanation, delay in lodging of FIR is always considered to be fatal as it casts suspicion on the prosecution's story. In case of *Zeeshan (a), Shani v. The State* (2012 SCMR 428) this Court has observed that delay of more than one hour in lodging the FIR raises doubt about the occurrence of the incident as projected by the prosecution. Such delay often indicates that the time was consumed in constructing a coherent version of the events, which ultimately weakens the prosecution's case. This position has been reaffirmed in case titled *Muhammad Fiaz Khan v. Ajmer Khan* (2010 SCMR 105).
 - ii) PW.6 conducted autopsy on the dead body of the deceased at 01.30 p.m. viz after a delay of 04 hours and 15 minutes if counted from the time of report. In such eventuality the most natural inference would be that the delay so caused was for preliminary investigation and prior consultation to nominate the accused and plant eyewitnesses of the occurrence.
 - iii) One of the PW has been abandoned by the prosecution as such an adverse inference within the meaning of Article 129(g) of the Qanun-e-Shahadat Order, 1984 would be drawn that had he been produced in the witness box he would not have supported the prosecution's version.
 - iv) Motive is a double-edged weapon, which can be used either way and by either side i.e. for real or false involvement. Reference in this regard may be made to cases of *Noor Elah Vs Zafrul Hague* (PLD 1976 SC 557), *Al,lah Bakhsh vs the State* (PLD 1978SC 171), *Khadim Hussain Vs the State* (2010 SCMR 1090),

Tahir Khan Vs the State (2011 SCMR 646), Tarig Vs the State 2017 SCMR 1672) and Muhammad Ashraf alias Acchu vs the State (2019 SCMR 652).

v) It is settled principle of law that for giving the benefit of the doubt it is not necessary that there should be so many circumstances rather a single circumstance creating reasonable doubt in a prudent mind is sufficient for extending its benefit to an accused not as a matter of concession but as of right.

- Conclusion:**
- i) Unexplained delay in lodging FIR creates doubt in the prosecution's case, such delay often indicates that the time was consumed in constructing a coherent version of the events.
 - ii) Inference would be that the delay so caused was for preliminary investigation and prior consultation to nominate the accused and plant eyewitnesses.
 - iii) Adverse inference within the meaning of Article 129(g) of the Qanun-e Shahadat Order, 1984 would be drawn that had that witness would have been produced he would not have supported the prosecution's version.
 - iv) Motive is a double-edged weapon, which can be used either way and by either side.
 - v) See above analysis No v.

26. Supreme Court of Pakistan
Muhammad Akhtar v. The State etc.
Criminal Petition No. 310 of 2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim,
Mr. Justice Ali Baqar Najafi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 310 2025.pdf

Facts: By way of filing criminal petition filed under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner, seeks leave to appeal against the order, rendered by the Lahore High Court, Bahawalpur Bench by virtue of which the petitioner's request for pre-arrest bail was declined.

Issue: Whether pre-arrest bail should be granted when the accused is otherwise entitled to post-arrest bail in view of the nature of the alleged offence?

Analysis: Where an accused has a strong case for post-arrest bail, he ought not to be incarcerated merely to satisfy the complainant's desire to have him arrested for a few days, by denying pre-arrest bail. It is a well-settled principle of law that once the court concludes that the accused would become entitled to post arrest bail upon dismissal of his pre-arrest bail application, then requiring him to undergo incarceration would be a mere procedural formality devoid of any meaningful purpose.

Conclusion: Pre-arrest bail should be granted when the accused is otherwise entitled to post-arrest bail in view of the nature of the alleged offence.

27.

Supreme Court of Pakistan**Munir Ahmad. v. The State****Criminal Appeal No. 80 of 2023****Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim**https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 80 2023.pdf**Facts:**

The appellant was tried by the learned Additional Sessions Judge, for murder. He was convicted under section 302(b) of the Pakistan Penal Code and sentenced to death on two counts. The trial court referred the matter to the Lahore High Court as a Murder Reference for confirmation of the death sentence. The appellant also challenged his conviction and sentence through a criminal appeal before the Lahore High Court, which dismissed the appeal and affirmed the death sentence by answering the Murder Reference in the affirmative. The appellant then filed a criminal petition for leave to appeal before the Supreme Court of Pakistan.

Issues:

- i) Whether the testimony of closely related eyewitnesses (such as family members of the deceased) can be relied upon for conviction?
- ii) What distinguishes minor discrepancies from material discrepancies in witness testimony?
- iii) What is the legal effect when the prosecution alleges a motive but fails to prove it?
- iv) Can minor discrepancies in witness statements be considered as mitigating circumstances?

Analysis:

- i) Admittedly, the eyewitnesses are the close relatives of the deceased but it is equally true that they are on the same footing in relation with the appellant. By now it is settled law that an interested witness is one who is interested in the conviction of an accused for some ulterior motive which is not the status of the eyewitnesses in this case.
- ii) Some discrepancies not touching the core of the case are not enough to reject the evidence as a whole. It is normal conduct of the human conduct that while narrating a particular incident where may occur minor discrepancies. In the deposition of witnesses there are always normal discrepancies, however, honest and truthful they may be. Such discrepancies are due to normal errors of observation, normal errors of memory due to lapse of time etc. Material discrepancies are those which are not normal and not expected for a normal person.
- iii) It is well settled by now that once the prosecution alleges a motive and fails to prove the same during the trial; the same can be taken as a mitigating circumstance while deciding the quantum of sentence of the convict.
- iv) Minor discrepancies in the deposition of prosecution's witnesses of inconsequential nature cannot reasonably be considered as good grounds in disbelieving independent and disinterested witnesses. Such inconsistencies may create dilution of prosecution version but not its complete negation. Inconsistencies of a minor dimension in prosecution evidence throw up doubts

about prosecution version but do not qualify for acquittal.

- Conclusion:** i) In absence of any ulterior motive/animus for false implication of an accused, the confidence inspiring testimony of an eyewitness, whose presence with the deceased at the time and place of occurrence is established, cannot be discarded merely due to his relationship with the deceased.
 ii) See analysis ii above.
 iii) See analysis iii above.
 iv) Minor discrepancies in the deposition of prosecution's witnesses present merely a mitigating circumstance capable of affecting no more than quantum of sentence.

28. Supreme Court of Pakistan
Zulqarnain Haider alias Zain v. The State
Criminal Appeal No. 332/2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 332 2025.pdf

Facts Petitioner approached supreme Court of Pakistan for post arrest bail in case registered under section 302,324,337-H(2),440,148,149 PPC following its dismissal from High Court.

Issues: i) What are the principles of criminal jurisprudence relating to cases involving cross-version?
 ii) In the cases of cross-version whether bail can be granted as a rule on the ground of further inquiry?

Analysis: i) The reason being that in cases involving cross-versions of the same occurrence, it is a well-settled principle of criminal jurisprudence that the prime consideration before the Court is to ascertain which party was the aggressor and which party was aggressed upon. The nature, seat, and number of injuries sustained by each side may undoubtedly be relevant; however, such factors are merely indicative and do not, by themselves, carry an overriding or conclusive effect. The mere extent of injuries caused to one party cannot serve as the sole basis for drawing an adverse inference against the other, especially where both versions emanate from the same transaction and each party attributes aggression to the other.
 ii) In cases of counter versions arising from the same incident, one given by the complainant in the F.I.R., and the other given by the opposite party, bail in appropriate cases is granted as a rule on the grounds of further inquiry for the reason that the question as to which version is correct is to be decided after the recording of pro and contra evidence during the trial, and also to ascertain which party was the aggressor and which party was aggressed upon. The refusal of bail in such cases is an exception.

Conclusion: i) See above analysis no. i

- ii) Yes, in appropriate cases bail is granted as a rule on the grounds of further inquiry.

29. Supreme Court of Pakistan
Waqas Ahmad v. The State
Mr. Justice Muhammad Hashim Khan kakar, Mr Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim.
Jail Petition No.539 of 2017
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 539 2017.pdf

Facts: The trial court convicted the petitioner under section 302(b) PPC and sentenced him to death as Ta'azir and to pay rupees two lacs as compensation to the legal heirs of the deceased in terms of Section 544-A Cr.P.C. and in default thereof to further undergo 06 months simple imprisonment vide judgment dated 11.04.2012. Benefit of Section 382-B Cr.P.C. was extended to the petitioner/convict. The Lahore High Court while answered the murder reference in negative and dismissed the criminal appeal of the petitioner/convict, maintained the conviction of under Section 302(b) PPC, however, converted his death sentence into imprisonment for life, bsenefit of Section 382-B Cr.P.C. was also extended to the petitioner. The jail petition whiles converting into appeal have been allowed.

Issue:

- i) What are the effects of unexplained delay delay in lodging of FIR?
- ii) What are effects of delay in conducting of post-mortem examination?
- iii) What is the evidentiary value of open mouth and eyes of the deceased and presence of rigor mortis?
- iv)What is the relevance of the conduct of an eye witness in a particular situation?
- v) What is the relevance and evidentiary value of noting of blood trail, bruise and abrasion, where the dead body of deceased has been reportedly dragged?

Analysis:

- i) It is settled law that unexplained delay in lodging FIR creates a doubt in the prosecution's case and its benefit has to be extended and construed in favour of the accused (...) in absence of any plausible explanation, delay in lodging of FIR is always considered to be fatal as it casts suspicion on the prosecution story.
- ii) Delay in conducting the postmortem examination suggests that the eyewitnesses were not present at the spot at the time of occurrence, therefore, the said time was consumed in procuring the attendance of procured eyewitnesses.
- iii) Semi open eyes and mouth of the deceased at the time of the postmortem reflects that the dead body of the deceased remained unattended at the spot. Had the complainant been present at the spot, he would have managed to close the mouth and eyes of his deceased son.
- iv) Complainant appears to be unnatural as he kept mum at the spot due to

fear like a silent spectator and did not react to rescue his son from his grandson. A father or grandfather cannot be expected to react in such a way as demonstrated by the complainant. This circumstance cast serious doubt about the presence of the complainant at the spot.

v) No blood has also been shown in the site plan or recovered by the 1.0. from the said area of one acre. No scratch, bruise and abrasion have been noted by Dr. Nasir Mehmood (PW.I), who conducted autopsy on the dead body of the deceased so as to substantiate the version of complainant in respect of dragging the dead body of the deceased.

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.

30. Supreme Court of Pakistan
Pioa Shah v. Amin Khan, etc.
Civil Petition No. 146-P/2015
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 146_p 2015.pdf

Facts: The petitioner purchased the mortgagee rights of the suit property and as such he became mortgagee of the suit property. The Respondent No. 1 filed the suit for the redemption of his property, which was dismissed by the Civil Court. The petitioner through instant petition for leave to appeal has impugned the judgment of the High Court, whereby his revision petition was dismissed upholding the judgment and decree of the Appellate Court whereby the suit for redemption filed by the respondents was decreed.

Issues: i) Whether principle of Res-judicata is attracted in case of independent rights and separate causes of actions?
 ii) Whether sale of mortgagee rights is considered as an acknowledgement under Sections 19 & 20 (2) of the Limitation Act?
 iii) Whether the purchase of mortgagee rights provide a fresh cause of action and a fresh start of limitation?
 iv) Whether the purchaser of mortgagee rights become owner on the basis of prescription automatically due to lapse of time?

Analysis: i) The plea of res judicata because of the pre-emption suit was raised by the petitioner but the same cannot be made applicable in the given situation. A suit for pre-emption and a suit for redemption, both are independent rights and separate causes of action, having no nexus with each other, hence, the principle of res judicata is not attracted.

ii) It is a settled law that the sale of mortgagee rights is always considered as an acknowledgment as defined under Section 19 of the Act of 1908. The possession of the petitioner over a part of the suit property to the extent of his mortgage was also admitted by both the parties at the bar during the course of hearing and the petitioner in his written statement has also admitted his possession over the mortgaged property. The possession of the mortgagee and getting/deriving benefits from the mortgaged property is sufficient enough to attract the provisions of Section 20(2) of the Act of 1908.

iii) So, as per the law, the purchase of mortgagee rights by the petitioner has given also a fresh cause of action and a fresh start of limitation to the Respondent No.1. The suit for redemption filed by the Respondent No. 1 is covered by both provisions of law i.e. Sections 19 and 20 (2) of the Act of 1908 and as such is well within the time and has rightly been held so by the Courts below.

iv) For claiming a right under prescription, which is not available after the target date of 31.08.1991 as given in Maqbool Ahmed's case (supra), one has to seek declaration from the competent Court of law and on having such a decree of declaration, one can become owner on the strength of prescription. Title under prescription cannot be achieved just by operation of law. The Federal Shariat Court in Maqbool Ahmed's case (supra) has held that the right of ownership cannot be snatched simply by lapse of certain period of time. Yes, the remedy provided under the law to achieve that right can be refused but right will remain there and the same principle would also apply in case of Article 148 of the Act of 1908 though not discussed and considered in the case of Maqbool Ahmed's case (supra) but the essence of Maqbool Ahmed's case (supra) would also make it applicable against Article 148 of the Act of 1908. Simply efflux of time would not deprive an owner from his ownership rights.

- Conclusion:**
- i) The principle of res judicata is not attracted.
 - ii) The sale of mortgagee rights is always considered as an acknowledgment as defined under Section 19 of the Act of 1908.
 - iii) The purchase of mortgagee rights gives a fresh cause of action and a fresh start of limitation.
 - iv) See analysis Para No. iv.

31. Lahore High Court
The State v. Saqib Hussain
Reference No.69061 of 2020
The Chief Justice Miss Aalia Neelum, Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2548.pdf>

Facts: The instant reference under section 341 of Cr.P.C. was referred by the learned Additional Sessions Judge, Lahore by alleging therein that the trial in case FIR under sections 302, 376, 201 PPC was pending and same was almost concluded; the court reached the conclusion that accused Saqib Hussain though not insane is unable to understand the proceedings due to his mental

and physical health. So, the report of the circumstances of the case was sent through the reference mentioned above.

Issue:

- i) What is the law and procedure to send a reference to High Court where accused does not understand proceedings?
- ii) When procedure under section 341 of the Code of Criminal Procedure 1898 should be followed by the trial court?
- iii) If the accused is sane though he cannot understand the proceedings what procedure should be adopted by the trial court?

Analysis:

- i) Section 341 Cr.P.C. is reproduced as under: -
Procedure where accused does not understand proceedings: If the accused though not insane, cannot be made to understand the proceedings, the Court may proceed with the trial; and-in the case of a Court other than a High Court or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.
- ii) If the Judge doubts the accused's physical and mental capacities, the procedure prescribed under Section 341 should be followed.
- iii) Unless the accused is insane, the trial court can proceed with the trial even though the accused cannot understand the proceedings. Further, if such a trial results in a conviction, the trial judge is required to forward the proceedings to the High Court, which shall pass such order as it thinks fit.

Conclusion:

- i) See above analysis No. i
- ii) See above analysis No. ii.
- iii) See above analysis No. iii

32. Lahore High Court
Munir Ahmad v. Federation of Pakistan, etc.
Writ Petition No.52452 of 2024
Ms. Justice Aalia Neelum, Chief Justice
<https://sys.lhc.gov.pk/appjudgments/2025LHC2485.pdf>

Facts: The petitioner has filed a constitutional petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking to challenge the legality of the Standing Operating Procedure (SOP) established through a Standing Order for maintaining the Provisional National Identification List (PNIL). The petitioner contends that the SOP lacks lawful authority and requests the court to declare it as such.

Issues:

- i) Whether for the same self-relief, two parallel proceedings before the two forums can be taken?

Analysis:

- i) Given the above, the instant petition is not maintainable, as the matter was already brought before the competent court of law and dismissed. The order

passed therein attained finality, and for the same self-relief, two parallel proceedings before the two forums cannot be taken.

Conclusion: i) No, for the same self-relief, two parallel proceedings before the two forums cannot be taken.

33. Lahore High Court
Muhammad Shafique v. The state, etc.
Crl. Rev. No.834 of 2012
Ms. Justice Aalia Neelam, Chief Justice
<https://sys.lhc.gov.pk/appjudgments/2025LHC2489.pdf>

Facts: The petitioner was convicted by the trial court under section 420/468/471 PPC and sentenced to undergo rigorous imprisonment of 05-years in each offence alongwith fine. The appeal filed by the petitioner was dismissed by the learned appellate Court/ASJ. Hence, the petitioner filed revision petition before the Hon'ble High Court.

Issue: i) Whether in revision jurisdiction the court can re-embark upon re-appreciation of evidence?
 ii) Whether an attested copy of a judgment of a civil case, which was not produced at trial of a criminal case, can be considered in a Criminal revision?
 iii) Whether reliance can be placed on the testimony of untruthful witness for conviction of an accused?

Analysis: i) It is well settled that revisional jurisdiction cannot re-embark upon re-appreciation of evidence unless the finding of fact is illegal or perverse.
 ii) It is an admitted fact that after the judgment of the trial court, the suit for declaration and mandatory injunction filed by the complainant (PW-1) on 29.09.2010, and the suit for recovery of the Oil Tanker bearing registration No. GLT/5840 filed by the petitioner, Muhammad Shafique, against Nasrullah Khan (PW-1)-the complainant on 18.11.2013, was decided by the learned Civil Judge 1st Class, Gujranwala, through a consolidated judgment dated 21.06.2016, whereby the suit filed by the complainant was dismissed, while the suit filed by the petitioner, Muhammad Shafique, was decreed. Learned counsel for the petitioner placed on the record the aforesaid documents through C.M. No.1/2022, which are being taken into consideration under section 428 Cr.P.C.
 iii) After carefully considering the prosecution witnesses, this court found considerable doubt about their credibility as truthful witnesses. So, no reliance could be placed on their testimony for the petitioner's conviction.

Conclusion: i) In revision jurisdiction the court cannot re-embark upon re-appreciation of evidence unless the finding of fact is illegal or perverse.
 ii) See above analysis No. ii
 iii) No reliance can be placed on the testimony of untruthful witness for

conviction of an accused.

34. Lahore High Court
Mst. Hafeezan Bibi etc. v. Nazar Muhammad etc.
Case No. W. P. No. 12400 of 2012
Mr. Justice Faisal Zaman Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2338.pdf>

Facts: A suit for possession was instituted on the basis that the plaintiff owned certain land allegedly encroached upon by the defendants, whose property was adjacent. The trial court appointed a Revenue Officer as a local commission to demarcate the land. The defendants challenged this appointment, asserting it was outside the jurisdiction of the revenue authorities.

Issues:

- i) For what purpose Local Commission can be appointed by a court?
- ii) Dictionary meaning of “elucidate”
- iii) Is the report of a local commission binding on the court, and can the court reject it or appoint a new commission even without objections?
- iv) Can the court order local investigation and demarcation in a suit for possession to determine illegal occupation?
- v) Is demarcation through a local commission meant to assist the court rather than create evidence for any party?

Analysis:

- i) In order to elucidate any issue pending before the court under Order XXVI Rule 9 CPC the court can order appointment of a local commission...in order to clarify a situation about which the court is unclear or is of the view that exercise of such power can bring the court to just and proper conclusion or the issue before it can be resolved with such exercise, a local investigation can be conducted by the court through the medium of a local commission.
- ii) The dictionary meaning of “elucidate”, is to clear/clarify/illuminate/ to shed light on.
- iii) Opinion/report of the local commission is not binding on the court and once the report is submitted, opportunity is given to the contesting parties to file their objections, which will be adjudicated upon before placing reliance on the report. Even if no objections are raised, the court even otherwise can reject the report or order to appoint a new local commission (so that justice can be done).
- iv) Keeping in view the nature of a regular suit for possession where the allegation is that rival party has illegally occupied the land of the plaintiff and for proving this fact the plaintiff will have to prove its ownership over the land in dispute and its dispossession whereupon the other party will put forth its defence justifying or validating its possession. Apart from keeping the evidence led by the parties in view an important tool in the hand of the courts so as to ascertain illegal possession is the local investigation through a commission who can also be ordered demarcation of the land in dispute which will clear all the ambiguities as the evidence of the parties can only be led to the effect that parties are owners of

the respective properties, however, without demarcation the issue of illegal occupancy of land cannot be determined otherwise.

v) Demarcation does not mean that it is ordered for creating evidence for a particular party... appointment of local commission qua demarcation is only to elucidate the pending matter and to verify the situation on ground enabling the courts to arrive at a just and proper conclusion, therefore, there is no circumstance to create evidence for any party.

Conclusion: i) See above analysis No i.
 ii) See above analysis No ii.
 iii) Report of the local commission is not binding on the court. Even if no objections are raised, the court even otherwise can reject the report or order to appoint a new local commission.
 iv) See above analysis No iv.
 v) Demarcation is only to elucidate the pending matter and to verify the situation on ground enabling the courts to arrive at a just conclusion

35. Lahore High Court
Asif Zahoor v. Muhammad Hanif
F.A.O. NO.02 OF 2024
Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC2211.pdf>

Facts: This appeal under Section 24 of the Cantonments Rent Restriction Act, 1963 emanates from order, whereby the Additional Rent Controller, proceeded to allow the application under Section 17(9) of the Act, 1963, moved by the respondent, seeking striking off defense of the appellant on the ground that he failed to comply the tentative rent order.

Issues: i) Who is a tenant under the Cantonments Rent Restriction Act, 1963; whether after his death, tenancy continues to his legal heirs?
 ii) How and when the rent due would be deposited, in case of dispute between the landlord and tenant?

Analysis: i) It is manifestly clear that tenant can be a person, who undertakes or is bound to pay rent as consideration for the possession or occupation of a building by him or by any other person on his behalf and it includes any person, who continues to be in possession or occupation of the building after termination of his tenancy and in the event of death of the tenant, his heirs and successors and after termination of the tenancy, his heirs and successors who continue to be in possession or occupation of the building.
 ii) Section 17 of the Act, 1963 outlines the grounds for eviction of a tenant. Sub-Section (8) of Section 17 ordains that on the first hearing of proceedings under this section or as soon thereafter as may be but before the issues are framed, the Controller shall direct the tenant to deposit in his office before a specified date all

the rent due from him, and also to deposit regularly till the final decision of the case, before the 5th day of each month, the monthly rent which subsequently becomes due, and if there be any dispute as to the amount of rent due, the Controller shall determine such amount approximately. Whereas Sub-Section (9) of Section 17 of the Act, 1963 provides the consequences of non-compliance of tentative rent order passed in terms of Sub-Section (8).

- Conclusion:**
- i) Tenant can be a person, who undertakes or is bound to pay rent as consideration for the possession or occupation of a building by him or by any other person on his behalf and it includes any person, who continues to be in possession or occupation of the building after termination of his tenancy and in the event of death of the tenant.
 - ii) The Controller shall direct the tenant to deposit in his office before a specified date all the rent due from him, and also to deposit regularly till the final decision of the case, before the 5th day of each month, the monthly rent which subsequently becomes due, and if there be any dispute as to the amount of rent due, the Controller shall determine such amount approximately.

36. Lahore High Court
Adeel Khaleel v. Shahid Hassan and 10 others
Writ Petition No.3048 of 2018
Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC2552.pdf>

Facts: Petitioner filed a suit for specific performance based on an agreement to sell a house, which was decreed conditionally requiring deposit of the remaining sale consideration within a stipulated time; petitioner disputed the amount and sought modification through an application, which was dismissed; revision petition against the dismissal was filed but was rejected for being time-barred; consequently, the petitioner invoked constitutional jurisdiction under Article 199 of the Constitution.

Issues:

- i) Whether a court becomes functus officio upon non-fulfillment of a conditional decree within the stipulated time?
- ii) Whether a revision application must be filed within ninety days under the amended Section 115 of the Code of Civil Procedure?
- iii) Whether the law of limitation can be relaxed in revision proceedings tainted with patent illegality while balancing the principle that it aids the vigilant, not the indolent?

Analysis:

- i) It is an oft repeated principle of law that when a decree is conditional and it stipulates the condition as well as the consequence of non-fulfillment of such condition the court would become functus officio on the target date.
- ii) It is noticed that the revisional powers were conferred upon the High Court for the first time by virtue of Section 35 of the Act, 1861 and through the Law

Reforms Ordinance (XII of 1972), Section 115 as it then was, has been renumbered as sub-section (1), and sub-sections (2), (3) & (4) were added. Second proviso to sub-section (1) was added through the Code of Civil Procedure (Amendment) Act (VI of 1992) whereunder it was made obligatory that a revision application shall be made within ninety days of the decision of the subordinate court which shall provide a copy of such decision within three days thereof and the High Court shall dispose of such application within six months.

iii) There is no cavil that mere limitation would not come in the way of revisional court to exercise its jurisdiction where it appears from the record that the proceedings brought before it are tainted with such patent illegalities or material irregularities defeating the ends of justice but at the same time limitation cannot be considered merely a formality. The prime object of law of limitation is to help the vigilant and not the indolent. A court cannot come to the rescue of a litigant having gone into deep slumber and became forgetful of his right.

Conclusion: i) See analysis No.1.

ii) It was made obligatory that a revision application shall be made within ninety days of the decision of the subordinate court.

iii) Mere limitation would not come in the way of revisional court to exercise its jurisdiction where it appears from the record that the proceedings brought before it are tainted with such patent illegalities or material irregularities defeating the ends of justice.

37. Lahore High Court
Muhammad Yaqoob Khan v. Pakistan through Secretary Ministry of Defence, (Civil Aviation Division), Govt. of Pakistan and others
R.F.A. No.80 of 2008
Mr. Justice Mirza Viqas Rauf, Mr. Justice Jawad Hassan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2275.pdf>

Facts: The matter pertains to a dispute arising out of the acquisition of land for a national infrastructure project. The land was classified into different categories, and compensation was awarded accordingly. Dissatisfaction with the determined compensation, the affected parties filed references before the Land Acquisition Collector, which were then forwarded to the Senior Civil Judge for decision. Hence; these appeals.

Issues

- i) Whether different kinds of land (Maira, Ghairmumkin, and Banjar Qadeem) can be treated uniformly for the purpose of compensation?
- ii) What is the key determining factor for awarding compensation under the Land Acquisition Act, 1894?
- iii) Should compensation be based on the price a willing buyer would pay, considering all relevant factors?
- iv) Can individual property rights be overridden in favour of public interest during land acquisition?

v) Is a landowner entitled to interest in addition to compensation when deprived of property under the law?

Analysis:

- i) From the comparative analysis of both Maira and Ghairmumkin land, there is no cavil that both are of different characteristic. (...) Before proceeding further, we thus, can now hold without any hesitation that there exists marked distinction between nature and status of land noted hereinabove i.e. Maira, Ghairmumkin and Banjar etc and they cannot be treated similar and akin to each other.
- ii) Section 23 of the Act, thus, does not restrict or hinge upon a single factor, rather it provides for various matters to be taken into consideration while determining compensation. We are mindful of the fact that initially, there was a trend that while determining the compensation, market value of the land at the date of publication of notification under section 4 of the Act was mainly taken into consideration but with the passage of time, law to this effect has gone under radical change and now the dominant factor is the potential value of the land.
- iii) The most dominant and guiding factor would be that the compensation should be determined at the price, which a willing buyer would pay to a seller as per his satisfaction. But at the same time, one cannot lose sight of the fact that compensation cannot be determined and awarded to the landowners as a bounty of state without taking into consideration the above noted salient features.
- iv) We are mindful of the fact that through the process of acquisition, a landowner is to be deprived of his property which is a stringent step but right of an individual cannot take precedence upon the right of general public. Acquisition of land is always meant for the benefit of large segment of society at the alter of rights of a specific group of society or the individual.
- v) Needless to observe that right of a citizen to hold property is not unfettered and unbridled but it is always subject to the law of land. In order to provide reasonable protection to the proprietary rights of a citizen whose land is to be acquired, the legislature inserted Sections 28 and 34 in the Act wherein a landowner who has been deprived of his/her land is held entitled to receive interest in addition to the compensation amount.

Conclusion:

- i) Maira, Ghairmumkin, and Banjar lands are distinct and must be compensated differently.
- ii) Compensation considers multiple factors, with focus shifting to potential value.
- iii) See analysis No.iii.
- iv) Public interest overrides individual property rights in land acquisition.
- v) Law ensures landowners receive interest along with compensation.

38.

Lahore High Court

State Life Insurance Corporation Vs. The Cooperative Insurance Society of Pakistan Limited

W.P. No.819 /1972

Mr. Justice Ch. Muhammad Iqbal

<https://sys.lhc.gov.pk/appjudgments/2025LHC2367.pdf>

Facts: Applicant, the State life Insurance Corporation, through petition under section 12(2) CPC challenged the judgment dated 03-11-1992 through which writ petition filed by the respondent against nationalization of its assets was accepted. The court accepted application, set aside the judgment and also dismissed the writ petition of respondents.

Issues:

- i) What is the effect of fraud on court proceedings?
- ii) Whether limitation runs against order/judgment obtained through fraud?
- iii) Whether courts have jurisdiction to adjudicate matters pertaining to the Life Insurance (Nationalization) Order, 1972?

Analysis:

- i) The respondents malafidely did not mention the petitioner as party/as respondent and fraudulently inserted the name of the petitioner as writ petitioner and for this reason no notice could be issued to the applicant by this Court which shows that the respondents committed fraud and misrepresentation to obtain the impugned judgment from this Court whereas fraud vitiates the most solemn proceedings thus any edifice so raised on the basis of such fraudulent act that shall stand automatically dismantled and any ill-gotten gain achieved by fraudster cannot be validated under any norms of laws and ethics.
- ii) It is settled law that when order/judgment obtained on the basis of fraud and misrepresentation then no limitation runs against such order/ judgment, thus as and when the said fraud came into knowledge of the aggrieved party, it can avail remedy under Section 12 (2) CPC and as per Article 18 of the Limitation Act, 1908 limitation will start from the date of knowledge of such orders... Thus as the impugned order was obtained on the basis of fraud and misrepresentation which is void in nature, and against such like illegal order no question of limitation arises and such void order being nullity in the eyes of law is vulnerable to inherent jurisdiction of the Court to be set at naught, as such the same is liable to be ignored and undone accordingly... The impugned judgment was obtained by the respondent without issuance of notice to the applicant and hearing it as well as through connivance of the respondents and the writ petitioner on the basis of consent, thus any order/ judgment / decree obtained without hearing and notice to adverse party would be nullity and no question of limitation would arise... The settled principle of law is that no limitation runs against the void order and the entire superstructure based on the same is to be crumbled down for all intends and purposes and same does not create or convey any kind of right in favour of holder of such order... Besides above, any order/ judgment passed without notice or hearing of a party whose presence is otherwise necessary before the Court is nullity in the eyes of law and in such like cases no question of limitation would arise...
- iii) The Life Insurance (Nationalization) Order, 1972 was promulgated on 18.03.1972 and under Article 269(1) of the Constitution of the Islamic Republic of Pakistan, 1973, the Order, 1972 as well as all the other laws made between

20.12.1971 to 20.04.1972 were declared to have been validly made by the competent authority and same has protection of the Constitution... Further under Article 45 of the Order 1972 jurisdiction of this Court is barred.

Conclusion: i) Fraud vitiates the most solemn proceedings.
 ii) when order/judgment has been obtained on the basis of fraud and misrepresentation then no limitation runs against such order/ judgment.
 iii) under Article 45 of the e Life Insurance (Nationalization) Order, 1972 jurisdiction of Courts is barred.

39. Lahore High Court
Nasir Ahmad (deceased) through Legal Heir & others v. Member Board of Revenue, Punjab, Lahore & others.
Writ Petition No.28076 of 2021.
Mr. Justice Muhammad Sajid Mehmood Sethi
<https://sys.lhc.gov.pk/appjudgments/2025LHC2518.pdf>

Facts: The Govt. acquired land of the petitioner for public purpose. The surplus land was transferred/ returned (vide disputed mutation) to the petitioner in result of a decree passed by the Civil Court. An application under S.12(2) CPC filed by the Department was dismissed upto the apex Court. Later on, the Revenue Authority reviewed its order of return of land and cancelled the disputed mutation. Hence, the petitioner filed the Writ Petition before the High Court.

Issues: i) Whether the unutilized acquired land is to be auctioned by the Govt. or restore to the previous owner of the land?
 ii) How the discretion should be exercised by the Govt. in auctioning or returning the unutilized land to its previous owner?
 iii) What authority retains by the Govt. if the acquired land remains unused, whether it is to be returned under the principle of reversion?
 iv) What is the effect of a decree passed by the civil Court, whether revenue authority can review the mutation sanctioned in pursuance of such decree?
 v) Whether it is within a revenue officer's jurisdiction to reassess or question the merits or correctness of a Civil Court decree?

Analysis: i) It is worth noting that the Government has the discretion either to auction the unutilized land or, as a matter of grace, restore it to the previous owner(s), who cannot claim restoration of unutilized land as a matter of right.(---) It is a well-established legal principle that when acquired land, either in whole or in part, remains unused, it should rightfully revert to its original owner in due course of law.
 ii) However, the discretion vested in the Government must be exercised fairly and reasonably, not arbitrarily or capriciously—in accordance with the well-established legal maxim 'discretio est discernere per legem quid sit justum' which

means that when a judge or authority uses discretion, it is not about acting on personal whims or subjective feelings, but rather about using reasoned judgment within the framework of the law to determine what is fair and just in a given situation. It has been repeatedly held by the superior Courts of the country that discretionary powers vesting in an authority are to be exercised judiciously and in reasonable manner, otherwise the decision will be arbitrary and may be considered misuse of power.

iii) Undoubtedly, when authorities acquire private property for public purposes and subsequently fulfill those objectives with surplus land remaining, the government retains the authority to repurpose such excess land for alternative public initiatives. However, in absence of any government-approved scheme demonstrating this new public purpose, the law requires that such land be denotified and restored to its original proprietors or their rightful successors. This principle of reversion serves as a safeguard against indefinite governmental retention of land beyond its legitimately required scope.

iv) It bears emphasizing that revenue authorities cannot contravene a decree passed by the Civil Court; so, the sanctioning of a mutation in pursuance of such a decree was merely a formality and was not an independent act, which did not create separate rights. Under these circumstances, the mutation in question was clearly beyond the District Collector's (respondent No.3) authority to review, as doing so would effectively nullify the decree granted in the petitioners' favour.

v) It is not within a revenue officer's jurisdiction to reassess or question the merits or correctness of a Civil Court decree. The law unequivocally requires revenue officers to accept such decrees and implement them in the revenue records accordingly. The respondent-authorities, in issuing the impugned orders, failed to properly consider both the legal framework and factual background of the case, erroneously ordering a review of the aforementioned mutation without accounting for critical aspects of the matter.

- Conclusion:**
- i) See above analysis No.i
 - ii) See above analysis No.ii
 - iii) See above analysis No.iii
 - vi) Revenue authority cannot review the mutation sanctioned in pursuance of a decree passed by the Civil Court.
 - v) it is not within a revenue officer's jurisdiction to reassess or question the merits or correctness of a Civil Court's decree.

40. Lahore High Court
Faysal Bank Limited v. M/s Tahir Omer Industries Limited, etc.
C.O.S No.825 of 2022
Mr. Justice Muhammad Sajid Mehmood Sethi,
<https://sys.lhc.gov.pk/appjudgments/2025LHC2346.pdf>

Facts: A financial institution filed a recovery suit under Section 9 of the Financial

Institutions (Recovery of Finances) Ordinance, 2001, against a company that defaulted on repayment of finance facilities including FATR and WCL. The defendants filed an application for unconditional leave to defend, raising various factual and legal objections. The present judgment adjudicates on the maintainability of the suit and the defendants' entitlement to defend.

- Issues:**
- i) Can a financial institution institute a suit under the Ordinance, 2001, through a duly authorized officer?
 - ii) Does a certified statement of account suffice under the Bankers' Books Evidence Act, 1891?
 - iii) Is a defendant's general denial without documentary rebuttal sufficient to dispute a financial claim?
 - iv) Can unsubstantiated objections to financial documentation negate the claim of a financial institution?
 - v) Can vague denials and lack of counter-evidence justify leave to defend a suit under the Ordinance, 2001?

- Analysis:**
- i) As per Section 9(1) of the Ordinance, 2001, when a customer or financial institution defaults on any finance obligation, the aggrieved party may institute a suit in the Banking Court by presenting a plaint verified on oath. In the case of a financial institution, this verification may be executed by the Branch Manager or another officer duly authorized by power of attorney... The present suit was instituted through the aforementioned Sheharyar Tiwana, with the Power of Attorney available in the file, confirming that this suit has been properly initiated through a competent person.
 - ii) The Hon'ble Supreme Court and High Courts have consistently held that the Statement of Account provided by the bank, which bears the proper stamps and initials of the authorized bank official, besides carrying a note "*Certified and verified on Oath that all the entries contained in the statement of account are true copies of the entries contained in ordinary books of the bank maintained and prepared in ordinary course of business and the said books are still in the custody of the bank. These entries have been certified after verification from the original ledger/ bills of the banker*", satisfies the legal requirements stipulated under section 2(8) of the Bankers' Books Evidence Act, 1891. The Statement of Account submitted by the plaintiff bank in this suit carries such an endorsement/certification; therefore, the Statement of Account is duly certified in terms of afore-referred provisions of law. On the other hand, the defendants have not attached any counterstatement to controvert said Statement of Account. Consequently, their mere unsubstantiated allegations, unsupported by legal authority or documentary evidence, have no legal merit or foundation.
 - iii) It is a well-established legal principle that a defendant cannot contest an amount that has been duly acknowledged in the financial statement and audited accounts.
 - iv) The documents annexed with the plaint negate this contention of the learned counsel of the defendant-Company. The Statement of Account and the Financing

Statement duly reflect the details of due mark-up as well as adjusted mark-up. It is well-settled principle of law that mark-up is to be paid by the customer on the availed finances as per the agreement executed between the parties.

v) Once again it is observed that unsubstantiated allegations by the defendant-Company regarding the non-execution of financial documents lack documentary evidence. The defendants have not specifically denied executing the Mortgage Deeds, Memorandum of Deposit of Title Deeds, or other security documents. Furthermore, they have not explicitly denied that the amount claimed by the plaintiff-Bank was credited to the principal debtor's account. The defendants have also failed to challenge these documents before any legal forum. Therefore, their evasive denial of executing the financial documents does not entitle them to leave to defend the suit. Conversely, the plaintiff-Bank's claim is supported by numerous documents present on the record, as discussed above, which cannot be discarded without compelling documentary evidence in rebuttal.

- Conclusion:**
- i) Yes, a financial institution can institute a suit under the Ordinance, 2001, through a duly authorized officer.
 - ii) Yes, a certified statement of account satisfies the evidentiary requirements under the Bankers' Books Evidence Act, 1891.
 - iii) No, a general denial by a defendant, unsupported by documentary rebuttal or specific counter-entries, is insufficient to dispute a well-documented financial claim.
 - iv) No, vague and unsupported objections cannot negate the plaintiff's claim when documentation such as statements of account and financing statements substantiate the financial relationship and obligations.
 - v) No, vague denials and the absence of substantive counter-evidence do not justify leave to defend under the Ordinance, 2001.

41. Punjab Subordinate Judiciary Service Tribunal Lahore
Sheikh Ali Jaffar v. The Registrar, Lahore High Court, Lahore.
Service Appeal No. 31 of 2015
Mr. Justice Muhammad Sajid Mehmood Sethi, Mr. Justice Rasaal Hasan Syed, Mr. Justice Abid Husain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC2391.pdf>

Facts: The appellant, while serving as a Civil Judge and appointed as Returning Officer, issued a corrigendum, reversing the result of a declared successful candidate without notice to the complainant and forwarded the same directly to the Election Commission of Pakistan ("ECP"). Following complaints and an inquiry, the appellant was dismissed from service by the competent authority. The departmental representation / appeal filed by the appellant was also dismissed. Feeling aggrieved, the appellant filed the instant service appeal.

Issues:

- i) Whether a Returning Officer, after declaring election results, is legally competent to revise the same through a corrigendum?
- ii) Whether the appellant's actions issuing a revised result without notice to the

affected party violated principles of natural justice?

iii) Whether the proven conduct of the appellant of issuing a revised result meets the definition of 'misconduct' under the Punjab Civil Servants (Efficiency and Discipline) Rules, 1999?

iv) Whether the disciplinary proceedings violated the principle of double jeopardy given the appellant's prior reinstatement?

- Analysis:**
- i) It has not been shown to us that under what authority of law, the appellant undertook said exercise when the election disputes could only have been resolved by the Election Tribunals and the appellant had become functus officio. Once a candidate is declared elected in the Form IX, the Returning Officer ceases to have any power to alter said declaration subsequently.
 - ii) It is not evident from the record that the appellant issued any notice to the opposite party, who was likely to be affected from the change in the already declared result, which contravenes the principles of natural justice.
 - iii) The act complained of must bear a forbidden quality or character having regard to the scope of the statute and the public purpose it seeks to serve. A wanton breach of the governing principles of law or procedure may indicate, in certain cases, a motivated or even reckless disregard of legal principles.
 - iv) The earlier complaint dealt with by the ECP against the appellant was independent from the inquiry proceedings ordered by the competent authority under the provisions of the Punjab Civil Servants (Efficiency and Discipline) Rules, 1999.

- Conclusion:**
- i) See analysis i above.
 - ii) See analysis ii above.
 - iii) The established facts of issuing a revised result reflect gross negligence, misconduct and a dereliction of duty on the part of the appellant.
 - iv) There was no issue of double jeopardy, as these two proceedings were independent of one another.

42. Lahore High Court
Malik Muhammad Anwar Versus Chand Bibi (deceased) through Legal Heirs & others
Civil Revision No.2519 of 2023
Mr. Justice Muhammad Sajid Mehmood Sethi
<https://sys.lhc.gov.pk/appjudgments/2025LHC2507.pdf>

Facts: Petitioner filed a suit for declaration, possession through partition, and permanent and mandatory injunction, which was contested by the respondents; trial Court dismissed the suit; appeal of petitioner was also dismissed by the Appellate Court, leading to the filing of the present revision petition.

Issues: i) Whether general allegations without specific details do not constitute a proper plea of fraud?

ii) Whether the concurrent findings suffer from jurisdictional error, illegality, or material irregularity warranting interference under Section 115 CPC?

Analysis:

i) when a party alleges fraud, it must provide specific particulars detailing the nature and manner in which it was practiced, enabling the opposing party to prepare an adequate defense. General allegations without specific details do not constitute a proper plea of fraud. Essential particulars—including when, how, by whom, in what manner, and for what purpose the fraud was committed, as well as who colluded with whom and for what objective—must be clearly averred.

ii) It has been consistently held by the superior Courts that High Court's revisional authority under Section 115 of the Code of Civil Procedure 1908, exists to ensure proper judicial oversight and correction, unimpeded by procedural formalities. This power is limited to addressing substantive errors such as misinterpretation of evidence, jurisdictional overreach, or significant legal flaws that materially affect merits of the case or result in conclusions that contradict established legal principles. Revisional powers cannot be used to interfere in the concurrent findings of the Trial and Appellate Courts merely because of the reason that another view of the evidence could also be possible. The law is also well-settled that even if the findings of the Courts below are erroneous, the High Court, in exercise of its revisional powers, cannot interfere unless such findings suffer from a jurisdictional defect, illegality, or material irregularity affecting the merits of the case.

Conclusion:

i) General allegations without specific details do not constitute a proper plea of fraud.

ii) High Court, in exercise of its revisional powers, cannot interfere unless such findings suffer from a jurisdictional defect, illegality, or material irregularity affecting the merits of the case.

43. Lahore High Court
Mehboob Alam v. Additional District Judge, Lahore & others
Writ Petition No.29329 of 2020
Mr. Justice Muhammad Sajid Mehmood Sethi
<https://sys.lhc.gov.pk/appjudgments/2025LHC2512.pdf>

Facts: A petitioner challenged the orders for auction of his property issued by the Executing Court. The auction was initiated to satisfy a decree passed in a family suit wherein the petitioner had submitted a surety bond on behalf of the judgment-debtor.

Issues:

i) Can a surety be held liable for the entire decretal amount if the contents of the surety bond and recorded statement differ?

ii) Can a decree be executed against a surety based on their undertaking if the judgment-debtor defaults?

iii) Does the arrest of the judgment-debtor absolve the surety from liability under the surety bond?

- Analysis:**
- i) It is manifestly clear from the above that while submitting surety bond, petitioner has undertaken to satisfy the remaining decretal amount, whereas the surety bond submitted on his behalf contains altogether different version. There is clear ambiguity found in the surety bond, whereas the undertaking given by petitioner on the backside thereof is not ambiguous and its plain reading leads to no other meaning but that the petitioner / surety held himself responsible for satisfaction of the entire remaining amount and offered his property, mentioned in the statement, to be attached in case of default by the judgment-debtor. There is no cavil with the proposition that stipulation(s) and / or words in surety bond must be read in their ordinary meaning and when words contained therein are unambiguous, there is no reason to apply any other to its construction, however, in this case, the contents of surety bond are vague and unclear as compared to the undertaking given by petitioner.
 - ii) ...the petitioner himself made him liable to pay the decretal amount in place of the judgment-debtor on his failure to satisfy the decree. The petitioner now cannot wriggle out of his own undertaking. Law is well settled about proposition that decree can also be executed against a surety.
 - iii) It suffices to say that arrest of judgment-debtor does not absolve the surety from making payment of decretal amount as his liability is joint and several with the judgment-debtor. Surety can be proceeded against for enforcement of his liability as provided under Section 45 CPC.
- Conclusion:**
- i) Yes, a surety is liable for the entire decretal amount where his recorded statement clearly affirms such liability.
 - ii) Yes, a decree can be executed against a surety based on their undertaking if the judgment-debtor defaults.
 - iii) No, arrest of the judgment-debtor does not absolve the surety from liability.

44. Lahore High Court
Ch. Fawad Ahmed v. Government of Pakistan and others
Writ Petition No. 17090/2025
Mr. Justice Syed Shahbaz Ali Rizvi, Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC2579.pdf>

- Facts:** The Petitioner, a former government official, was later implicated in multiple criminal cases for allegedly inciting public violence through social media across several cities following a major political event. He asserted through this writ petition that these cases stemmed from the same alleged conduct and sought their consolidation into a single proceeding where principal offence occurred.
- Issues**
- i) Can multiple FIRs be registered regarding the same occurrence or incident involving a different version of events?
 - ii) Does the “doctrine of sameness” permit consolidation of FIRs that arise from events triggered by a common cause?

- iii) Can distinct occurrences across different times and locations be consolidated into one legal proceeding under the doctrine of sameness?
- iv) Does section 180 Cr.P.C. allow multiple offences allegedly resulting from a single act of abetment to be tried at the place where the abetment occurred?
- v) What does “same transaction” mean under judicial interpretation?
- vi) What is the distinction between section 239 Cr.P.C. and the doctrine of sameness in terms of their legal scope and purpose?
- vii) Does Article 13(a) of the Constitution bar prosecution for the same conduct in multiple jurisdictions prior to conviction or acquittal?

Analysis:

- i) There was, however, a divergence of judicial opinion in our country on whether a second FIR could be registered regarding the same occurrence, particularly when it involved a different version of the same incident. In *Mst. Sughran Bibi v. The State* (PLD 2018 SC 595), a larger Bench of the Supreme Court of Pakistan authoritatively settled the controversy and explained that the correct legal position was as follows: (...) (d) During the investigation, the officer may record any number of versions of the same incident as presented to him by different individuals. All of them are documented under section 161 Cr.P.C. within the same case. No separate FIR is to be registered for any new version of the same incident brought to the officer’s attention during the investigation.
- ii) The question as to whether the doctrine is applicable in a given case must be determined upon careful consideration of all relevant facts. It does not apply where the offences alleged in each FIR pertain to distinct incidents involving different victims, places, and consequences, even if triggered by a common cause.
- iii) In the present case, each FIR arises from a distinct occurrence that took place at a different time and, in some instances, at a different location. These events involve separate accused persons, acts of violence, and evidentiary material, albeit all are said to have been precipitated by a common political development, namely, the arrest of Imran Khan. The Petitioner has been implicated in all these FIRs on the allegation that he abetted the violence through social media messaging. While his alleged conduct may be broadly similar across the cases, the acts of violence forming the subject matter of the respective FIRs are neither identical nor part of a single transaction. As such, the doctrine of sameness does not justify a blanket consolidation of all FIRs.
- iv) this interpretation stretches section 180 beyond its intended scope. Section 180, read with its Illustration (a), merely confers concurrent jurisdiction on both courts: one at the place of abetment and the other where the abetted offence occurred. It does not mean that multiple distinct offences committed in different districts by different actors – allegedly in consequence of the same act of abetment – can be tried together at the place where the abetment occurred.
- v) The phrase “same transaction” is not defined in the Code. However, it has been judicially interpreted to mean a series of events or acts connected by proximity in time and place, continuity of action, commonality of purpose, and factual interdependence that form one indivisible whole.

vi) It is pertinent to note that although section 239 Cr.P.C. and the doctrine of sameness both employ the concept of a “same transaction”, they operate in distinct legal spheres and serve different purposes. Section 239 is a permissive procedural provision that allows the joinder of accused persons in a single trial, subject to statutory criteria. In contrast, the doctrine of sameness is a judicially developed principle rooted in procedural fairness that protects individuals from facing multiple prosecutions for the same alleged conduct. While the two may intersect in some instances, particularly where overlapping factual allegations arise, their legal foundations and objectives remain separate.

vii) In our view, the constitutional protection under Article 13(a) is generally attracted only after a person has been prosecuted or punished for an offence. Its extension to the investigative stage, as suggested in *Sanam Javed*, was based on the peculiar circumstances of that case and does not create a general bar to proceedings under section 179 Cr.P.C.

- Conclusion:**
- i) A second FIR cannot be registered for a different version of the same incident; all versions must be recorded within the same case under investigation.
 - ii) The doctrine of sameness is not applicable where FIRs relate to separate incidents with distinct facts, despite arising from a common cause.
 - iii) See analysis No.iii.
 - iv) Section 180 Cr.P.C. only grants concurrent jurisdiction to courts of abetment and offence, but does not allow joint trial of multiple distinct offences in one location.
 - v) Same transaction implies events connected by time, place, purpose, and continuity, forming an inseparable sequence.
 - vi) Section 239 Cr.P.C. and the doctrine of sameness both relate to same transaction, but differ fundamentally in legal nature, scope, and purpose.
 - vii) Article 13(a) of the Constitution bars double jeopardy only post-prosecution or punishment and does not generally apply during investigation.

45. Lahore High Court
Noor Muhammad, etc. v. Mst. Sardar Begum, etc.
Civil Revision No.227-D/2013
Mr. Justice Asim Hafeez
<https://sys.lhc.gov.pk/appjudgments/2025LHC2264.pdf>

Facts: The petitioners instituted a civil suit for seeking declaration, cancellation, partition and permanent injunction against will deed and gift deed. Trial Court dismissed the suit to the extent of the will deed and allowed it to the extent of the gift deed, declaring it ineffective and invalid. Appellate Court upheld the reasoning and rational of the decree of the trial court and dismissed the appeals. Through this Civil Revision, the petitioners have challenged the concurrent findings of the lower courts before the High Court.

Issues

- i) Whether consent by legal heirs must be in writing or even an oral consent, by way of conspicuous conduct and not mere silence, could contribute to the legality of the will deed?
- ii) What is scope of doctrine of cause of action estoppel?
- iii) What is scope and application of the concepts of burden to prove and onus to prove?
- iv) What is effect of consent of all legal heirs regarding limit of on bequeathing in excess of 1/3rd of the property?

Analysis:

i) Undeniably, conscious and conspicuous acquiescence, without any protest, constitutes a consent, by demonstrating an affirmative conduct. And an overt act as opposed to silence constitute an acknowledgment to the validity and effectiveness of the will deed. Simply by electing not to include the property, subject of the will deed, as part of previously instituted suit for partition of another property established an underlying intent, which is to treat property, subject of the will deed, not forming part of the estate of the deceased, this alone is sufficient to meet the requirement of having consent of all the heirs. Notably, paragraph 117 of the Muhammadan Law used the expression ‘*consent*’, without any qualification that consent should be and must always in writing. And instead, the consent can be expressed, communicated or ascertained upon evaluating an overt conduct. Hence, in view of the evidence available and conduct demonstrated, all the legal heirs had expressed acknowledgement of the will deed and consented to its enforcement.

ii) In the context of relevant facts, cause of action accrued to all the legal heirs to enforce it against the estate of the deceased, involving both the properties – one subject of the will deed and other subject of an earlier suit. Right to sue, *inter-alia* construed as a cause of action, was available, simultaneously against both the properties, irrespective of the will deed, but conspicuously exercising it with respect to one of the properties - Chur Harpal property –, clearly established that though cause of action was available but not exercised, hence, same stood extinguished upon passing of the judgment in the previous suit [merger of cause of action and enforceable but only in terms of the judgment passed – when in particular the judgment was not simplicitor a declaratory judgment but in fact directing partition of the estate of the deceased / Testator, only to the extent of Chur Harpal property. Doctrine, by which a cause of action merger with a judgment in the action was elaborately discussed in the case of “*Nasir (Appellant) v. Zavarco plc (Respondent)*” [2025 UKSC 5]. Now in these circumstances principle of merger, re-phrased as the rule of finality of cause of action, embodied in terms of Order II Rule (2) of the Code, is attracted, whereupon right of the legal heirs to seek partition of the property, subject of the will deed, stood extinguished and the right to sue / cause of action, for claiming share in the estate of the deceased matured / transformed into an enforceable judgment to the extent of property, not subject of the will deed. Hence, right to sue or invoke cause of action, already extinguished, is not available against the

property, subject of the will deed. Doctrine of cause of action estoppel, a rule of substantive law and embodied in Order II Rule (2), *ibid*, is fully attracted and rightly enforced by the courts.

iii) One must not overlook difference in the scope and application of the concepts of burden to prove and onus to prove, former is static throughout the proceedings, which imposes an obligation on the claimant, who claims a cause of action, to prove existence of such right in terms of Chapter IX [Burden of Proof] of Qanun-e-Shahadat Order 1984. And latter, which oscillates during the trial, refers to the requirement of producing evidence on a specific fact or issue.

iv) Pertinently, relevance of 1/3rd limit otherwise diminished when consent of the legal heirs to the will deed stood established. In terms of paragraph 118 of Muhammadan Law, bequest(s) in excess of the legal third cannot take effect, unless the heirs consent thereto after the death of the testator. Guidance in this behalf of solicited from the ratio settled in the case of *Zakia Begum and others V. Nasir-ul-Islam Khan and others* (2022 SCMR 2130). *Rule of Rateable proportion* has no application since factum of share of the legatees in excess of 1/3rd was not proved hence, there is no reason for reducing the share of each of the legatee, proportionately – validity of the will deed was affirmed by the Courts.

- Conclusion:**
- i) The consent can be expressed, communicated or ascertained upon evaluating an overt conduct.
 - ii) See above analysis No.ii
 - iii) See above analysis No.iii
 - iv) See above analysis No.iv

46. Lahore High Court
Saeed Ahmad Saeedi v. The State, etc.
Criminal Revision No.192 of 2024.
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC2225.pdf>

Facts: The petitioner assailed the order of the learned ASJ, wherein, his application for acquittal u/s 265K CrPC on resiling of complainant/victim is dismissed.

Issues:

- i) How a witness is to be treated, who changes his stance?
- ii) What is origin and literal meaning of the word “testimony”?
- iii) What is difference between the resiling of complainant and resiling of a witness?
- iv) Whether conviction could be based solely on DNA evidence?
- v) What would be the status of a case after resiling of the complainant?

Analysis: i) The Supreme Court of Pakistan in a case reported as “Maulvi HAZOOR BAKSH versus THE STATE” (PLD 1985 Supreme Court 233) held that a witness who changes his stance cannot be considered as truthful witness and his testimony should not be relied upon. Further, statement of a resiling witness may be ignored

but a resiling complainant uproots the prosecution case in its entirety, because initiation of criminal prosecution is triggered by him and barring in some category of offences, when complaining person does not support formalization of such initiation, no question appears to produce further evidence.

ii) In a case reported as “MUHAMMAD AKHTAR and others Versus The STATE and others” (2022 P Cr. L J 591), this Court has thrashed the etymology of word ‘testimony’ ; according to which, it was derived from word “Testis” where ‘Te’ stands for ‘Tri’ (third) and ‘Stis’ means ‘stance’ or ‘stand’, so ‘testis’ means ‘third stand/stance’. In an adversarial system, there are two parties in contest, i.e., ‘prosecution’ and ‘defence’; thus, there are two stances and for resolution of issue Court requires a third stance, i.e., a witness.

iii) Of course, there is a difference between resiling of complainant and resiling of a witness. In former case, no probability of conviction remains there and then; therefore, dragging the matter for conducting whole trial would be an abuse of process, but in later case, situation remains open to get a support to the testimony of the complainant through other forms of evidence. However, in former case there is an exception that if video evidence of the occurrence is available and some witnesses also support the occurrence, then resiling of complainant shall not matter at early stage and trial must go on.

iv) As we know DNA evidence is not a substantive piece of evidence rather corroboratory in nature and it is trite that conviction cannot be passed mere on corroboratory evidence... It has further been observed that Constitutional guarantee against self-incrimination as per Article 13 of the Constitution of the Islamic Republic of Pakistan 1973 also stands as safeguard against the DNA evidence. According to such Article no person shall be compelled to become witness against himself. However, through statutory law it is permitted to conduct DNA sampling of an accused who is under the charge of rape, as mentioned in section 53A of Cr.P.C. Such DNA evidence can only be used in conjunction with other substantive evidence to record the conviction against the accused otherwise conviction solely on the basis of DNA evidence would be unconstitutional.

v) After resiling of the complainant, learned trial Court must have acquitted the accused under section 265K of Cr.P.C., because there remained no probability of conviction any more.

Conclusion: i) A witness who changes his stance cannot be considered as truthful witness and his testimony should not be relied upon.

ii) The word testimony was derived from word “Testis” where ‘Te’ stands for ‘Tri’ (third) and ‘Stis’ means ‘stance’ or ‘stand’, so ‘testis’ means ‘third stand/stance’. A witness is the person who provide third stance to the court in adversarial system.

iii) No probability of conviction remains there and then in a case when complainant resiles from his earlier stance; in case of resiling of witness situation remains open to get a support to the testimony of the complainant through other forms of evidence

iv) DNA evidence is not a substantive piece of evidence rather corroboratory in

nature and conviction solely on the basis of DNA evidence would be unconstitutional.

v) After resiling of the complainant there remains no probability of conviction and the court must acquit the accused.

47. Lahore High Court
Muhammad Haris v. The State and another
Crl. Revision. No.133 of 2025
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC2230.pdf>

Facts: The petitioner being the accused of a case FIR, after getting his statement recorded u/s 342 CrPC, filed an application u/s 265F(7) CrPC for summoning of record of a 'receipt' from a hospital to discard the presence of witnesses at the crime scene at the relevant time; but was dismissed by the learned Adl. Sessions Judge.

Issues:

- i) What are the requirements and exceptions thereto, of defence application u/s 265F(7) CrPC for summoning a document?
- ii) Whether a person attending court to produce document, could be examined as a witness and cross-examined?
- iii) What is the role of the court in determining the mode and manner for production of a document in evidence?

Analysis:

- i) There is no cavil that Court is bound to summon any document requested by the defence under section 265-F(7) of the Code, unless it considers that the application is made for the purpose of vexation or delay or defeating the ends of justice. For summoning of any document, only the destination where it is lying or being kept is required to be written in the application filed for the purpose which has been done by the petitioner while mentioning the name of Laeeq Rafique Hospital with its address, Bahawalpur Road Multan; therefore, as per section 265 F (7) read with section 94 of the Code, Court was bound to issue notice to In-charge of said Hospital to produce the 'receipt' through any authorized person.
- ii) In pursuance to Court order, when the authorized person appears in the Court with requisite document/record, the process mentioned in Article 134 of the QSO 1984 shall follow, which is as under;
134. Cross-examination of person called to produce a document: A person summoned to produce a document does not become a witness by the mere fact that he produces it and cannot be cross-examined unless and until he is called as a witness.
Statement of such authorized person shall not be recorded as PW, DW or CW because he is not the witness of any party rather appearing simply in representation of record keeper of the Hospital to depose about fact of availability/existence of document in the record. Such person would depose that as per hospital record, it is reflected that receipt was issued by, and received by,

the persons named therein on such & such date, but if he is not the author of said receipt and also has not been summoned as a witness, he cannot be subjected to cross examination, which is the command of Article 134 of the QSO 1984.

iii) It is trite that mere marking a document for exhibition does not fulfill the requirement of its admissibility into evidence until it is proved through mode and manner prescribed in the QSO 1984. Reliance in this respect is placed on a case reported as “Mst. AFIA AMBRINE Versus ADDITIONAL DISTRICT JUDGE, SIALKOT and 14 others” (PLD 2025 Lahore 124). In the present case the issue of ‘receipt’ requires proof of two facts, i.e., existence of receipt, and issuance of receipt by Laeeq Rafique Hospital, and it is for the trial Court to decide which fact is first to be proved as ordained under Article 131 (3) of the QSO 1984... Thus, Court had a discretion either to allow admission of receipt first into the evidence and then require evidence to prove its formal issuance from the hospital, or vice versa; therefore, observation of trial Court that by exhibiting ‘receipt’ in the statement under section 342 of the Code needful has been done, does not reflect correct application of law as per above Article.

- Conclusion:**
- i) The court is bound to summon any document requested by the defence u/s 265F(7) CrPC; unless the court considers the applications made for purpose of vexation or delay or defeating the ends of justice. The destination where the summoned document is lying or being kept is required to be written in the application.
 - ii) The statement of person appearing to produce document shall not be recorded as PW, DW or CW because he is not the witness of any party. He shall only be recorded to the effect of verification of record and entries thereupon.
 - iii) Mere marking a document as exhibit does not fulfill the requirements of its admissibility into evidence until it is proved through mode and manner prescribed by QSO; including two steps, first the production of document and secondly the verification of document from record.

48. Lahore High Court
Muhammad Baksh (deceased) through legal heirs and others v. Member Board of revenue and 11 others.
W.P.No. 5825/2005
Mr. Justice Abid Hussain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC2221.pdf>

Facts: Petitioners claimed to be cultivating land as mortgagees/tenants since 1965-66 as *Murtehnan*. They challenged consolidation orders that omitted their entries from revenue records.

Issue:

- i) Can longstanding entries of cultivation or tenancy rights be omitted during consolidation without violating Section 16 of the Punjab Consolidation of Holdings Ordinance, 1960?
- ii) Does lack of notice of consolidation proceedings justify condonation of

delay in asserting rights?

- Analysis:**
- i) It is conceded even in the impugned Orders that predecessor-in-interest of the Petitioners was in cultivating possession of a portion of land which was part of consolidation scheme as mortgagee. It is admitted that there were long standing entries in favour of the Petitioners in this regard in the cultivation column...long standing entries as mortgagee and / or tenancy rights of the Petitioners in the cultivation column existing prior to the scheme of consolidation could not have been omitted in view of Section 16 of the Ordinance."
 - ii) "Learned Lower court also took into consideration of the inordinate delay of 3-1/2 years which was not condoned... However... the Petitioners had adequately explained the delay in agitating their claim on the ground that they had no notice of the consolidation proceedings which fact is borne out from the record. Hence, the delay stood condoned by order dated 12.04.1997."

- Conclusion:**
- i) No, such entries cannot be omitted if they existed prior to consolidation.
 - ii) See above analysis No. ii.

49. Lahore High Court
Nizam ud Din v. Additional District Judge etc.
Writ Petition No.10620/2024
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC2300.pdf>

Facts: The petitioner challenges the judgment of the Appellate Court, which allowed the respondents' appeals and remanded the case with directions to implead the petitioner grandfather as a defendant under Order I Rule 10 CPC.

Issues:

- i) Whether the paternal grandfather is legally responsible for the maintenance of minor children when both parents lack the financial means?
- ii) Whether the law favours piecemeal litigation, especially where a single comprehensive adjudication can resolve the matter?

Analysis:

- i) It is a settled principle of law that the primary obligation to maintain minor children rests with their father. However, in cases where the father is unable to fulfill this obligation either due to financial incapacity or willful neglect, the responsibility may shift to the mother and, if she is also indigent, to the paternal grandfather. This principle is firmly established in Islamic jurisprudence and finds authoritative articulation in terms of paragraph 370 quoted hereinabove. In these circumstances, the respondents were justified in filing an application to implead the petitioner in terms of paragraph 370 referred above. When the father is not in easy circumstances and the mother lacks financial means, the obligation to maintain the minors may legally devolve upon the paternal grandfather.
- ii) Such fragmented litigation not only burdens the judicial system but also prolongs relief to the minor grandchildren of the petitioner, whose welfare must

remain the paramount consideration. Suffice to state that the law does not favour piecemeal litigation, especially where a single comprehensive adjudication can resolve the matter. The Courts are duty-bound to avoid wastage of judicial resources and prevent litigants from being entangled in repetitive legal proceedings. This principle is applicable with greater vigour and force in family cases as the provisions of CPC are not applicable and the Family Court under the law is vested with power and jurisdiction to regulate its own procedure.

Conclusion: i) Paternal grandfather is legally responsible for the maintenance of minor children when both parents lack the financial means.
ii) Law does not favour piecemeal litigation, especially where a single comprehensive adjudication can resolve the matter.

50. Lahore High Court
Muhammad Imran v. Government of Punjab etc.
W.P No.2355/2025
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC2544.pdf>

Facts: The Punjab Public Service Commission (the "Commission") announced recruitment for 22 posts, and the petitioner secured the second position on the waiting list. After two selected candidates did not join, two vacancies arose. The petitioner applied for these vacancies, but the Administrative Department delayed the process, requesting only one candidate's recommendation from the Commission. When the Department later sought the petitioner's recommendation, the Commission declined, citing the expiration of the waiting list and the need for fresh recruitment. Hence, present constitutional petition.

Issues: i) How might ignoring existing vacancies affect eligible candidates during the recruitment process?

Analysis: i) Waiting for the vacancies to accumulate, on account of superannuation, promotion, or sanctioning of additional posts, while ignoring existing vacancies, arising from the recently concluded recruitment process in respect of which waiting list is valid, risks denying eligible candidates their rightful chance of appointment. Worse, it may render them (eligible candidate in waiting list) overage for future recruitments. Such an approach undermines the utility of waiting list and frustrates the legitimate expectations of candidates who have already undergone the rigors of the competitive selection. A structured, consultative process between Government and the Commission must ensure that every arising vacancy is dealt with promptly, and the rights of candidates are not defeated by the administrative indecision.

Conclusion: i) It risks denying eligible candidates their rightful chance of appointment.

51. Lahore High Court
Muhammad Ali Shah v. Inspector General of Police, etc.
Writ Petition No.14059 of 2020
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC2537.pdf>

Facts: The petitioner filed constitutional petition seeking direction to the respondents to recommend his name for the post of ASI. Through order, direction was passed by this Court to decide the application of the petitioner, which was dismissed by the Police Department, through impugned order on the ground that the Police Department is not obligated to seek substitute from the waiting list.

Issues i) What is purpose and object of waiting list of candidates?
 ii) Whether an administrative department of Government of the Punjab i.e. the Police Department, is under obligation to request the Commission for provision of substitute from the waiting list during period of validity of the list?

Analysis: i) The purpose of a waiting list is not merely procedural but practical, allowing the department(s) to fill the vacancies efficiently where a candidate from the original selection either fails to join or resigns, provided the vacancy occurs within the validity period of the list. The importance of maintaining and adhering to a waiting list by offering employment opportunities to the next eligible candidate(s) has been scrutinized by the Courts in numerous reported judgments. In case of Shabana Akhtar vs. District Coordination Officer, Bhakkar and two others (2012 PLC (C.S.) 366), a learned Division Bench of this Court emphasized the advantages of a merit-cum-waiting list and held that when a vacancy arises, it should be promptly filled from the waiting list, without initiating a fresh recruitment process and without keeping posts vacant for an extended period. The said learned Division Bench observed that waiting list could save public money, human resource and the requirement to resort to full-fledged recruitment process, which may take its own financial and administrative toll just to fill in one or two seats.

ii) This Court is of the opinion that the present controversy stems from the Police Department's failure to act fairly and transparently in the recruitment process by disregarding the importance of the waiting list, despite the consistent interpretation by the Superior Courts emphasizing its value/sanctity. The Police Department erroneously concluded that it had no obligation to demand a substitute, especially when the petitioner had approached the department through a proper application, within the 12-month validity period in terms of Regulation No.63 of the Punjab Public Service Commission Regulations, 2016....in cases where an eligible candidate from the waiting list makes a timely application for appointment against the resultant vacancy, the department concerned is under a legal and administrative obligation to deal with that request expeditiously. It cannot leave such an application pending for an indefinite period or brush it aside simply on the ground that the department is not under an obligation to recommend

the name of such a candidate. At the same time, it is acknowledged that during the currency of a waiting list, new vacancies may arise independently—such as due to superannuation, promotion to higher posts, or administrative sanction of additional posts of the same cadre/grade. Where the number of such new vacancies is significant, the department may reasonably decide that, instead of appointing only one or two candidates from the waiting list (e.g., against non-joined posts), it would be more appropriate to consolidate all such vacancies into a new recruitment cycle, even before the expiry of the validity period of the waiting list. However, even in such cases, the department must not act arbitrarily. If a candidate from the waiting list has made an application pointing to a specific, available vacancy, the department must pass a reasoned and timely order—preferably within one month from the date of receipt of an application from the candidate from waiting list. This enables the candidate to exercise an informed choice: whether to accept the rejection or to challenge the same or to prepare for the next recruitment process. The use of the waiting list, as held in the case of *Shabana Akhtar supra*, promotes economic efficiency and continuity of service, and its utility should not be defeated by inertia on the part of the administrative department concerned. An administrative department—the Police Department in the present case, cannot be allowed to ignore a vacancy, refuse to recommend a candidate from the waiting list without giving any reasons, and also fail to start a fresh recruitment process. If the department delays the matter in this manner and let the validity period expire, it cannot later take shelter behind the lapse of time. Such conduct amounts to unfair administrative practice and is legally unacceptable.

Conclusion: i) See above analysis No.i
ii) See above analysis No.ii

52. Lahore High Court
Muhammad Fahad v. Inspector General of Police etc.
Writ Petition No.7684/2024
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC2614.pdf>

Facts: In recruitment process the petitioner was non-suited by the respondent department of Police owing to concealment of fact of registration of criminal case/FIR against the petitioner. Hence the Writ was filed by him.

Issues: i) Whether in recruitment process of public employment a candidate can be disqualified if he conceals the fact of registration of criminal case against him?
 ii) How the discretion to assess the integrity, especially the assessment of disclosure of facts, can be exercised?
 iii) What is distinction between non-disclosure and wilful concealment of facts?
 iv) In which circumstance the concealment of the case can be imputed to someone and how it offends the principle of natural justice?

- v) Whether without wilful concealment of facts a candidate can be penalized for an act of concealment?
- vi) How the Rules or the Standing Order should be applied, particularly, when there is no material suggesting any wilful concealment of fact of registration of FIR?

Analysis:

- i) This Court is well aware that public employment—whether in the police department or any other government department—must be strictly based on merit, and it is imperative that individuals of the highest integrity are appointed to serve the public. Similarly, the authority of the police department to scrutinize the antecedents of candidates, in terms of the Rules and/or the Standing Order, is neither questioned nor undermined and if concealment of any fact particularly with reference to registration of criminal case is found, such candidate can be disqualified.
- ii) Suffice to observe that the discretion to assess the integrity must be exercised judiciously and, in a manner, consistent with principles of fairness, equity and the constitutional guarantees. Disclosure of facts must be assessed through the lens of reasonableness.
- iii) There is a clear distinction between non-disclosure and wilful concealment, and the latter presupposes the existence of knowledge—actual or constructive—at the time when disclosure is expected. There must be a direct and conscious nexus between what was allegedly concealed or not disclosed and what the individual knew or, in the circumstances, reasonably ought to have known.
- iv) In the absence of any evidence suggesting that the petitioner had knowledge of the case at the relevant time, no element of concealment can be imputed to him. To do so would not only be irrational, but would also offend the principles of natural justice and proportionality.
- v) The law does not demand the impossible. Penalizing a candidate in such circumstances not only ignores the essence of wilful concealment but also defeats the principle of *actus non facit reum nisi mens sit rea*—the act is not culpable unless the mind is guilty. Therefore, in the absence of any culpable mental state, the inference of concealment is wholly unsustainable.(---) The selection process ought to reward merit and fairness and not penalize the candidates for circumstances entirely beyond their control.
- vi) This Court is of the opinion that the Rules or the Standing Order referred hereinabove should not be construed so broadly or rigidly so as to defeat the legitimate expectations of the meritorious candidates, particularly, when there is no material suggesting any wilful concealment of factum of registration of criminal case. Misinterpretation or overreach in applying the Rules risks exclusion of deserving individuals, and ultimately undermines the very standard of integrity, the Rules seek to uphold.

- Conclusion:** i) In recruitment process of public employment a candidate can be disqualified if he conceals the fact of registration of criminal case against him.

- ii) See above analysis No.ii.
- iii) See above analysis No.iii
- iv) See above analysis No.iv
- v) Without wilful concealment of facts a candidate cannot be penalized for an act of concealment.
- vi) See above analysis No.vi

53. Lahore High Court
Muhammad Ali Shah v. Inspector General of Police, etc.
Writ Petition No.14059 of 2020
Mr Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC2607.pdf>

Facts: The Punjab Police invited online applications through Punjab Public Service Commission for recruitment against 13 posts of Assistant Sub-Inspector/BPS-11 (“ASI”). Merit list was prepared but the petitioner could not qualify however, he stood at Serial No.1 of the waiting list. One of the selected candidates left the post. Neither the Police Department nor the Commission initiated the process of appointing the candidates from the waiting list, which constrained the petitioner to file constitutional petition. Direction was passed to decide the application of the petitioner, which was dismissed by the Police Department, through impugned order on the ground that the Police Department was not obligated to seek substitute from the waiting list. Hence, this constitutional petition.

Issues:

- i) What is the purpose of preparing a waiting list?
- ii) What is the importance of maintaining and adhering to a waiting list?
- iii) What does the selective application of the rules reflect?
- iv) What are the government departments obligated to do with regard to departmental practice?
- v) What will be the effect of selective application of rules and arbitrary deviation from departmental practice?

Analysis:

- i) The purpose of a waiting list is not merely procedural but practical, allowing the department(s) to fill the vacancies efficiently where a candidate from the original selection either fails to join or resigns, provided the vacancy occurs within the validity period of the list (...) The use of the waiting list, as held in the case of *Shabana Akhtar* supra, promotes economic efficiency and continuity of service, and its utility should not be defeated by inertia on the part of the administrative department concerned.
- ii) The importance of maintaining and adhering to a waiting list by offering employment opportunities to the next eligible candidate(s) has been scrutinized by the Courts in numerous reported judgments. In case of *Shabana Akhtar vs. District Coordination Officer, Bhakkar and two others* (2012 PLC (C.S.) 366), a learned Division Bench of this Court emphasized the advantages of a merit-cum-waiting list and held that when a vacancy arises, it should be promptly filled from

the waiting list, without initiating a fresh recruitment process and without keeping posts vacant for an extended period. The said learned Division Bench observed that waiting list could save public money, human resource and the requirement to resort to full-fledged recruitment process, which may take its own financial and administrative toll just to fill in one or two seats. Similarly, in the case reported as Asad Abbas vs. Government of the Punjab through Secretary Cooperative Societies Department, Lahore and others (2024 PLC (C.S.) 142), through judgment dated 20.09.2021, this Court held that if a selected candidate does not join, the department is obligated to offer the appointment to the next candidate on the merit list and if this process is not initiated, the fault lies with the department for failing to proactively seek a substitute and the petitioner in that case was held not liable to suffer due to the lapse or negligence of the department (...). In case reported as Dr. Sumera Tabassum vs. F.P.S.C and others (2016 SCMR 196) where the requisition was not made by the administrative department after lapse of validity period of the waiting list, the Supreme Court held that such lapse cannot be attributed to the candidate and the validity period could be extended on justifiable grounds.

iii) Selective application of the rules reflects arbitrariness and discrimination, undermining the principles of merit, equality, and legitimate expectation.

iv) The government departments are obligated to remain consistent in application of their departmental practice.

v) Any selective and arbitrary deviation is preposterous, to say the least, and is a set recipe for corruption at the cost of and to the detriment of transparency and fairness which, in itself, has the potential to hit back at the functioning of the department and service delivery standards.

Conclusion: i) The purpose of a waiting list is to help the department(s) efficiently fill vacancies if a selected candidate does not join or resigns within validity period of the list.

ii) See above analysis No. ii

iii) Selective application of the rules reflects arbitrariness and discrimination.

iv) The government departments are to apply the departmental practices consistently.

v) Selective and arbitrary deviations undermine transparency and fairness, foster corruption, and ultimately harm departmental functioning and service delivery.

54. Lahore High Court
Afzal Hussain Versus Mst. Irshad Bibi etc.
Mr. Justice Anwaar Hussain
W.P No.3883/2025
<https://sys.lhc.gov.pk/appjudgments/2025LHC2306.pdf>

Facts: A suit was filed for recovery of dower and maintenance, which the Trial Court decreed, but it omitted gold ornaments in the decree sheet despite deciding in favor of the respondent. The Appellate Court corrected this procedural lapse without a cross-appeal, and the High Court upheld the correction, dismissing the

constitutional petition.

- Issues:**
- i) Can constitutional jurisdiction of High Court be invoked to assail an order against which appeal and revision are explicitly barred?
 - ii) Whether appellate court can order for correction of some mistake of trial court in concluding paragraph of judgment and in decree sheet even though it has not been challenged by the person affected by such mistake?

- Analysis:**
- i) Learned counsel for the petitioner could not deny that a meager amount of maintenance i.e., Rs.3,000/- per month with 10% annual increase was granted to the respondent till her entitlement, against which appeal was not maintainable. It is settled law that where the statute explicitly puts a bar on assailing an order by way of filing appeal, revision or so, constitutional jurisdiction of this Court cannot be invoked as it will tantamount to circumvent the intent and will of the legislature and frustrate the explicit provision of law.
 - (ii) The lapse in question was a procedural error on part of the Trial Court as it failed to incorporate complete relief in the concluding paragraph of its judgment and prepare the decree sheet properly, despite the decision rendered in favour of the respondent. Suffice to observe that appeal is continuation of the suit and the Appellate Court below, in exercising its jurisdiction, noted this procedural deficiency and rectified it, ensuring that the judgment was fully implemented as intended by the Trial Court, a step that is not only procedurally permissible but also necessary to give effect to the substantive relief already granted by the Trial Court while deciding issue No.1. In this context, even though the respondent did not file a separate appeal concerning the Trial Court's procedural lapse, the Appellate Court's below intervention was justified. The Courts have inherent powers to make orders necessary for the ends of justice or to prevent abuse of the Court's process... Moreover, the order of the Appellate Court below serves a practical purpose. It prevents the prolongation of the litigation. If procedural errors of the Trial Court are not corrected at the appellate stage, the issue would likely be raised again during the execution phase of the decree, which would not only delay the resolution of the matter but would also risk of creating a situation where the judgment debtor—the petitioner in present case, could exploit any ambiguity or error in the decree of the Trial Court to delay or avoid the compliance.

- Conclusion:**
- i) Where the statute explicitly puts a bar on assailing an order by way of filing appeal, revision or so, constitutional jurisdiction of High Court cannot be invoked.
 - ii) Yes, appellate court can order for correction of any such mistake even though it has not been challenged by the affected person.

55.

Lahore High Court
Rai Mumtaz Hussain Babar v. The State and another
Criminal Misc. No. 9011-B of 2025
Mr. Justice Sultan Tanvir Ahmad.

<https://sys.lhc.gov.pk/appjudgments/2025LHC2561.pdf>

- Facts:** The petitioner seeks pre-arrest bail in a criminal case registered against him under sections 420, 468, 471, 161, 162 and 34 of Pakistan Penal Code, 1860 read with section 5(2) of the Prevention of Corruption Act 1947.
- Issues:**
- i) What is the “rule of consistency”?
 - ii) When the merits of the case are restricted from being considered in pre-arrest bail?
 - iii) When can the courts travel to the merits of the case?
- Analysis:**
- i) While discussing the applicability of rule of consistency and doctrine of parity in criminal cases including bail matters, the Supreme Court in case titled *“Muhammad Nadim Versus The State and another”* encapsulated that where the incriminating and ascribed role to an accused is one and the same as that of the co-accused then the benefit to one should be extended to other on the principle that like cases should be treated alike.
 - ii) There are several judgments including *“Shahzaib and Others Versus The State”* case restricting the Courts to consider merits of the case in pre-arrest bail petitions, when explanation for the absence of the accused person in his first petition is not satisfactory.
 - iii) There is clear command of law settled by the Supreme Court in *“Shazaib and Others”*, *“Azam Saleem”* and *“Rao Qadeer Khan”* cases (supra) that the Courts can travel to merits only upon satisfactory explanation given for the absence of the accused.
- Conclusion:**
- i) When an accused shares the same role as a co-accused, the benefit granted to one should be extended to the other, following the principle of equal treatment.
 - ii) The Courts are restricted from considering the merits of the case in pre-arrest bail petition, when explanation for the absence in his first petition is not satisfactory.
 - iii) The Courts can travel to merits only upon satisfactory explanation given for the absence of the accused.

56. Lahore High Court
Rasheed Ahmad v. Additional District Judge and 08 Others
Writ Petition No. 63942 of 2024
Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC2559.pdf>

- Facts:** The petitioner filed a constitutional petition asserting that he, being the surety for a judgment debtor, should be discharged from liability under the surety bond upon the death of the judgment debtor, arguing the decree should now be satisfied from the deceased’s estate. The decree in question pertained to maintenance allowance and dowry articles.

- Issues:**
- i) Whether the death of the judgment debtor absolves the surety from his liability under a surety bond executed during the debtor's lifetime?
 - ii) What is the scope of liability of a surety under Section 145 of the Code of Civil Procedure, 1908, in relation to the execution of a decree or order?
- Analysis:**
- i) The death of judgment debtor cannot in law release the surety from his obligation when there is no stipulation to that effect in the bond. Reference in this regard can be made to the cases titled "Laxman Versus Gorakhji" (**A.I.R. 1920 Nagpur 275 (2)**) and "Hashmali Versus V. Begwant" (**A.I.R. 1922 Nagpur 112**). This aspect was also examined by this Court in case titled "Zulfiqar Ali and Others Versus Liaqat Ali and Others" (**PLD 2020 Lahore 350**)
 - ii) Section 145 of the Code of Civil Procedure-1908 contemplates that when a person becomes surety for performance of any decree or its part, or restitution of any property taken in execution of decree or payment of any money under an order of the Court in any suit proceedings, the decree can be executed against him to the extent for which the surety has rendered himself personally liable in the manners, therein.
- Conclusion:**
- i) The surety remains liable under the bond despite the death of the judgment debtor.
 - ii) See above analysis No ii.

57. **Lahore High Court**
Province of Punjab and 3 others v. Mst. Nazira Saif
I.C.A. No.73541 of 2022
Mr. Justice Sultan Tanvir Ahmad, Mr. Justice Hassan Nawaz Makhdoom
<https://sys.lhc.gov.pk/appjudgments/2025LHC2449.pdf>

- Facts:**
- The husband of the respondent, a police constable, suffered firearm injuries during an encounter while on duty, leading to the removal of a kidney. He remained under treatment and later passed away. The respondent sought declaration of 'Shaheed' status for her deceased husband, which was initially allowed by the learned Judge-in-Chamber and challenged by the appellants through this Intra Court Appeal.
- Issues:**
- i) Whether a claimant seeking declaration of 'Shaheed' is required to prove causation to the standard applicable in criminal proceedings?
 - ii) Whether the benefit of doubt in cases involving uncertain medical causation should favour the claimant or the department opposing the claim?
 - iii) Whether Rule 12 of the Police (Award of Compensation) Rules, 1989 excludes cases where death occurs after a time lapse from the incident?
 - iv) Whether a liberal interpretation should be applied to beneficial legislation concerning Shaheed status when death occurs after some passage of time from injury?

- Analysis:**
- i) Pursuer of such cause to seek declaration of Shaheed, as involved in the present case, cannot be burdened with any higher degree of proof, over and above already discharged by the respondent-widow in this case. It looks that police- department is expecting pursuer of declaration of Shaheed to discharge the burden up to the standard required in criminal cases. The approach is misplaced, therefore, repelled.
 - ii) Next is the effort by appellants to have refuge of little uncertainty in the opinion of medical board. We would like to refer the approach adopted in *McGhee versus National Coal Board* [1972] 3 All ER. While dealing with a case of employer's liability, when honest medical evaluation could not segregate the causes to reach a definitive conclusion, Lord Wilberforce opined: (...) *In many cases of which the present is typical, this is impossible to prove, just because honest medical opinion cannot segregate the causes of an illness between compound causes. And if one asks which of the parties, the workman or the employers should suffer from this inherent evidential difficulty, the answer as a matter in policy or justice should be that it is the creator of the risk who, ex hypothesi, must be taken to have foreseen the possibility of damage, who should bear its consequences.* (Underlining is added).
 - iii) The learned Law Officer has also referred to Rule 12 of the Police (Award of Compensation) Rules, 1989 and argued that the present case does not fall within its scope due to the difference of time period between incident and the death (...) We see no ambiguity in the above rule, which covers officers / officials killed in encounters and also includes the officials killed during watch and ward duties.(...) The above quoted rule does not make any distinction between a death on the day when the incident took place from death that has taken place after passage of some duration of the incident. In case titled "Asad Imran and another versus Inspector General of Police, Punjab Lahore and others" (2023 PLC (C.S.) 1013), when police-department denied Shaheed package to a pursuer, this Court held that if rules are capable of bearing a reasonable interpretation favourable to the employee then such interpretation should be preferred.
 - iv) The learned Sindh High Court in C. P. No. D- 570 of 2022 (2022 SHC 228) adopted liberal approach while construing legislation of the Province of Sindh vis-à-vis Shaheed package or declaration of Shaheed, for the reason that the same is a beneficial legislation. Reference to this case is significant as in the said case death of Shaheed took place after some passage of time of sustaining injuries.(...) *The denial of according the status of 'Shaheed' to the petitioner's Husband is not sustainable as the said order of early retirement, fails to take into account the spirit of the law, which is to confer such status on police officers/officials who are killed in the performance of their functions in such eventualities as envisaged by the aforesaid law that includes the loss of life during watch and ward duty.* (Emphasis Supplied).

- Conclusion:**
- i) A claimant seeking Shaheed status is not required to prove the case to the criminal standard of proof.

- ii) Where medical causation is uncertain, the burden of evidential doubt must fall on the department opposing the claim.
- iii) Rule 12 of the 1989 Rules does not exclude cases where death occurs after a lapse of time from the incident.
- iv) Beneficial legislation concerning Shaheed status must be interpreted liberally to include delayed deaths resulting from duty-related injuries.

58. Lahore High Court
Asif Mehmood v. Additional District Judge, etc.
Writ Petition No.68712 of 2022
Mr. Justice Raheel Kamran
<https://sys.lhc.gov.pk/appjudgments/2025LHC2359.pdf>

Facts: The petitioner challenged concurrent findings of the courts below whereby respondent's suit for recovery of deferred dower, dowry articles, and maintenance was decreed. The Family Court had decreed dissolution of marriage by way of khula and subsequently decreed claims for deferred dower and alternate value of dowry articles.

Issues:

- i) Whether, after the declaration of sub-sections (5) and (6) of Section 10 of the Family Courts Act, 1964 as repugnant to the injunctions of Islam by the Federal Shariat Court, a wife is automatically required to return the dower upon obtaining khula?
- ii) What principles under Islamic law govern the distinction between talaq and khula and the requirement of returning dower?
- iii) What determines a wife's entitlement to deferred dower upon seeking khula under Islamic law and contract principles?

Analysis: i) It is important to note that Sub-section (5) and (6) were added to Section 10 of the Act through the Punjab Family Courts (Amendment) Act 2015 (Punjab amendment), which became effective on 18.03.2015. (...) However, sub-section (5) and (6) of section 10 of the Act have been declared as repugnant to the injunctions of Islam by the Federal Shariat Court in the case of Imran Anwar Khan and others v. Government of Punjab (...) When it comes to the rules for such determination by the court, in the Imran Anwar Khan's case (supra), it has been held by the Federal Shariat Court that where the wife obtains khula merely on the basis of disliking against the husband the dower received by the wife is returnable. It was also held in the referred case that where wife seeks khula due to fault on the part of the husband by providing reasonable justification, it is not valid to require from her return of the dower already received by her. In such eventuality, it is on the court to determine, keeping in view facts and circumstances of the case, that how much return of the already received benefits by the wife would be appropriate. This view was reiterated by the Federal Shariat Court in the case of Haji Saif-ur-Rahman Shaheen v. Islamic Republic of

Pakistan. (...) Therefore, the return or surrender of dower by the wife is not an automatic consequence in each and every case of khula

ii) Islamic law recognizes khula as a method for the dissolution of marriage, analogous to talaq, but they differ significantly in their initiation, procedures, and consequences. Talaq is primarily the right of the husband to unilaterally dissolve the marriage. In case of talaq, the husband is precluded from claiming the dower, gifts, or other benefits which he had already given to the wife. The origin of this rule is the command ordained in verse No.229 of Surah Al-Baqra.(...) Surah Al-Nisa , in verse 20 and 21 also explicitly restricts a husband from claiming back the dower or any other benefits he has given to a wife he wishes to divorce. (...) The concept of khula is also based on verses No.228 and 229 of Surah Al-Baqarah. Practical application of khula is found in the instances in the lifetime of the Holy Prophet and thereafter. It is in this context that khula is initiated by the wife with the consent of the husband, or where the husband does not consent, by a judicial decree that is obtained on the wife's application. In khula, the wife may be required to give some consideration to the husband for her release from the marital bond.(...) As per para 289-A(a) of the Principles of Muhammadan Law by D.F. Mulla, dower becomes confirmed by consummation of marriage. Para 336(2) of the Principles of Muhammadan Law ibid provides that if the marriage was consummated, the wife becomes entitled to immediate payment of whole of the unpaid dower both prompt and deferred. These rules have been delineated in compliance of the command in verses No.20 and 21 of Surah Al-Nisa referred above.

iii) Nikahnama is a valid and binding contract between the parties. Deferred dower is a contractual obligation undertaken by the husband. Unless there are valid legal grounds to deviate from the terms of this contract, husband is bound to fulfill his obligation. The mere fact that the wife sought khula does not automatically nullify this contractual obligation. In order to determine entitlement of a wife seeking khula to the claim qua deferred dower, key consideration is the reason for her seeking khula. Where a wife seeks khula on the ground of disliking against the husband, without any fault on the part of the husband, she loses her right to deferred dower in the same way as in the case of prompt dower. Conversely, if the husband's conduct compels the wife to seek dissolution, she retains her entitlement to the deferred dower.

- Conclusion:**
- i) Sub-sections (5) and (6) of Section 10 of the Family Courts Act, 1964 ceased to have legal effect from 01.05.2022, and the return of dower in khula is not automatic but depends upon circumstances.
 - ii) Talaq and khula differ under Islamic law in initiation, procedure, and consequences, and in khula, the wife may be required to return consideration for dissolution of the marriage.
 - iii) A wife's entitlement to deferred dower upon khula depends on whether dissolution was sought due to the husband's fault or mere dislike.

59. Lahore High Court
M/s Olympia Chemical Ltd. through Mr. Azhar Hussain Shamim General Manager Services v. Government of the Punjab through Secretary (Board of Revenue) and others
Writ Petition No.49822 of 2022
Mr. Justice Raheel Kamran
<https://sys.lhc.gov.pk/appjudgments/2025LHC2291.pdf>

Facts: The petitioner, M/s Olympia Chemical Ltd., a long-established manufacturer of Soda Ash and Sodium Bicarbonate, sought the acquisition of additional private land through government intervention under the Land Acquisition Act, 1894, to expand its industrial facility. Despite initial administrative processes, including deposit of compensation and evaluation by authorities, the Government of Punjab ultimately declined the acquisition request, citing lack of public purpose. The petitioner challenged the resulting report and order, asserting that expansion of an existing industry served a public utility.

Issues:

- i) Whether a law, custom, or usage having the force of law can remain valid if it is inconsistent with the fundamental rights?
- ii) Article 23 of Constitution of Islamic Republic of Pakistan 1973.
- iii) Whether Article 24 of the Constitution permit compulsory acquisition of property outside the purposes explicitly stated in Article 24(3)?
- iv) Whether compulsory acquisition of property for a company's commercial purposes, without satisfying the public purpose requirement or exceptions under Article 24(3), is constitutionally permissible?
- v) Purpose of Land Acquisition Act, 1984 and its enforcement in conformity with the Constitution.
- vi) Definition of “Company” in Section 3(e) of the Land Acquisition Act, 1894?
- vii) Can a statutory provision be narrowly interpreted by courts to preserve its constitutionality when it appears to violate fundamental rights?
- viii) Whether the State can compel landowners to surrender property for a private company’s commercial use without demonstrating a direct public utility?

Analysis:

- i) Article 8(1) of the Constitution postulates that any law, or any custom or usage having the force of law, insofar as it is inconsistent with the rights conferred by Chapter 1 of Part II shall, to the extent of such inconsistency, be void.
- ii) Article 23 of the Constitution grants every citizen the right to acquire, hold and dispose of property within Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest.
- iii) Article 24 embodies protection of property rights, which inter alia postulates that no person shall be deprived of his property save in accordance with law. Sub-Article (2) of Article 24 ibid further restricts acquisition or taking possession of any property except for public purpose only and that too by the authority of law which provides for compensation therefor. Sub-Article (3) of Article 24 of the Constitution contains specified exceptions to the general rules articulated in the

first two provisions of Article 24 *ibid*, whereby validity of any law permitting compulsory acquisition or taking possession of any property has been made immune from challenge for certain purposes specified therein.

iv) Principle of harmonious construction of the provisions of Article 24 of the Constitution makes it abundantly clear that protection of property rights guaranteed under Article 24 of the Constitution is only abridged or taken away for compulsory acquisition or taking possession of it under any law for any public purpose or such other purpose as have been clearly specified in Article 24 (3) *ibid*. No provision of Article 24 permits compulsory acquisition or taking possession of any property by or under any law merely because the same is required for a Company for its commercial purposes. Conversely, if a property is acquired by law for any public purpose or any of the other purposes specified in Article 24(3) of the Constitution, the same is permissible subject to compensation therefor, regardless whether the request for acquisition is made on behalf of a Company or otherwise.

v) The law dealing with compulsory acquisition of land in Pakistan is the Land Acquisition Act, 1894. Purpose of the Act, according to preamble thereof, is to amend the law for the acquisition of land needed for public purposes and for companies as well as for determining the amount of compensation to be made on account of such acquisition...The Land Acquisition Act, 1894 is a colonial statute. Continuance in force and adaptation of such statutes is governed by Article 268 of the Constitution...In terms of Article 268 *ibid*, continuance in force of the Land Acquisition Act, 1894 is subject to the Constitution and with necessary adaptations until altered, amended or repealed by the appropriate legislature.

vi) “Company” has been defined in section 3(e) of the Act to mean a Company registered under the Companies Ordinance, 1984 or under the English Companies Acts, 1862 to 1890 or incorporated by an Act of Parliament of the United Kingdom or by Pakistan Law, or by a Royal Charter or letters patent and includes a society registered under the Societies Registration Act, 1860 and Cooperative Societies Act, 1912.

vii) It is well settled that a statutory provision, when read literally, leads to any violation of a fundamental right, or renders it without legislative competence, courts read such a provision narrowly to save it from invalidity. This is a rule of interpretation of statutes termed as “reading down”...The rule of reading down, when applied to the Land Acquisition Act, 1894 would permit acquisition of property only for public purpose or any other purpose specified in sub-Article (3) of Article 24 of the Constitution.

viii) Article 24(2) of the Constitution erects a formidable barrier against the Government’s use of authority for advancing private commercial interests. Article 23 of the Constitution, which guarantees the right to property, emphasizes that any restriction on this right must be reasonable and in the public interest. Compelling landowners to relinquish their property for a private company’s commercial gain, without a direct public utility, fails this test.

- Conclusion:**
- i) See above analysis No i.
 - ii) Article 23 of the Constitution grants every citizen the right to acquire, hold and dispose of property within Pakistan.
 - iii) See above analysis No iii.
 - iv) See above analysis No iv.
 - v) Purpose of the Act is to amend the law for the acquisition of land needed for public purposes and for companies as well as for determining the amount of compensation to be made on account of such acquisition.
 - vi) See above analysis No vi.
 - vii) See above analysis No vii.
 - viii) See above analysis No viii.

60. Lahore High Court
Abdul Ghafoor Ahmad, etc. v. Gujranwala Electric Power Company, etc.
W.P. No.22714/2020
Mr. Justice Hassan Nawaz Makhdoom
<https://sys.lhc.gov.pk/appjudgments/2025LHC2412.pdf>

Facts: Through this writ petition, the petitioners have assailed the Notifications under Section 4, 17(4) & 6 of the Land Acquisition Act, 1894, issued by the respondents/acquisition authorities. In addition, the petitioners have also assailed letters issued by respondent No.2/General Manager Operations, Gujranwala Electric Power Company (GEPCO).

Issues

- i) What is impact of urgency notification under section 17(4) & 6 of the Land Acquisition Act, 1894?
- ii) What is duty and responsibility of the acquiring agency in respect of acquisition process?
- iii) What is impact of price of the land raised in terms of its market value during the acquisition process?
- iv) What is duty of the Commissioner to exercise the power under subsection (4) of Section 17 of the Land Acquisition Act, 1894?

Analysis:

i) It is evident that no plausible justification has been rendered as to why no further action was initiated by the respondents after issuance of Notification under Sections 17(4) & 6 of the Act despite lapse of more than a decade. It is surprising that even after issuance of Notification under Sections 17(4) & 6 of the Act, expressing urgency in acquisition of the subject land, there remained complete silence and inaction on part of the respondents till 2020. It is significant to note that the amount of misery and agony of a person, who is made to wait for the outcome of the proceedings resulting into deprivation of his property rights for an indefinite period by putting a fetter on enjoyment of such rights can be unimaginable¹. It is opined that the constitutional rights available to the

petitioners and guaranteed under Articles 23 and 24 of the Constitution cannot conveniently be brushed aside to the detriment of the petitioners.

ii) This Court is mindful of the fact that no definite timeline or stipulation is supplied in the statute. Notwithstanding the same, the petitioners cannot be made to hang in a lurch without reasonableness of actions on part of the respondents¹. The acquiring agency cannot remain indolent and sleep over the rights of the citizens by not concluding the acquisition process within a reasonable time as the land owners, whose lands were proposed to be acquired, could not be put to agony of uncertainty for such a long period. The issuance of Notification under Section 4 in 2008 and Notification under Sections 17(4) and 6 of the Act, in 2009, clearly demonstrates the lethargic, indolent, inactive and indifferent manner of the respondents (Acquisition Authorities) throughout the acquisition proceedings. It appears that the respondents (Acquisition Authorities) remained under a false pretence and impression that their discretion and actions were not subject to period constraints for time limitation. It also seems that this misinterpretation by the respondents (Acquisition Authorities) led them to cause this inordinate delay of more than a decade. Such cannot be the purpose and meaning of law of acquisition, which in no way can be taken to be an instrument of injustice, oppression, defeat and frustration for the citizens.

iii)... It is also observed that the subject land of acquisition must have attracted an exponential price raise in terms of its value since 2008/2009, causing financial loss to the petitioners as well as others having interest in the subject land of acquisition. In this regard reliance is placed on Government of Pakistan, Secretaries, Works, Communications and Physical Planning v Tauqir Ahmed Khan and others (1996 SCMR 968). The relevant excerpt of the judgment is as follows:-

“4. ... Even though the first notification of acquisition was issued in 1979 yet the proceedings for determination of the compensations payable to the contesting respondents had not been finalized till they filed writ petitions in the High Court in 1986. During this period the price of the land has escalated manifold. If the acquisition proceedings are allowed to continue the compensation which the contesting respondents will receive can hardly bear any proportion to the market value of their land on the day they approached the High Court. We cannot be a party to this manifest injustice...”

iv) It is observed that there is no cavil to the fact that before exercising of the power under subsection (4) of Section 17 of the Act, the Commissioner ought to have formed an opinion after duly considering the material placed before him. The grounds and circumstances forming basis of the opinion must have a direct nexus with the exercise of power conferred under subsection (4) of Section 17 of the Act and must not be based on irrelevant conditions.

Conclusion: i) See above analysis No.i
 ii) See above analysis No.ii
 iii) See above analysis No.iii
 iv) The Commissioner ought to have formed an opinion after duly considering the material placed before him.

61. Lahore High Court
Muhammad Arif v. Member (Judicial-V) Board of Revenue etc.
Writ Petition No. 50756/2019
Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2453.pdf>

Facts: The petitioner challenged the vires of orders whereby a revision petition, previously dismissed for non-prosecution, was restored and decided on merits without issuing notice to the petitioner.

Issues

- i) Whether the availability of a review under Section 8 of the West Pakistan Board of Revenue Act constitutes an adequate alternate remedy to bar the constitutional jurisdiction of the High Court?
- ii) Whether restoration of a case dismissed in the presence of the respondent/defendant without issuance of notice is legally tenable?
- iii) Whether deciding a case on merits on the same day of its restoration without notice violates the principles of natural justice and constitutional guarantees?
- iv) Whether a litigant can be prejudiced by the act or omission of the Court itself?
- v) What is the importance of the audi alteram partem principle in judicial proceedings?

Analysis:

- i) From bare reading of the afore-referred provision, it is very much clear that its purpose is limited only to the extent of clerical mistake and new facts. Even otherwise, the scope of review is limited to re-examination of the previous order. (...)Hence, in absence of aforementioned purposes, review neither lies nor maintainable and as such the said objection is not tenable in the eye of law. In these circumstances, it could not be deemed to be an adequate alternate remedy for restricting the exercise of constitutional jurisdiction.
- ii) It is a settled law that when a case is dismissed in presence of respondent/defendant, it cannot be restored without issuance of notice to him.
- iii) second application for restoration was filed on 18.07.2019 in the office of the Member (Judicial-IV), Board of Revenue, Punjab which was fixed in Peshi for 01.08.2019 and on the said date, the Member (Judicial-IV), Board of Revenue, Punjab in a very hasty manner restored the revision petition without issuing notice to the adversary party and also decided the same on merits which is not tenable in the eye of law and it amounts to condemning the other side unheard, which is in violation of Articles 4 and 10-A of the Constitution of Islamic Republic of Pakistan, 1973.

iv) It is a settled law that no party can be prejudiced from the act of Court and where any court did not comply with a mandatory provision of law or omitted to pass an order required by law in the prescribed manner, then the litigant/party could not be taxed, much less penalized for the act or omission of the court. It is a celebrated principle/maxim of law i.e. Actus Curiae Neminem Gravabit (an act of court shall prejudice no man).

v) It is said that even Satan was not condemned unheard and he was not unjustly judged and was also given an opportunity to defend. This principle, known as “audi alteram partem” (Latin for “hear the other side” or “no one should be condemned unheard”), is a fundamental aspect of natural justice and due process of law.

- Conclusion:**
- i) Review is not an adequate alternate remedy to bar constitutional jurisdiction as it is limited to clerical mistakes and new facts.
 - ii) A case dismissed in the presence of the respondent/defendant cannot be restored without issuing notice.
 - iii) Restoration and decision on merits without notice violate principles of natural justice and constitutional guarantees.
 - iv) No litigant can be prejudiced by the Court’s act or omission; courts must comply strictly with mandatory legal provisions.
 - v) See analysis No.v.

62. Lahore High Court

Rukhsana Yasmeen etc. v. Province of Punjab through Secretary Public Prosecution Department etc.

Writ Petition No. 51475/2023

Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Malik Waqar Haider Awan

<https://sys.lhc.gov.pk/appjudgments/2025LHC2478.pdf>

Facts: The petitioners in writ petitions at Sr. No. 1 to 7 and 9 challenge their inter-district transfer orders issued by the Public Prosecution Department; the petitioners in petition at Sr. No. 8, contest an explanation letter/report regarding special instructions issued by the District Public Prosecutor, Lahore whereas petitioner in writ petition at Sr. No. 10 challenges the cancellation of his transfer order and his continued posting in Bahawalpur by claiming the impugned actions are unlawful and seek relief from the court.

Issues:

- i) Whether the Prosecution Act, 2006 or the Punjab Civil Servants Act, 1974 governs the service terms of prosecution employees?
- ii) Whether Article 212 bars ordinary courts from entertaining disputes relating to the terms and conditions of service of persons in the service of Pakistan or a Province?

Analysis:

- i) Under Section 6 of the Act 2006, the post of Prosecutor General is a tenure post and he has to be appointed by the Government for a term of 03 years which is

further extendable for a period of 02 years whereas rest of the employees of Prosecution Service are governed under the Punjab Civil Servants Act, 1974.

ii) Under Article 212 of the Constitution, the remedies provided cannot be assailed while using the word “hereinbefore” and the Administrative Courts and Tribunals are there to deal with the matters relating to the terms and conditions of service including disciplinary matters of persons who are in the Service of Pakistan. Service of Province also falls in the said purview as defined in Article 240 of the Constitution.

Conclusion: i) See analysis No i.
ii) The Administrative Courts and Tribunals are there to deal with the matters relating to the terms and conditions of service including disciplinary matters of persons who are in the Service of Pakistan.

63. Lahore High Court
Muhammad Asif v. Mst. Sumaira, etc.
Civil Revision No.54542 of 2024
Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2449.pdf>

Facts: The petitioner filed a suit for possession through specific performance based on an agreement to sell and later sought amendment to include additional properties; the suit was decreed ex parte, but the appellate court modified the judgment leading to the present civil revision.

Issues: i) Whether a party can lead evidence or succeed on a plea not taken in the pleadings?
 ii) Whether pleading itself can be treated as evidence in a case?
 iii) Whether a Court under Order VI Rule 17 CPC can allow amendment in the basic documents executed between the parties?
 iv) Whether a Court can amend the terms and conditions of an agreement without mutual consent of the parties?

Analysis: i) It is also a settled principle of law that a party cannot be permitted to lead evidence in respect of a plea not taken in the pleadings or to put it in another manner a party has first to plead and then to prove the said plea. In this regard, it would be expedient to refer to celebrated principle/maxim of law i.e. Secundum Allegata et-Probata (a party can only succeed according to what was alleged and proved).
 ii) In addition to above, it shall be important to mention here that pleading per se is not evidence rather pleading is the basic engine of litigation and whole controversy revolves around it.
 iii) It is very much clear and conspicuous that under Order VI Rule 17 CPC, Court can only allow amendment in the pleadings and not the basic documents which have been executed amongst the parties.

iv) The terms of an agreement, contract or document could only be amended or negotiated by the parties themselves with their mutual consent and as such it was not the mandate of learned trial court to allow any amendment in the terms and conditions of the agreement against the will of concerned party in the garb of amendment in the pleadings.

Conclusion: i) A party cannot lead evidence or succeed on a plea not taken in the pleadings.
 ii) Pleading itself cannot be treated as evidence.
 iii) A Court under Order VI Rule 17 CPC cannot allow amendment in the basic documents executed between the parties.
 iv) A Court cannot amend the terms and conditions of an agreement without mutual consent of the parties.

64. Lahore High Court
Muhammad Irshad v. Muhammad Ramzan and two others
Regular First Appeal No.206 of 2023
Mr. Justice Ahmad Nadeem Arshad, Mr. Justice Syed Ahsan Raza Kazmi.
<https://sys.lhc.gov.pk/appjudgments/2025LHC2528.pdf>

Facts: The plaintiff/ respondent, being the lawful owner of the suit property entered into a registered sale agreement with the appellant/defendant on 16.11.2019 for Rs. 12,00,00,000/-, receiving Rs. 20,00,000/- as earnest money with possession handed over to the appellant, while the remaining Rs. 11,80,00,000/- was to be paid as per the agreed schedule. The appellant allegedly failed to pay the balance amount despite a legal notice, leading the plaintiff to seek a declaration of rights, recovery of possession, and mesne profits with KIBOR interest. The trial court decreed the suit in the plaintiff's favor, leading the defendant to challenge the decision in this appeal on grounds that the judgment was erroneous or unjust.

Issues: i) Whether a plaintiff seeking specific performance or cancellation must prove readiness and willingness to perform, especially when alleging defendant's breach?
 ii) Whether deposit of the balance sale consideration on direction of the court is a mandatory precondition for claiming specific performance?
 iii) Whether new grounds beyond the pleadings can be raised at the appellate stage?
 iv) What ensures the bar on introducing new grounds beyond pleading on appellate stage?
 v) Whether non-framing of specific issues becomes inconsequential and immaterial when the parties have led evidence and are aware of the real controversy?
 vi) Whether readiness and willingness to perform his part of the agreement is a crucial requirement for claiming protection under Section 53-A of the Transfer of Property Act, 1882?

- vii) Whether failure to perform or show willingness under the contract bars the application of Section 53-A of the Act?
- viii) Who is entitled to benefit and relief under S.53-A of the Transfer of Property Act, 1882 and when?
- ix) Whether a person who fails to honor contractual commitments is disentitled from invoking Section 53-A of the Act?

Analysis:

- i) A well-established legal principle dictates that in suits seeking specific performance of a contract or cancellation of an agreement to sell, the party seeking relief must demonstrate its readiness to perform its contractual obligations, particularly when it alleges that the other party is evading its commitments.
- ii) By ordering the party to deposit the sale consideration or outstanding balance in court, the court aims to verify that the party possesses the necessary capacity and willingness to fulfill its obligations under the agreement. This is a condition precedent for seeking the relief of specific performance.
- iii) It is a well-established principle of law that parties are bound by their pleadings, and new grounds cannot be introduced at the appellate stage.
- iv) This ensures that parties do not unfairly expand or alter their case on appeal, and that the opposing party is not taken by surprise.
- v) It is well settled law that the non-framing of issues on specific point becomes inconsequential once evidence has been concluded, as parties are well aware of the controversy or dispute between them. Consequently, they present their evidence with the controversy in mind, rendering the omission to frame issues on certain points immaterial.
- vi) Willing to perform his part of the agreement is the last, but very crucial ingredient to be fulfilled for establishing protection under Section 53-A of the Act.
- vii) If the transferee does not claim that he or she performed the terms of the contract and is unable to convince the Court that he or she is willing to fulfil the obligation as provided under the contract, then the doctrine of part performance as embodied under Section 53-A of the Act is not applied.
- viii) It is trite law that a person executing a part of the agreement is granted benefits and relief under Section 53-A, only if it can be proven that he is ready and well-prepared to perform his part of the agreement.
- ix) A person who refuses to uphold his contractual commitments cannot receive the benefits of the provision.

Conclusion:

- i) In suits for specific performance or cancellation of a sale agreement, the party seeking relief must show readiness to perform its obligations, especially when alleging the other party's evasion.
- ii) Court orders to deposit sale consideration ensure the party's capacity and willingness, a prerequisite for specific performance relief.

- iii) Parties are bound by their pleadings, and new grounds cannot be raised at the appellate stage.
- iv) See above analysis No.iv)
- v) Non-framing of issues becomes irrelevant once evidence is concluded, as parties are aware of the dispute and present evidence accordingly.
- vi) Willingness to perform one's part of the agreement is a crucial requirement for protection under Section 53-A of the Act.
- vii) If the transferee fails to claim performance of the contract and cannot prove willingness to fulfill the obligations, the doctrine of part performance under Section 53-A of the Act does not apply.
- viii) A person executing part of the agreement is entitled to benefits under Section 53-A only if it is proven that they are ready and prepared to fulfill their obligations.
- ix) A person who refuses to fulfill his contractual commitments cannot benefit from the provision.

65. Lahore High Court
Sajjad Haider, etc. v. Syed Ali Rizwan Kazmi, etc.
W.P.No.307 of 2021
Mr Justice Malik Javaid Iqbal Wains
<https://sys.lhc.gov.pk/appjudgments/2025LHC2203.pdf>

Facts: Petitioners instituted a suit for recovery along with profit. They also preferred an application under Order XXXVIII CPC to attach the properties of respondents. The respondents turned up and filed written statement accompanying application under Order VII Rule 11 CPC. The trial court dismissed the respondents' application and accepted the petitioners' application. Both the parties assailed the order before the District Judge who, vide consolidated judgment, accepted the respondents' revision petition and rejected the plaintiff's whereas the other revision petition was dismissed being infructuous.

Issues:

- i) When a plaintiff can be rejected under Order VII Rule 11(a) CPC and when it cannot be?
- ii) What is a cause of action and what kind of right does it provide for?
- iii) What is the statutory function of Order VII Rule 11 CPC?
- iv) What are the components of a plaintiff and how does their presence matter while applying Order VII Rule 11 CPC.?
- v) In what situation, rejection of plaintiff is permissible and necessary?
- vi) How should the Courts exercise the powers under Order VII Rule 11 CPC?
- vii) When can the Revisional Court interfere in the order of subordinate court?
- viii) What is the scope and extent of the powers of Revisional Court?

Analysis:

- i) Under Order VII Rule 11(a) CPC, a plaintiff can only be rejected when it does not disclose a cause of action and if the plaintiff contains essential facts demonstrating a legal injury, it cannot be rejected summarily under Order VII Rule 11 CPC.

- ii) A cause of action is a bundle of essential facts which, if traversed, give the plaintiff the right to seek legal remedy from a court of competent jurisdiction.
- iii) This provision functions as a threshold filter to prevent frivolous, vexatious, or legally untenable claims from being subjected to full trial proceedings.
- iv) A plaint must disclose, clear legal injury, right enforceable by law, and sufficient factual foundation to warrant judicial examination. Where these elements are present, rejection under Order VII Rule 11(a) CPC is unsustainable and impermissible.
- v) where a plaint is vague, speculative, or based on irrelevant assertions lacking legal basis, rejection is not only permissible but necessary to prevent judicial abuse.
- vi) Courts must exercise this power judiciously, ensuring that genuine claims proceed while legally unsustainable suits are filtered at inception.
- vii) Revisional Court is not meant to act as a second court of appeal. It can interfere only if there is a jurisdictional defect or material irregularity in the subordinate court's order.
- viii) Revisional court's power under Section 115 CPC is limited to correct jurisdictional errors. It cannot reassess facts or act as an appellate court. Revisional jurisdiction is supervisory in nature and should not be exercised as an appellate power. If the subordinate court has decided a matter based on reasonable grounds, interference is unwarranted.

- Conclusion:**
- i) A plaint can be rejected when it does not disclose a cause of action and it cannot be when it contains facts demonstrating a legal injury.
 - ii) A cause of action is a bundle of facts which, gives the right to seek legal remedy.
 - iii) See above analysis No. iii
 - iv) See above analysis No. iv
 - v) Rejection of plaint is permissible where a plaint is vague, speculative, based on irrelevant assertions and lacking legal basis.
 - vi) See above analysis No. vi
 - vii) Revisional Court can interfere only in cases of jurisdictional defect or material irregularity in the subordinate court's order.
 - viii) Power of Revisional court, under Section 115 CPC, is supervisory and limited to correct jurisdictional errors unlike that of the appellate court.

66.

Lahore High Court

Dilbar Masih v. Chairman, Punjab Labour Appellate Tribunal, Lahore etc.
Writ Petition No.2726 of 2023

Mr. Justice Malik Javid Iqbal Wains.

<https://sys.lhc.gov.pk/appjudgments/2025LHC2401.pdf>

Facts:

The petitioner along with other, employed as daily wage workers filed constitutional petition seeking their regularization under the Industrial and Commercial Employment (standing Orders) Ordinance, 1968 (the Ordinance)

asserting that they had been working against permanent posts for several years; Initially, treating their petitions as representations were transmitted to employer to decide the same strictly in accordance with law, but the same were rejected. They then filed grievance petitions under S.33 of the Punjab Industrial Relations Act, 2010, which were accepted by the Labour Court, directing their reinstatement and regularization. However, the Appellate Tribunal, on appeal, set aside that decision. The petitioners now challenge that appellate judgment through this constitutional petition, as well as connected petitions involving common legal and factual issues.

Issues:

- i) What are the implications of S.12(3) of the Ordinance 1968?
- ii) Whether terminating an employee's service through a verbal order amounts to a violation of labour rights and the principles of good governance?
- iii) Whether the status of an employee as permanent or temporary workman is to be determined by statutory law and constitutional principles, or by the administrative discretion of the employer?
- iv) Whether a statutory mandate overrides and takes precedence over the administrative discretion?
- v) Whether a statute that confers a right or particular standing can be arbitrarily denied by executive authority?
- vi) Whether the executive can deny a right that has crystallized by law, where service conditions meet statutory criteria?
- vii) Whether the doctrine of equality requires the State to act fairly, justly, and equitably, and prohibits discriminatory treatment by public authorities?
- viii) Whether termination of service without notice or written order violates Section 12(3) of the Ordinance and infringes upon the right to livelihood under Article 9 of the Constitution?

Analysis:

- i) The court failed to consider the implications of Section 12(3), which mandates that no workman shall be terminated, removed, retrenched, discharged, or dismissed except by a written order explicitly stating the reasons for such action.
- ii) The termination of service through a verbal order is not only inconsistent with the labour and service laws but also violates the principles of good governance.
- iii) This is not a matter to be resolved by the internal policy preferences or administrative will of the employers, but rather, it is a matter of statutory interpretation and constitutional enforcement, squarely governed by the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968, which must be adjudicated in the light of both objective legal standards and the constitutional imperatives of equality, fairness, and due process.
- iv) A statutory mandate exists, it overrides and takes precedence over administrative discretion.
- v) Where a statute confers a right or a particular standing, no executive authority can arbitrarily deny it to the petitioners.

- vi) The executive has no discretion to deny a right that has crystallized by operation of law. Where the service conditions satisfy the criteria set out in a statute, the resulting status is enforceable as a matter of right.
- vii) The doctrine of equality is not a mere formality; it mandates the uniform application of legal standards to individuals in similar situations. When the State acts, it must do so fairly, justly, and equitably. Discriminatory treatment by a public authority contravenes the provisions of the Constitution.
- viii) Termination of service without notice or written order is patently unlawful, as it violates Section 12(3) of the Ordinance, which mandates a written order with stated reasons for termination. Termination through verbal orders or silent exclusion is not only procedurally defective but also infringes upon the right to livelihood, a fundamental aspect of Article 9 of the Constitution, which guarantees the security of person. The right to livelihood is an inseparable part of the right to life, and any arbitrary deprivation of this right is unconstitutional.

- Conclusion:**
- i) See above analysis No.i).
 - ii) Verbal termination of service is violation of Labour Laws and good governance principles.
 - iii) See above analysis No.iii).
 - iv) Statutory mandate overrides and takes precedence over administrative discretion.
 - v) Executive Authority cannot arbitrarily deny statutory rights or standing conferred by law.
 - vi) Executive has no discretion to deny rights established by law.
 - vii) See above analysis No. vii).
 - viii) See above analysis No. viii).

67. Lahore High Court
Bilal Ahmad v. The State
Criminal Appeal No. 859 of 2021
Mr. Justice Muhammad Jawad Zafar.
<https://sys.lhc.gov.pk/appjudgments/2025LHC2497.pdf>

Facts: Appellant was tried and convicted by the Special Juvenile Court / Trial Court for commission of offence of rape with a minor girl and sentenced to imprisonment for life under Section 376(iii) of the PPC along with fine of Rs.50,000/-. In case of default of fine, simple imprisonment for three months. The appellant has challenged his conviction and sentence through this appeal.

Issues:

- i) How does the prompt lodging of the crime report support the credibility of the eyewitnesses and the authenticity of the FIR?
- ii) Whether the reliable evidence of prosecution eyewitnesses alone is sufficient to record a conviction without any corroborative evidence?
- iii) Whether a trustworthy and consistent solitary statement of the victim suffices for conviction in a rape case??

- iv) What constitutes and requires to prove the offence of rape?
- v) Whether conviction can be recorded in the absence of a positive DNA report?
- vi) Whether absence of a DNA match necessarily exonerates the accused?

Analysis:

- i) The promptness in getting the crime report lodged not only confirms the presence of the eye-witnesses at the spot but also excludes every hypothesis of deliberation, consultation and fabrication prior to the registration of the FIR.
- ii) When the evidence of prosecution witnesses of the ocular account is found reliable, the same is sufficient to record conviction without any other corroborative piece of evidence.
- iii) Solitary statement of victim is sufficient to award conviction in a rape case, if the same is found trustworthy, consistent, and reliable.
- iv) We are of the view that for constituting offence under Section 376 of the PPC, any degree of penetration is sufficient to attract liability and full or complete penetration is not a sine qua non for establishing the offence of rape; the slightest ingress, irrespective of ejaculation, is adequate in the eyes of law to bring the act within the ambit of Section 376 of the PPC.
- v) Conviction can be passed in the absence of a positive DNA report, because DNA is supporting/confirmatory evidence, which is corroborative in nature.
- vi) The absence of a DNA match does not necessarily exonerate the accused.

Conclusion:

- i) A prompt FIR confirms the eyewitnesses' presence and excludes any possibility of prior deliberation or fabrication
- ii) Reliable ocular evidence of prosecution witnesses is sufficient for conviction without further corroborative evidence.
- iii) The solitary statement of the victim is sufficient for conviction in a rape case if deemed trustworthy, consistent, and reliable.
- iv) Under Section 376 of the PPC, any degree of penetration, even the slightest, is sufficient to constitute rape, without the need for full penetration or ejaculation.
- v) Conviction can be made without a positive DNA report, as DNA is corroborative and supporting evidence.
- vi) Absence of a DNA match does not automatically exonerate the accused.

68. Lahore High Court
M/s. The Coca Cola Export Corporation-Pakistan Branch v. Deputy Commissioner Inland Revenue etc.
W.P. No. 39097 of 2023
Mr. Justice Khalid Ishaq.
<https://sys.lhc.gov.pk/appjudgments/2025LHC2590.pdf>

Facts: Through this constitutional petition the petitioner has challenged the Order passed under section 74 of the Sales Tax Act, 1990 (Act, 1990) read with section 43(2) of the Federal Excise Act, 2005 (Act, 2005), as well as the Show Cause Notices being inseparable offshoot of the impugned Order.

- Issues:**
- i) Whether an order passed under section 74 of the Act, 1990, irrespective of the amendments brought about through Finance Act, 2022, is appealable?
 - ii) What the remedy is available against an order passed under S.74 of the Act 1990 without notice or an opportunity of hearing?
 - iii) What does Section 74 of the Act, 1990 imply about condoning delay against a taxpayer?
 - iv) Under what conditions can an order for condonation be issued, and what must such an order contain?
 - v) Whether an order for condonation of delay can be left at the whims of an Inland Revenue officer?
 - vi) Whether the limitation under Section 74 of the Act, 1990 should be strictly applied?
 - vii) Whether any statute can infringe on fundamental rights?
 - viii) What are essential grounds for judicial review of public actions?

- Analysis:**
- i) A bare perusal of sections 45-B & 46 of the Act, 1990, which are the provisions conferring right of appeal, clearly spell out that an appeal under section 45-B read with section 46 of the Act, 1990 is only available against orders passed under sections 10, 11, 25, 36 or 66 of the Act, 1990. Section 74 under which the Impugned Order has been passed, is not an appealable order.
 - ii) The only remedy available with the petitioner, particularly in the wake of the fact that Impugned Order has allegedly been issued without notice or an opportunity of hearing, is by way of filing a Constitutional Petition as the petitioner cannot be left remediless.
 - iii) A perusal of above quoted section 74 of the Act, 1990 makes it abundantly clear that the condonation of delay for exposing a taxpayer to the rigors of process after the lapse of statutory period is not a routine and usual exercise.
 - iv) An order for condonation can only be issued in exceptional circumstances, which exceptional circumstances can only be supplemented by supplying reasons and the reasons must ooze out from such orders.
 - v) It cannot be the true import, intent and purpose of the law that the matter of condonation may be left at the whims of an officer of the Inland Revenue.
 - vi) The foregoing is without prejudice to the amended or un-amended state of section 74 of the Act, 1990 as the limitation is not merely a technicality; it has to be more robustly applied in the financial matters particularly in the taxation matters, enabling the taxpayer as well as the revenue hierarchy to have estimations of their respective financial outlook so that the available revenue, the expenditure required and the planning to be rolled out may be assessed with some degree of certainty.
 - vii) It is axiomatic that no statute can muffle fundamental rights and must at all times advance the public interest and remain constitutional compliant.
 - viii) Fairness, Due Process of Law and Natural Justice are important constitutional elements as grounds for judicial review of public actions.

- Conclusion:**
- i) An Order passed under Section 74, of the Act 1990 is not appealable.
 - ii) Remedy of Constitutional Petition is available against an order passed under S.74 of the Act 1990 without notice or an opportunity of hearing.
 - iii) Section 74 of the Act, 1990 makes it clear that condoning delay after the statutory period is an exceptional, not routine, exercise.
 - iv) An order for condonation can only be issued in exceptional circumstances supplemented with reasons.
 - v) The matter of condonation may not be left at the whims of an officer of the Inland Revenue.
 - vi) Limitation must be strictly applied in taxation to ensure financial certainty for both taxpayers and revenue authorities.
 - vii) A statute cannot suppress fundamental rights and must always serve the public interest and comply with the Constitution.
 - viii) Fairness, due process, and natural justice are key constitutional grounds for judicial review of public actions.

69. Lahore High Court
Muhammad Faraz v. Province of Punjab through District Collector Vehari and 2
Review Application No.12-C of 2021
Mr. Justice Abid Hussain Chattha, Mr. Justice Malik Muhammad Awais Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC2236.pdf>

Facts: The petitioner challenged the imposition of cost through a review application filed under Section 114 CPC, contesting the legality of the previous order. The review sought reconsideration only to the extent of the cost imposed by the learned Single Judge in Chambers.

Issues:

- i) Can a review application be heard by a bench other than the one that originally passed the order, in light of the availability of the original judge?
- ii) Is the imposition of cost by a court within its jurisdiction and legal discretion?
- iii) Can points already raised and decided be re-agitated under review jurisdiction?
- iv) Can the conduct of a party in previous litigation be a basis for imposing costs in subsequent proceedings?
- v) Is the scope of review limited to correcting errors apparent on the face of the record?

Analysis:

- i) It has been observed from the above text if the Judge who decided a case is not available, another Bench comprising two Judges can hear and dispose of a review petition arising from the judgment.
- ii) This Court has ample jurisdiction and inherent power to impose cost if the facts and circumstances of the case necessitate the making of such an order to secure the ends of justice or prevent the abuse of the process of the court.
- iii) It is settled law that the points already raised and considered before the court

cannot be re-agitated in review jurisdiction which is confined to the extent of patent error or mistake floating on the face of the record.

iv) Past conduct may be ruminated to assess the seriousness or non-seriousness of a party in the litigation and due to any past reckless conduct, the Court may impose costs.

v) The scope of review is very limited one which can be exercised sparingly and only in exceptional cases in which some important aspect of the matter escaped notice of the Court... A review application is not competent where neither any new and important matter or evidence has been discovered nor is any mistake or error apparent on the face of the record.

- Conclusion:**
- i) Yes, a different bench can hear the review application if the original judge is unavailable.
 - ii) Yes, the court has the jurisdiction and discretion to impose costs.
 - iii) No, previously adjudicated points cannot be re-agitated in a review application.
 - iv) Yes, the past conduct of a party can be a valid basis for imposing costs in later proceedings.
 - v) Yes, review jurisdiction is confined to correcting errors that are patent and apparent on the face of the record.

70. Lahore High Court
Muhammad Asghar v. Addl. District Judge, etc.
Writ Petition No.2482 of 2025
Mr. Justice Malik Muhammad Awais Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC2618.pdf>

Facts: Petitioner assailed the concurrent findings of the courts below whereby his appeal was dismissed as time-barred and application for condonation of delay was rejected against the judgement and decree for recovery of maintenance, dower, and dowry articles on account of alleged maltreatment, non-maintenance, and non-payment of dower of family court.

Issues:

- i) Whether the Appellate Court can extend prescribed period of limitation for sufficient cause under Rule 22 of West Pakistan Family Courts Rules, 1965?
- ii) Whether the High Court can interfere under its certiorari jurisdiction in the absence of a jurisdictional error or error of law apparent on the face of the record?

Analysis:

- i) A bare perusal of Rule 22 of the Rules, indicates that prescribed period of limitation for filing of an appeal under section 14 of the Act, is thirty days of the passing of decree or decision excluding the time requisite for obtaining the copies thereof. The proviso to above sub-rule (1) empowers the Appellate Court to extend the said period for sufficient cause under Rule 22 of the Rules.
- ii) It is crucial to recognize that the High Court's jurisdiction to issue certiorari is fundamentally supervisory. This supervisory role imposes certain limitations: specifically, it prohibits the High Court from re-evaluating or questioning factual

findings made by subordinate courts based on their assessment of evidence. The High Court does not engage in reviewing or re-weighting evidence that underlies the decisions made by the Family Court or its First Appellate Court. Instead, it may only nullify a decision it finds to be beyond the jurisdiction or grossly erroneous without imposing its own conclusions in place of those reached by the lower courts. Furthermore, certiorari orders can be granted solely when a clear error of law is evident on the face of the record, however this does not extend to addressing errors of fact, regardless of their severity.

Conclusion: i) The proviso to above sub-rule (1) empowers the Appellate Court to extend the said period for sufficient cause under Rule 22 of the Rules.
ii) Certiorari orders can be granted solely when a clear error of law is evident on the face of the record, however this does not extend to addressing errors of fact, regardless of their severity.

71. Lahore High Court
Muhammad Fayyaz v. The State
Criminal Appeal No.829-J of 2023
Mr. Justice Tariq Mahmood Bajwa.
<https://sys.lhc.gov.pk/appjudgments/2025LHC2323.pdf>

Facts: The Sessions Court convicted the appellant under section 302 (b) PPC, on the charge of murder of complainant's son, and sentenced him to imprisonment for life. Hence the appeal was filed by the convict in the Hon'ble High Court.

Issues: i) What is the purpose of putting question to an accused intends to confess his guilt?
 ii) Whether there is any limit of questions require to be put to the accused going to record his confession?
 iii) What is theory of 'last seen together', on what principles it based?
 iv) Whether medical evidence confirms the ocular account, and whether it can connect the accused with the commission of crime?
 v) Whether the recovery of weapon of offence produces corroboration if independent witness in recovery proceedings is not associated?
 vi) Whether conviction can be based mere on confirmatory evidence?
 vii) Whether the law and justice require to consider the evidence of prosecution as gospel truth if the sole accused is charged in murder case?
 viii) Whether CDR, having not been signed by any person nor having the name of the person who prepared it, can be helpful for the prosecution?
 ix) Whether the court has to influence from the emotions while passing a judicial decision?
 x) Whether many circumstances creating doubt in the prosecution story are required to acquit an accused?

Analysis: i) A Magistrate is bound to put to an accused under all circumstances for the purpose of his satisfaction that the same is being made with free will and consent,

without any promise, duress, compulsion, threat, ill treatment or any other extraneous consideration.

ii) It must be noticed that above are the minimum number of questions and there can be no deviation, however, if the answers are of such a character as to require a Magistrate to do so, he can put such further questions as may be necessary to enable him to judge whether the accused is deposing voluntarily. So, the entire exercise is to ensure that what an accused wants to say that is the volunteer voice of his conscious, mind and heart.

iii) The theory of last seen together is one where two persons are seen together alive and after an interval of time, one of them is found alive and the other dead. If the period between the two is short, presumption can be drawn that the person alive is the author of the other's death. Its fundamental principles, probability, cause and connection and requires a cogent reason that (a) the deceased in normal and ordinary course was supposed to accompany the accused. (b) Proximity of the crime scene (c) small time gap between the sighting and crime (d) no possibility of third person interference (e) motive (f) time of death of victim. The circumstance of last seen together does not by itself necessarily lead to the inference that it was the accused who committed the crime. There must be something more establishing connectivity between the accused and the crime.

iv) Even otherwise, medical evidence may confirm the ocular account/circumstantial evidence with regard to the receipt of injury and kind of weapon but it cannot connect the accused with the commission of crime.

v) So far as the recovery is concerned, no independent witness from the place of recovery was associated by the investigation officer and in all the recoveries complainant Tasleem (PW-11) as well as his brother Muhammad Nadeem (since not produced) were shown recovery witness. The said part of the evidence could not produce the corroboration.

vi) Even otherwise, the recovery is deemed to be corroborative in nature and it is used to corroborate the direct or circumstantial evidence and as per dictates of justice whenever direct evidence is disbelieved it would not be safe to maintain conviction on confirmatory evidence.

vii) No doubt, substitution of single accused in a murder charge was a rare phenomenon but at the same time to put the rope around the neck of an accused charged singly, there must be circumstantial evidence/ocular account of unimpeachable character, trustworthy and confidence inspiring corroboration from the other pieces of evidence and it is not the requirement of the law or the justice to consider the evidence of the prosecution as gospel truth if it was a case of sole accused rather it is the judicial duty of the court to assess the intrinsic worth of the evidence.

viii) The prosecution also produced Tanveer Ahmad, ASI (PW.7) to prove call data record (Exh.PP), the said PW on cross examination stated, it is correct that neither call data record has been signed by any person nor it is appearing that the name of the officer who prepared the same, for the said sole reason, hardly helpful for the prosecution.

ix) Occurrence narrated in the FIR, no doubt was horrifying and chilling but while passing a judicial decision court has to detach itself from the emotions and the chitters created by the document or narration of the PWs. The Law does not clothe the Judge with a divine insight into the hearts and merits of the witness and the court has to form the opinion and to reach the decision with the force of reasons and logics.

x) It is settled law that not many circumstances creating doubt in the prosecution story are required to acquit an accused rather one circumstance creating doubt is enough to extend benefit of same to the accused.

- Conclusion:**
- i) The purpose of questions is the satisfaction of the court that the confession is voluntary.
 - ii) There is no limit of question to be put to the accused at the time of confession.
 - iii) See above analysis No.iii
 - iv) See above analysis No.iv
 - v) If independent witness is not associated in recovery then it produces no corroboration.
 - vi) It would not be safe to maintain conviction mere on confirmatory evidence.
 - vii) See above analysis No.vii
 - viii) See above analysis No.viii
 - ix) See above analysis No.ix
 - x) See above analysis No.x

72.

Lahore High Court

Khan Muhammad v. Learned Judicial Magistrate, etc.

W.P No. 782 of 2025

Mr Justice Tariq Mahmood Bajwa.

<https://sys.lhc.gov.pk/appjudgments/2025LHC2426.pdf>

Facts:

Petitioner lodged a criminal case against respondents No. 2 to 4 regarding theft of trees from his land. Police arrested the accused persons and produced them before the area Magistrate for grant of physical remand. The request of police was declined and the accused persons were discharged. The said order was challenged through this constitutional petition.

Issues:

- i) What is the significance of “possession” as an ingredient in the definition of offence of theft?
- ii) Which type of possession is referred to by section 378 PPC?
- iii) Whether the existence of the civil rights or co-ownership is a valid ground for stifling a criminal investigation or prosecution?
- iv) What must the Criminal court ensure regarding the investigation at remand stage?
- v) Is it proper to allow the investigation to continue in the absence of clear evidence of mala fide?

- Analysis:**
- i) Possession is central ingredient to impose/attract the offence of theft under the next section i.e. 379 PPC.
 - ii) The word possession used in section 378 requires actual/physical possession rather constructive possession.
 - iii) The existence of civil rights or co-ownership is not a valid ground for stifling a criminal investigation or prosecution.
 - iv) The criminal court must allow investigation to take its course and must not prematurely terminate proceedings of investigation at the remand stage.
 - v) Investigation should be allowed to continue unless there is clear evidence of mala fide.
- Conclusion:**
- i) Possession is the significant central ingredient to attract the offence of theft.
 - ii) Only the actual physical is the requirement of section 378 PPC.
 - iii) The existence of civil rights or co-ownership does not bar criminal investigation.
 - iv) The criminal court must avoid from terminating the proceedings of investigation at the remand stage.
 - v) It is proper to continue the investigation in absence of evidence of mala fide.

73. Lahore High Court
Kameer Khan. v. The State, etc.
Criminal Revision No.13684 of 2022
Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2310.pdf>

Facts: The petitioner had stood surety for an accused in a case under section 13(2)(a) of the Arms Ordinance, 1965. The case was pending before the Learned Magistrate for evidence, but the accused absented, leading to the issuance of a show-cause notice to the petitioner regarding the forfeiture of the surety. The petitioner failed to appear before the Learned Magistrate, resulting in the forfeiture of the surety and a penalty of Rs.100,000 being imposed. The petitioner appealed this order to the Additional Sessions Judge, but the appeal was dismissed, hence this criminal revision.

Issues:

- i) What is the extent of the surety's responsibility in relation to the accused?
- ii) What happens to the surety's liability once the accused appears before the Court?
- iii) What does section 435 of the Cr.P.C. state regarding the scope of criminal revision?

Analysis:

- i) It is important to note here that the surety's responsibility is limited to ensure the accused's attendance in the case for which the bond was granted.
- ii) People often come forward to act as sureties for the accused out of genuine compassion, typically without any expectation of personal gain, but rather out of simple goodwill and the purpose of standing surety is to ensure the appearance of

the individual for whom the surety is provided. Once that individual appears before the Court, the surety's liability ends, and the matter then lies solely between the Court and the accused.

iii) It is also important to note here that in accordance with the scope of criminal revision as mentioned in section 435 Cr.P.C. correctness, legality or propriety of a finding of a criminal court can be looked into and in appropriate cases interfered with.

Conclusion: i) The surety's responsibility is solely to ensure the accused's attendance in court for the specific case related to the bond.
 ii) His liability ends once the accused appears.
 iii) It allows examination of the correctness, legality, or propriety of criminal court findings.

74. Lahore High Court
Saif Ali v. The State and others
W.P. No.7272 of 2025
Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2319.pdf>

Facts: Through the instant constitutional petition moved under Article 199 of The Constitution of Islamic Republic of Pakistan, 1973 the petitioner has called in question the legality and validity of the order passed by the learned Magistrate Section.30, whereby, he while refusing the request of the police for physical remand of respondent No.4, discharged him from the case.

Issue: i) In what manner, a Magistrate should exercise his discretion to pass an order under Section 63 of the Code of Criminal Procedure to discharge an accused?

Analysis: i) It is the discretion of the Magistrate concerned to pass order under Section 63 of the Code of Criminal Procedure to discharge an accused; however, the discretion must be exercised by the concerned magistrate justly, fairly.

Conclusion: i) See above analysis No. i
 ii) Remand order should not be a mechanical order.

LATEST LEGISLATION/AMENDMENTS

1. The off the Grid (Captive Power Plants) Levy Ordinance, 2025 is promulgated on 31-01-2025 to impose an off the grid levy on natural gas based captive power plants.
2. Vide The Emigration (Amendment) Act, 2025 dated 22-03-2025; the amendments are made in sections 17, 18 & 22 of The Emigration Ordinance 1979.

3. Vide The Prevention of Trafficking in Persons (Amendment) Act, 2025 dated 22-03-2025, the amendments in sections 2, 3, 4 & 9 and substitution of sections 6 & 10 are made in The Prevention of Trafficking in Persons Act, 2018.
4. Vide The Prevention of Smuggling of Migrants (Amendment) Act, 2025 dated 22-03-2025; amendments are made in sections 3 to 6 & 10 of The Prevention of Smuggling of Migrants Act, 2018.

SELECTED ARTICLES

1. Lawyers Club of India

<https://www.lawyersclubindia.com/articles/a-person-cannot-be-deprived-of-his-pension-unless-found-guilty-in-departmental-or-judicial-proceedings--17632.asp>

A Person Cannot Be Deprived of His Pension, Unless Found Guilty in Departmental or Judicial Proceedings By Adv. Sanjeev Sirohi

It would be extremely relevant to note that in a major decision with far reaching consequences, the Chhattisgarh High Court at Bilaspur in a most learned, laudable, landmark, logical and latest judgment titled Rajkumar Gonekar (dead) through LRs & Ors v. State of Chhattisgarh & Anr. in WPS No. 4181 of 2021 and cited in Neutral Citation: 2025: CGHC:15440 that was finally pronounced on 02.04.2025 has minced just no words to hold in no uncertain terms that a person cannot be deprived of their pension without the authority of law, which is the Constitutional mandate enshrined in Article 300-A of the Constitution. It must be also mentioned here that the High Court quashed the impugned order that had granted permission to recover the pension of a retired government employee. In addition, the High Court also further directed the refund of the same. Very rightly so!

2. MANUPATRA

<https://articles.manupatra.com/article-details/INVESTOR-STATE-DISPUTES-AT-AN-ALL-TIME-HIGH-WHATS-DRIVING-THE-SURGE>

Investor-State Disputes at An All-Time High: What's Driving the Surge? By Shreya Srivastava

Investor-State Dispute Settlement (ISDS) is a procedural system which enables an investor from one country to initiate arbitration directly against the country where their investment is located. ISDS provisions are included in various international agreements such as free trade agreements, bilateral investment treaties, multilateral investment agreements, national investment laws, and investment contracts. When an investor from a "home state" invests in a "host state" that has also agreed to ISDS, and the host state infringes on the investor's rights under public international law (for instance, by expropriating property without timely, adequate, and fair compensation), the investor can pursue neutral arbitration instead of resorting to the host state's domestic courts.

Although the term ISDS is often used as a general label, it encompasses diverse processes and scopes. These provisions aim to prevent state-to-state conflicts, safeguard citizens investing abroad, and demonstrate to potential investors that the rule of law will be upheld. In the absence of ISDS, an investor would typically have to rely on their home state's government to intervene to enforce their rights. Without ISDS, foreign investors often lacked effective remedies against unfair treatment by host states and had to rely on local courts, which were often inadequate due to insufficient legal protections, sovereign immunity, or judicial bias. Diplomacy was inconsistent, and state-to-state dispute resolution risked politicizing private disputes. ISDS was created to address these issues by depoliticizing disputes and providing a neutral arbitration mechanism.

3. Lawyers Club of India

<https://www.lawyersclubindia.com/articles/guernsey-united-kingdoms-introduces-a-new-and-updated-law-on-sexual-violence-what-has-changed--17635.asp>

Guernsey (United Kingdom) introduces a new and updated law on sexual violence. What has changed? By Swabhiman Panda

Guernsey is one of the Channel Islands in the English Channel near the French coast located 27 miles (43 km) west of the Cotentin Peninsula, Normandy. It is the largest island in the Bailiwick of Guernsey, and is a self-governing British Crown dependency. Guernsey is administered as part of the Bailiwick of Guernsey, a self-governing dependency of the British Crown. The island is thus not part of the United Kingdom, although the UK government has certain responsibilities for the Bailiwick. The British monarch is the head of state and the head of government is the President of the Policy and Resources Committee.

4. MANUPATRA

<https://articles.manupatra.com/article-details/Untangling-the-Knots-IBC-s-Stride-Toward-Creditor-Fairness-Amidst-Workmen-s-Sacrifices>

Untangling the Knots: IBC's Stride Toward Creditor Fairness Amidst Workmen's Sacrifices By Hiten Lakhani, Amity and Shivaan Chadha

The recent clash between section 53 of Insolvency and Bankruptcy Code, 2016 and section 327(7) of the Companies Act, 2013, both statutory provisions which significantly impact the hierarchy of stakeholders in corporate insolvency, gained attention following the Supreme Court's judgement in *Moser Baer Karamchari Union v. Union of India*. While Section 327(7) excludes the application of section 326 and section 327 (which deal with preferential payments) don't apply during liquidation proceedings under Insolvency and Bankruptcy Code, 2016, whereas section 53 of the Insolvency and Bankruptcy Code, 2016 (also known as waterfall mechanism) establishes a hierarchy for the distribution of goods based on liquidation value. The issue arises when the hierarchy under section 326 and section 327 of the Companies Act, 2013 appears to be affected by the enforcement of section 53 of Insolvency and Bankruptcy Code, 2016. This article examines the conflict between these provisions, the challenges it poses for stakeholders and the Supreme

Court's judgement, which upheld the constitutionality of section 327(7) of the Companies Act.

5. Lawyers Club India

<https://www.lawyersclubindia.com/articles/how-to-get-call-records-of-a-person-can-cdrs-be-used-as-evidence-in-court--17640.asp>

How to Get Call Records of a Person? Can CDRs Be Used as Evidence in Court? By Swabhiman Panda

In the digital age, where communication is largely driven by mobile technology, Call Detail Records (CDRs) have emerged as critical tools in various domains—including law enforcement and legal proceedings. A Call Detail Record is a digital footprint of a telephone call, capturing vital metadata such as the time, duration, source and destination numbers, and cell tower locations. While CDRs do not contain the content of conversations, the wealth of information they provide has proven invaluable in criminal investigations, civil disputes, and intelligence gathering. This article explores the structure and significance of CDRs, their role in legal contexts, and the legal and ethical considerations surrounding their use in courtrooms.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*
Volume - VI, Issue - IX
01 - 05 - 2025 to 15 - 05 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(01-05-2025 to 15-05-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles
Prepared & Published by the Research Centre Lahore High Court

JUDGMENTS OF INTEREST

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1. **Supreme Court of Pakistan**
Sher Asfandiyar Khan, Sajida Naeem, M/s of space (Pvt.) Ltd., Karachi & Alamgir Khan v. Neelofar Shah etc.
Civil Appeals No.1843 to 1846 of 2019 and Civil Miscellaneous Application No.1138 of 2020
Mr. Justice Yahya Afridi CJ, Mr. Justice Amin-ud-Din Khan & Mrs. Justice Ayesha A. Malik
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1843_2019.pdf

Facts: The parties were shareholders in a (Pvt.) Ltd. Company. The respondent side claimed that the appellant group illegally transferred his 30% shares in violation of two Shareholders' agreements. The respondent Group filed a petition under the Companies Ordinance, seeking remedy for oppression. The Company Judge ruled in favor of the respondent Group, which order was upheld by the Sindh High Court. Hence, the appeals were filed before the Hon'ble Supreme Court.

Issues:

- i) How the summary proceedings under Companies Act can be distinguished from a civil trial.
- ii) How and in which cases the summary procedure can be adopted?
- iii) Whether summary proceedings impose an absolute bar on the Company Judge from receiving oral or documentary evidence where necessary?
- iv) When a party challenges the existence of a document, whether such allegation can be resolved in a summary manner?
- v) Whether a claim as to trust is tenable under Pakistan company law?
- vi) What is importance of a company's register as to legal ownership?
- vii) Whether a fact proved in accordance with a prescribed legal standard can be considered by the court of law?
- viii) Whether the provisions of QSO also extend to summary proceedings before the Company Court?
- ix) In which situation the secondary evidence becomes admissible?
- x) Whether mere assertion regarding the loss or unavailability of the original document is sufficient to seek, by a party, to rely upon secondary evidence?
- xi) How the judicial discretion can be exercised?
- xii) What is the effect of failure to subject the documents to the necessary evidentiary scrutiny, particularly in case of serious allegations?

Analysis:

- i) It is noteworthy that by its very nature, a summary proceeding is abundantly distinct from a civil trial, which is structured around a more comprehensive fact-finding process, involving the framing of issues, the recording of detailed evidence, and the examination and cross-examination of witnesses.
- ii) While under Section 9(3) of the Companies Ordinance, it is permissible to adopt summary procedure, the procedure adopted should be fair and just, ensuring equal opportunities for the contesting parties. As such, it is clear that Section 9 of the Companies Ordinance is not to be interpreted in a manner that overrides fundamental principles of fairness, particularly where intricate factual disputes arise.

iii) The requirement to follow summary procedure does not impose an absolute bar on the Company Judge from receiving oral or documentary evidence where necessary. The Court reaffirmed that, while summary proceedings are designed for expeditious resolution, they do not preclude a factual inquiry where allegations of fraud, forgery, or misrepresentation arise, provided that such an inquiry is necessary to reach a just conclusion. It was clarified that the reference to ‘summary procedure’ in Section 9(3) does not deprive the Company Judge of the authority to receive and assess evidence, where the nature of the dispute so requires.

iv) The present case is not a mere matter of contractual enforcement but one where the very authenticity of the Shareholders’ Agreements is in dispute. The Khan Group has not merely challenged the interpretation or implementation of these agreements; they have challenged their very existence. Such allegations require procedural safeguards, including oral testimony, forensic examination, and cross-examination, none of which were undertaken by the courts leading to the impugned judgment. The omission of these safeguards raises serious concerns regarding fairness and due process, particularly in a case where the validity of the underlying documents is directly contested.

v) In the present case, the Shah Group asserts that the 30% shareholding initially allocated to Alamgir Khan was held in trust for the benefit of Nazeer Shah. However, in light of the statutory framework discussed above, such a claim is untenable under Pakistani company law. Section 148 of the Companies Ordinance explicitly prohibited the recognition of any trust; express, implied, or constructive, on the company’s register of members. Consequently, even if a private arrangement existed between the parties regarding the beneficial ownership of these shares, the Company Judge could not take cognizance of such a claim. Thus, the claim of the Shah Group of having a trust over the disputed shares is legally untenable and cannot be sustained in these proceedings.

vi) The legal ownership, as recorded in the company’s register, must be regarded as conclusive, and any assertion of an equitable interest cannot override the statutory bar.

vii) A fundamental principle of the law of evidence is that a fact, to be considered by a court of law, must not only be relevant but also admissible and proved in accordance with the prescribed legal standards.

viii) Section 1(2) explicitly states that the QSO extends to the whole of Pakistan and applies to all judicial proceedings before any court. By necessary implication, its provisions also extend to summary proceedings before the Company Court, ensuring that evidentiary standards remain uniform across all judicial fora.

ix) A plain reading of Article 76 of QSO makes it clear that secondary evidence, such as photocopies or duplicates of a document, is only admissible in strictly circumscribed situations. The provision sets out a limited set of circumstances in which reliance may be placed on copies or reproductions of documents, including where the original has been lost, destroyed, unlawfully withheld by an adverse party, or is otherwise unobtainable.

x) The admission of secondary evidence is contingent upon strict compliance with statutory conditions prescribed under Article 76 of the QSO. It was emphasized that a mere assertion regarding the loss or unavailability of the original document is insufficient; rather, the party seeking to rely on secondary evidence must first establish, through credible and independent proof, that the original is unavailable due to a reason explicitly recognized under the law. Any deviation from this requirement, or the admission of secondary evidence without such justification, constitutes a material irregularity warranting judicial interference.

xi) However, it is well-settled that judicial discretion, while broad, is not unfettered and must be exercised within the parameters prescribed by law. Where a determination is reached without adherence to the procedural and evidentiary safeguards essential to a fair adjudication, it ceases to be a matter of discretion and instead becomes a question of legal propriety.

xii) The failure to subject the documents to the necessary evidentiary scrutiny, particularly in light of the serious allegations raised, rendered the adjudication procedurally deficient.

- 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) A claim as to trust is not tenable under company law.
 - vi) See above analysis No. vi
 - vii) See above analysis No. vii
 - viii) See above analysis No. viii
 - ix) See above analysis No. ix
 - x) See above analysis No. x
 - xi) See above analysis No. xi
 - xii) See above analysis No. xii

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2. **Supreme Court of Pakistan**
District Education Officer (Female), Charsadda, etc. v. Sonia Begum
C.R.P. 5/2023 In C.P.L.A. 448-P/2017
Secretary S.S.D., FATA Secretariat, FATA, Peshawar (Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar) and others v. Shakila Chaman
C.R.P. 6/2023 In C.P.L.A. 651-P/2019
Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Peshawar and others v. Saira Amin
C.R.P. 7/2023 In C.P.L.A. 655-P/2019
Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Peshawar and others v. Syed Amjad Rauf Shah
C.R.P. 8/2023 In C.P.L.A. 658-P/2019
Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Peshawar and others v. Raz Muhammad
C.R.P. 9/2023 In C.P.L.A. 666-P/2019

**Director Education Officer (Female), Peshawar, etc v. Mehak Sajawal
C.P.L.A No. 402-P of 2023**

Mr. Justice Syed Mansoor Ali Shah (Acting Chief Justice), Mr. Justice Muhammad Ali Mazhar, Mr. Justice Shahid Bilal Hassan

https://www.supremecourt.gov.pk/downloads_judgements/c.r.p. 5 2023.pdf

Facts: Through the present petitions, the petitioners seek review of the judgment of this Court (reported as Director Education Officer (Female) Charsadda and others v. Sonia Begum and others (2023 SCMR 217) wherein the Court affirmed that under Section 3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011, it is the domicile certificate, and not the CNIC address, that determines a candidate's permanent residence for employment purposes.

Issues:

- i) Is the constitutional right to access the courts an unqualified or limitless right?
- ii) How is the right to access the courts to be exercised?
- iii) Which Article of the Constitution empowers the Supreme Court to review any judgment pronounced or order made by it?
- iv) On what grounds, may a review petition be filed before the Supreme Court?
- v) Can the term "mistake or error apparent on the face of the record" be defined with precision?
- vi) What is the condition for determination a mistake or error apparent on the face of the record?
- vii) When can a decision, order, or judgment not be corrected?
- viii) What is a party filing a review petition prohibited from doing?
- ix) Is the power of review similar to that of an appeal?
- x) Can a judgment be revisited in the exercise of the power of review?
- xi) What are the criteria for exercising review jurisdiction?
- xii) In what ways, do frivolous claims waste the Court's time and resources?
- xiii) What are the benefits of imposing of costs?
- xiv) What function does the imposition of costs serve?
- xv) How do cost sanctions contribute to maintaining fairness in judicial proceedings?
- xvi) What are the consequence of denying the cost imposition?
- xvii) Is the legal framework governing the imposition of costs in Pakistan rooted in statutory law and procedural rules?
- xviii) What factors may courts consider to determine whether a case is frivolous?
- xix) What ethical and procedural obligations must lawyers fulfill in various jurisdictions before filing a case?
- xx) What rules makes it obligatory for the Advocates signing the review petitions in Pakistan?
- xxi) For what purpose, is the consistent imposition of meaningful and proportionate costs essential?

Analysis: i) The right of access to courts is a cornerstone of our constitutional framework, it is not an unqualified or limitless right.

- ii) Such access must be exercised with due responsibility and in a manner that upholds the dignity and finality of judicial proceedings.
- iii) Article 188 of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”) empowers the Supreme Court to review any judgment pronounced or order made by it.
- iv) Order XXVI, Rule 1 of the Rules stipulates that a review petition may be filed on grounds similar to those mentioned in Order XLVII, Rule 1 of the Code of Civil Procedure, 1908 (“CPC”), which provides that a review may be sought where there is (1) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of, or could not be produced by, the third party seeking review at the time when the decree was passed or order made; (2) some mistake or error apparent on the face of the record, and (3) any other sufficient reason.
- v) The term “mistake or error apparent on the face of the record” cannot be defined with precision or exhaustiveness, and there would always remain an element of indefiniteness inherent in its very nature.
- vi) The critical condition is that it must be self-evident, immediately apparent, and not require extensive discussion or reasoning. If an error is not self-evident and its detection demands prolonged debate or analysis, it cannot be classified as an error apparent on the face of the record.
- vii) A decision, order, or judgment cannot be corrected simply because it is erroneous in law, or because a different view could have been taken by the court or tribunal on a point of law or fact.
- viii) A party filing a review petition cannot be allowed to repeat previously overruled arguments in an attempt to reopen the conclusions reached in the judgment.
- ix) It is well established law that the power of review should not be confused with the appellate power, which permits a superior court to correct errors made by a subordinate court. Review proceedings are distinct from appeals and must be strictly confined to the scope and parameters outlined in Order XLVII Rule 1 of the CPC.
- x) Power of review, as articulated in Article 188 of the Constitution and governed by the Rules and the CPC, is not an open invitation to revisit judgments merely on the basis of dissatisfaction with the outcome.
- xi) It is a limited jurisdiction, exercised with great caution and circumspection. The conditions for filing a review petition are specifically enumerated, and they do not extend to re-arguing points of law or fact that have already been conclusively determined.
- xii) Frivolous claims serve no purpose other than to waste the Court’s time and resources. The repeated filing of such petitions, especially when the issues have already been conclusively settled, clutters the judicial process with baseless assertions. This compels the Court to divert its valuable time and attention to matters devoid of merit. Frivolous litigation is costly not only for the judicial system but also for litigants. Such cases consume limited court resources and require parties to expend substantial time and financial resources defending

unwarranted claims. This imposes an undue burden on both the judiciary and the litigants, leading to avoidable expenses and procedural delays. Moreover, frivolous litigation delays justice for deserving litigants by diverting the Court's focus from meritorious cases⁸, thereby disrupting the efficient administration of justice and impeding the timely resolution of genuine disputes.

xiii) The imposition of costs, as authorized under Order XXVIII, Rule 3 of the Rules¹³, serves as a critical deterrent against the abuse of judicial process. It reinforces judicial discipline, promotes expeditious adjudication, and protects the integrity of the legal system.

xiv) The imposition of costs functions as a crucial corrective mechanism within the justice system, simultaneously deterring meritless claims and preserving court access for genuine litigants.

xv) Cost sanctions in frivolous and vexatious matters are thus essential to fulfilling the constitutional mandate of a fair trial under Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution").

xvi) Failure to impose costs effectively denies genuine claimants access to justice under Article 9 and impairs the constitutional goal of expeditious justice outlined in Article 37(d) of the Constitution. In recognition of this, the Supreme Court has consistently directed all tiers of the judiciary to impose appropriate costs to check the abuse of process, prevent unwarranted adjournments, curb procedural delinquency, and preserve the judiciary's efficiency and integrity.

xvii) The legal framework governing the imposition of costs in Pakistan is rooted in both statutory law and procedural rules. In addition to Order XXVIII, Rule 3 of the Rules, Section 35 of the CPC empowers courts to determine by whom and to what extent costs are to be paid. Section 35-A further authorizes compensatory costs against parties who raise false or vexatious claims or defences. More recently, the Costs of Litigation Act, 2017 enacted for the Islamabad Capital Territory has fortified the cost regime by mandating the imposition of compensatory, special, and adjournment costs. This transforms cost sanctions from a discretionary tool into a mandatory judicial duty. Although this statute currently applies only in the Islamabad Capital Territory, it offers a viable legislative model for adoption across provinces to standardize and strengthen deterrence against frivolous litigation nationwide.

xviii) In this context, courts may consider a set of non-exhaustive factors to assess whether a case is frivolous. These *inter alia* include: (i) Conduct of the parties: Any behaviour that unnecessarily prolongs or delays the proceedings, (ii) Margin of success or failure: Whether the claim was reasonably arguable or plainly untenable from the outset, (iii) Falsehood or fraud: If a party or its witnesses lied under oath or submitted forged or fabricated document, (iv) Compliance with legal obligations: Whether the party has scrupulously complied with the Code of Civil Procedure, the Evidence Act, and other applicable substantive or procedural laws, (v) Unnecessary denials: If a party refused to admit facts or documents that ought reasonably to have been admitted, and (vi) Violation of court processes: Failure by a party or its legal representative to comply with court rules, practice directions, or lawful court orders.

xix) In various jurisdictions, including the United States, lawyers are ethically and procedurally obligated to certify, before filing a case, that the action is not initiated for improper purposes such as to harass, delay, or increase litigation costs unnecessarily. They must also certify that the claims, defences, and legal contentions are warranted by existing law and that factual contentions are supported by evidence. Courts have the discretion to penalize not only litigants but also legal representatives who violate these duties. This reinforces professional accountability and deters frivolous litigation.

xx) In Pakistan, a similar obligation exists specifically in the context of review petitions. Under the Rules, it is mandatory that the Advocate signing the review application briefly state the precise grounds on which the review is sought. Furthermore, the Advocate must provide a reasoned certificate affirming that, in their professional opinion, the case warrants review. This safeguard ensures the limited jurisdiction of review is not misused, thereby conserving judicial time for matters of genuine substance.

xxi) The consistent imposition of meaningful and proportionate costs rooted in statutory authority, judicial discipline, and constitutional imperatives is essential to deter abuse of process and restore procedural integrity. It is imperative that courts across all tiers actively embrace cost sanctions as a necessary tool for judicial economy, procedural fairness, and the delivery of timely and effective justice. Only by weeding out vexatious and baseless claims can the judiciary ensure that its limited resources are directed toward those causes that truly deserve legal redress.

- Conclusion:**
- i) The right of access to courts is not an unqualified or limitless right.
 - ii) The right of access to courts must be exercised responsibly, ensuring respect for judicial dignity and finality.
 - iii) Article 188 of the Constitution empowers the Supreme Court to review any judgment pronounced or order made by it.
 - iv) See above analysis No. iv
 - v) No, the term “mistake or error apparent on the face of the record” cannot be defined with precision or exhaustiveness.
 - vi) If an error is not self-evident, it cannot be classified as an error apparent on the face of the record.
 - vii) A decision, order, or judgment cannot be corrected when it is erroneous in law and a different view could have been taken by the court or tribunal.
 - viii) A party filing a review petition is prohibited from repeating previously overruled arguments.
 - ix) See above analysis No. ix
 - x) A judgment cannot be revisited in the exercise of the power of review.
 - xi) Review jurisdiction is a limited jurisdiction and it is to be exercised with great caution and circumspection.
 - xii) Frivolous claims wastes the Court’s time and resources.
 - xiii) The imposition of costs serves as a deterrent against the abuse of judicial process.

- xiv) The imposition of costs functions as a corrective mechanism deterring meritless claims and preserving court access for genuine litigants.
- xv) See above analysis No. xv
- xvi) Consequence of refusal of imposition of costs is the denial of genuine claimant's access to justice.
- xvii) Yes. The legal framework governing the imposition of costs in Pakistan is rooted in both statutory law and procedural rules.
- xviii) See above analysis No. xviii
- xix) See above analysis No. xix
- xx) Order XXVI, Rule 4 of Supreme Court Rules, 1980
- xxi) In order to maintain judicial discipline and constitutional imperatives, the consistent imposition of meaningful and proportionate costs is essential.

3. Supreme Court of Pakistan
Aatika Hina Mushtaq v. Secretary Special Education Government of the Punjab, Special Education Department Lahore, etc.
C.P.L.A No. 3116 of 2022
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3116_2022.pdf

Facts: The petitioner while working as a Physical Education Teacher (BS-09) in the Punjab Special Education Department was considered for promotion for the post of Lecturer Physical Education (BS-17) under the Special Education Department (Directorate of Special Education) Service Rules, 2006. Her case was recommended for promotion through a working paper submitted by the Department. However, the Departmental Promotion Committee deferred the promotion of the petitioner on the pretext that the Rules required amendment, and promotions would be considered thereafter. The petitioner's representation against the decision of the DPC was rejected, while her departmental appeal was dismissed. Consequently, the petitioner challenged both these orders by filing a service appeal before the Punjab Service Tribunal, Lahore, which too was dismissed. Hence, the instant petition for leave to appeal.

Issues:

- i) Whether the Departmental Promotion Committee (DPC) is legally justified in deferring the promotion of a civil servant on the ground that the existing service rules require amendment?
- ii) Whether a civil servant, though not having a vested right to promotion, possesses an enforceable right to be considered for promotion in accordance with the existing service rules?
- iii) Whether the arbitrary or indefinite deferral of promotion consideration violates the fundamental right to livelihood and the right to live with dignity as guaranteed under Article 9 of the Constitution?

Analysis:

- i) The Rules provide a clear mechanism for determining seniority (...) any proposed future amendments of the Rules cannot bind the DPC to lay their hands off and defer promotions on this pretext. The DPC does not possess the mandate

or the authority to question the Rules or refuse their enforcement.

ii) While a civil servant does not have a vested right to promotion, he or she certainly has an enforceable right to be considered for promotion in accordance with law. The denial or deferral of promotion, if not supported by lawful and cogent reasons, violates this expectation and reduces constitutional guarantees to mere rhetoric.

iii) Article 9 of the Constitution guarantees the right to life, which, through consistent judicial interpretation, has evolved beyond mere animal existence to encompass the right to live with dignity and purpose. Integral to this dignified existence is the right to livelihood, a concept that extends mere employment to include the genuine opportunity for growth, progress, and advancement in one's career in accordance with law.

- Conclusion:**
- i) The decision of the DPC of withholding the promotion till such time that the Rules are suitably amended is not sustainable.
 - ii) See analysis ii above.
 - iii) It is axiomatic that fair, transparent, and merit-based consideration for promotion forms an essential facet of the right to livelihood, and thus, of the right to life itself.

4. Supreme Court of Pakistan
Federal Public Service Commission through its Secretary, Islamabad v. Kashif Mustafa and others
C.R.P No. 292/2024 in C.P.L.A. No. 4449/2021
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.r.p. 292 2024.pdf

Facts: The petitioner has filed a review petition against the judgment wherein the conclusion of the High Court was upheld by this Court, which deemed the intra-court appeal (ICA) not maintainable under Section 3(2) of the Law Reforms Ordinance, 1972. The Court ruled that since the Federal Public Service Commission Ordinance, 1977 provides for an appeal against the original order, the ICA cannot be pursued. The availability of a legal remedy, regardless of whether it was utilized, bars the right to file an ICA.

Issues:

- i) What obligations do public bodies have when engaging in litigation?
- ii) How should they approach courts who have been entrusted with public functions and legal stewardship?

Analysis:

- i) When public bodies initiate litigation, they do so not as private litigants pursuing personal interests, but as custodians of the law and fiduciaries of the public interest. They are under an onerous obligation to act fairly, responsibly, and in accordance with the Constitution.
- ii) Courts are not to be approached mechanically or defensively, especially by those entrusted with public functions and legal stewardship.

- Conclusion:** i) They are under an onerous obligation to act fairly, responsibly, and in accordance with the Constitution.
 ii) They should not approach courts mechanically or defensively.

5. Supreme Court of Pakistan, National Bank of Pakistan through its President, Karachi and others v. Muhammad Shafiq & Muhammad Tahir C.P.L.As.121 and 122 of 2024 and C.M.As.507 and 509 of 2024 Mr. Justice Munib Akhtar, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi.
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 121 2024.pdf

Facts: The Respondents / employees of the petitioner Bank were dismissed after disciplinary proceedings. The employees challenged their termination through civil suits, seeking reinstatement. The suits were decreed in their favor, and reinstatement was ordered. The Bank's appeals and revision petitions were dismissed, prompting the current leave petitions.

Issues: i) What is the court's view on employment relationships in the gig economy?
 ii) Whether the traditional master-servant legal framework remains suitable in light of modern corporate structures and decision-making processes?
 iii) Whether the equitable rule in *Shamsul Islam Chowdhury* (PLD 1961 SC 531) requires flexibility and judicial discretion to ensure the law evolves over time?
 iv) Whether termination by a large corporation can render an individual unemployable, even if deemed unlawful by a court?

Analysis: i) This is also now the age of the Internet and even in relation to what is called the "gig economy" (where the position of the hired/engaged person is at its most precarious) the courts in many jurisdictions have held that the relationship cannot be reduced to that of master and servant.
 ii) The "master" now may well not be some identified person or small group of persons who themselves rely on the personal skill of the "servant" but rather an impersonal corporation containing many layers of employment and management, and where decisions of service (and in particular termination thereof) may well be taken by persons some levels below what would, in law (in traditional terms) be regarded as the "mind" of the "master". It therefore appears to us, with respect, that the law in this area may have ossified and become outmoded, being no longer congruent with the demands and requirements of modern times.
 iii) The rule laid down in *Shamsul Islam Chowdhury* is ultimately of an equitable nature and it is of the essence of equity that it must retain flexibility and the discretion of the Court (in the judicial sense) so that the law can appropriately develop, and continue to develop, with the passage of time.
 iv) It should also be noted that in the context of the modern economy the termination of service, in particular by a large corporation, may well in practical terms make a person effectively unemployable even if the termination is later found to be unlawful by a court and compensated by an award of damages.

- Conclusion:**
- i) In the gig economy, courts in many jurisdictions have ruled that the relationship cannot be reduced to master and servant.
 - ii) See above analysis No.ii
 - iii) The rule in *Shamsul Islam Chowdhury* is equitable, requiring flexibility and judicial discretion for the law to evolve with time.
 - iv) See above analysis No.iv

6. Supreme Court of Pakistan, M/s WAK Limited Multan Road, Lahore v. Collector Central Excise & Sales Tax, Lahore (Now Commissioner Inland Revenue, LTU, Lahore) and others C.As.634 to 636-L of 2022
Mr. Justice Munib Akhtar, Mr. Justice Irfan Saadat Khan, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Shakeel Ahmad, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 634 2018.pdf

Facts: These review petitions are meant to examine the correctness of the judgment in *Collector of Sales Tax, Gujranwala v. Super Asia Mohammad Din* (2017 SCMR 1427) whereby certain provisions of the Sales Tax Act, 1990 were held to be mandatory rather than directory.

Issues:

- i) Would the exercise of statutory power to grant an extension under S.11 G of Sales Tax Act, 1990 be lawful without recording reasons?
- ii) Whether treating both uses of “shall” in S.11 G of Sales Tax Act, 1990 as mandatory is the only interpretation that gives full effect to the legislative intent?
- iii) Whether mere non-provision of penal consequences would regard a provision as directory?
- iv) How do the words “in no case” used in Section 11G of the Sales Tax Act, 1990 impact its interpretation?
- v) How does Section 74 of the Sales Tax Act, 1990 provide discretion to the FBR regarding the time period for an adjudicating officer to perform the required act?
- vi) Whether under Section 74 of the Sales Tax Act, 1990 FBR can grant extension for the period so long as it thinks fit?
- vii) Whether the legal principles enunciated in *Super Asia* (2017 SCMR 1427) are correct?

Analysis:

- i) The exercise of the statutory power in favor of granting the extension would be unlawful without the recording of reasons.
- ii) It is therefore our conclusion, with respect, that even on a bare textual analysis it is only the first possibility, where both uses of “shall” are mandatory, that can “work” in any sensible or reasonable manner. That possibility must therefore be the only one that aligns fully with the legislative intent.
- iii) It is however but one device among many available in the judicial toolkit in this regard. It is, with respect, neither universal nor determinative in and of itself.
- iv) The hard edge provided by these words is a clear indication that if the thing here required to be done (i.e., the issuance of the order-in-original) goes beyond

the prescribed time limits there is indeed a penal consequence that ensues, i.e., its invalidity.

v) Section 74 statutorily empowers (but does not bind, i.e., confers a discretion on) the FBR to, as here relevant, allow an adjudicating officer (since he is one of the officers specified in s. 30) to do the act or thing required of him (i.e., issue the order-in- original) for which a time period has been specified (i.e., the relevant provisions) to do that act or thing within such time or period as FBR may consider appropriate.

vi) Section 74 does not, because as a matter of law it cannot, confer an open-ended power in this regard. In other words, FBR cannot, on the basis of its own subjective assessment, grant an extension for however long a period it thinks fit. The matter must, and if it comes before a court certainly will, be looked at objectively.

vii) The decision of this Court in *Collector of Sales Tax, Gujranwala and others v Super Asia Mohammad Din and others* 2017 SCMR 1427, 2017 PTD 1756 is hereby confirmed and the principles enunciated therein are affirmed as correctly stating the law on all points.

- Conclusion:**
- i) Granting the extension without recording reasons would make the exercise of statutory power unlawful.
 - ii) See above analysis No.ii)
 - iii) See above analysis No.iii)
 - iv) See above analysis No.iv)
 - v) Section 74 grants the FBR discretion to allow an adjudicating officer, specified under Section 30, to issue the order-in-original within a time period deemed appropriate by the FBR.
 - vi) Section 74 does not grant FBR open-ended power to extend time; any extension must be objectively assessed, especially in court.
 - vii) see above analysis No.vii)

7. **Supreme Court of Pakistan**
Commissioner Inland Revenue, Lahore vs M/s Educational Services (Private) Limited, Lahore
C.P.L.A.109-L/2024
Mr. Justice Munib Akhtar, Ms. Justice Ayesha A. Malik, Mr. Justice Aqeel Ahmad Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._109_l_2024.pdf

- Facts:** The respondent taxpayer, a company based in Pakistan, entered into various franchise agreements within the country, thereby providing dutiable services classified as franchise services. The dispute centered on determining whether the liability to pay excise duty for these services lay with the franchiser or the franchisees. The Appellate Tribunal held that the respondent was not liable to pay the excise duty, and this conclusion was upheld by the High Court through the impugned judgment rendered on a tax reference filed by the Department.

Issues:

- i) Who is responsible to pay Excise duty under the Federal Excise Act, 2005?
- ii) Whether the Federal Board of Revenue (FBR), through Rule 43A, can validly alter the legal incidence of tax in the absence of express delegation in the parent statute.?

Analysis:

i) The charging section of the Act is s. 3 and subsection (5) thereof, as presently relevant, is in the following terms... The subsection sets out the legal liability to pay the duty, i.e., specifies on whom lies the legal incidence of the tax. Excise duty is of course a species of indirect taxation, and it is a characteristic of such taxes that the expectation is that the economic incidence or burden of the levy will normally be passed on to the consumer (or, as the case may be, especially where the tax is being levied in the VAT mode, on the person next in the supply/consumption chain). However, there is in law a distinction between the legal incidence of an indirect tax and its economic or commercial incidence. The State is of course interested in the recovery of the levy, and for this purpose the relevant statute may set out the person who must bear the legal incidence. It is that person against whom the State will act (by way, e.g., of coercive recovery provisions) if the tax remains unpaid. Whether such person can successfully pass on the economic burden onto someone else is, in terms and for purposes of its legal incidence, usually not relevant. We may caution however, that this is the general position which, as will be seen, suffices for present purposes. There can be exceptions to this in the statutory scheme itself, either set out expressly or as may be found to exist by way of necessary implication or otherwise. However, that aspect need not be considered further here... Applying the foregoing principles to the facts and circumstances at hand it is, in our view, clear from a bare reading of subsection (5) that the legal incidence of the levy is to fall on the franchiser, here the respondent. Clause (c) can be regarded as comprising of two parts. The general rule in relation to the legal incidence is set out in the first part. To this an exception is carved out in the second part (as indicated by the word “provided”), in relation to the situation where the franchiser is outside Pakistan. Then, the legal incidence falls on the franchisee.

ii) Rule 43A must (now, and as relevant for present purposes) be regarded as geared towards ensuring that the exception or second part of clause (a) of s. 3(5) is given effect to, i.e., the situation where the franchiser is outside of Pakistan and the parent statute expressly imposes the legal incidence of the duty on the franchisee. The references to the State Bank in subrule (5) and deduction from “remittance[s]” in sub-rule (7) (which term is generally used for foreign banking transactions) make clear that the concern being addressed is that the local franchisee of the foreign franchiser is fulfilling its legal obligation to pay the duty. Finally (and again, subject to the clarificatory observation made below), to read Rule 43A in the manner as found favor with the learned High Court would allow the FBR, in exercise of rule making power, to alter the legal incidence of the duty in a manner contrary to what is expressly stated in the parent statute. This is impermissible. In the presence of a position embedded in the parent Act itself no

such power of delegated legislation vests, or can vest, in the FBR or for that matter any other person except by way of express grant by the statute.

Conclusion: i) See above analysis (i).
ii) See above analysis(ii).

8. Supreme Court of Pakistan
Asjad Ullah v. Mst. Asia Bano and others.
Civil Petition No. 3920 of 2024
Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Shakeel Ahmaad & Ms. Justice Musarrat Hilali
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3920 2024.pdf

Facts: The marriage between the parties was ended with divorce pronounced by the petitioner from Greece. Then he/petitioner filed an application for custody of minor daughter which was dismissed upto the High Court. Hence, Civil Petition filed before the Hon'ble Supreme Court of Pakistan.

Issues:

- i) What should be the prime and overriding consideration of the courts in determining a custody matter?
- ii) What constitutes the welfare of a minor and how it can be established?
- iii) What includes in the expression “welfare of minor” and to which factor should be given the due weight in determining the welfare?
- iv) What should take into account while determining the welfare of the minor?
- v) What to focus by the courts in determining the welfare of a minor?
- vi) Whether the custody of minor can be refused to father even he would become entitle under the Islamic law but welfare of minor so demands?
- vii) What is the effect of an agreement between the parents contrary to the interest of the minor?
- viii) Whether the concept of welfare of child is internationally recongnized?
- ix) What is distinction between the concepts of custody and guardianship?
- x) Who is under the obligation to maintain the children, whether the mother can be deprived from custody due to her inability to maintain?
- xi) Whether remarriage of mother ipso facto disentitle her from custody of minor?
- xii) Whether under Muhammad Law the principle of disqualification of mother from custody of minor on mother's remarriage is an absolute rule?
- xiii) How and to what extents the removing of custody of child from mother disrupts their relationship and deprive the child from love and care?

Analysis:

- i) It is a settled principle of law that the welfare and best interests of the minor(s) shall be the prime and overriding consideration in determining an application for custody, with no other factor taking precedence.
- ii) Now determination that what constitutes welfare of a minor is a question of fact that must be established through cogent and reliable evidence in each case rather than presumptions.

- iii) The expression "welfare of the minor" includes the minor's moral, spiritual, physical, psychological, educational, and material well-being. It further encompasses considerations relating to the minor's health, academic progress, religious upbringing, and overall emotional development. In determining welfare, due weight must also be given to the minor's happiness and emotional attachment to the proposed custodian.
- iv) Thus, while determining the welfare of the minor, the Court shall take into account the age, sex, religion, and other relevant circumstances of the minor, the character and capacity of the proposed guardian, as well as the preference of the minor, provided the minor is of sufficient maturity to express an intelligent preference.
- v) It is the duty of the Court to ensure that the welfare of the minor is of paramount concern, and that the actions of the litigating parties are not motivated by personal vendettas, vanity, or emotional desires for affection, but solely in the best interest of the minor. In matters concerning the custody of a child, the Family Court is not obliged to delve into the intricacies or technicalities of the case but must focus on determining what is in the best interest of the minor.
- vi) Under Islamic law, the father is generally entitled to custody of a boy after the age of seven years and of a girl after puberty. This Court, however, in the case of *Tahira v. Additional District Judge, Rawalpindi and others* (1990 SCMR 852) has categorically held that this entitlement is subject to the overriding consideration of the minor's welfare. Even where custody would otherwise shift to the father upon attainment of the prescribed age, the Court may refuse custody if the welfare of the minor so demands.
- vii) The court is not bound by any agreement between the parents if it is contrary to the interests of the minor.
- viii) The concept of the welfare of the child is internationally recognized as being embodied in the principle of the "best interests of the child." This principle, affirmed under Article 3(1) of the United Nations Convention on the Rights of the Child, 1989 ("UNCRC") serves as a paramount consideration in all actions concerning children, whether undertaken by public or private institutions, courts of law, or administrative authorities. (---) The UNCRC constitutes an international treaty that sets forth the rights guaranteed to children. The Islamic Republic of Pakistan ratified the UNCRC on 12.11.1990.
- ix) Custody, within the meaning of the Act, primarily involves the right to the upbringing of the minor, whereas guardianship entails an overarching responsibility for the welfare of the minor, including in situations where the guardian does not have actual physical possession of the minor.
- x) A father, by virtue of being the natural guardian, remains obligated to provide financial support for the minor even after separation from the mother and even when the custody of the minor is granted to the mother. It is well-settled that the liability of the father to maintain the minor is not only religious and moral but is also a legal obligation. It has been consistently held that the right to custody is subordinate to the paramount consideration of the welfare of the minor. The

inability of the mother to financially maintain the minor cannot, by itself, deprive her of custody, as the primary duty to provide maintenance rests upon the father.

xi) It is by now a settled principle of law that the mere fact of a mother's remarriage does not ipso facto disentitle her from the custody of the minor.

xii) As per D.F. Mulla's Principles of Muhammadan Law (Paragraphs 352 and 354), a mother's right of custody continues after divorce but may be forfeited upon remarriage, particularly if she marries a person not related to the minor within the prohibited degrees. However, Section 17 of the Act requires that the welfare of the minor must be of the paramount consideration. This Court has consistently held that the rules in Muhammadan Law regarding disqualification of a mother upon remarriage are not absolute. (---) In such cases, if the welfare of the minor is best served by awarding custody to the mother, even after remarriage, the court may grant her custody.

xiii) The critical importance of the mother-child bond, stating that removing a child from the mother disrupts their relationship and deprives the child of the love and care essential for his/her upbringing.(---) At this delicate and formative stage of adolescence, when emotional security, proper moral upbringing, and a strong educational foundation are of paramount importance for the minor's future growth and development, any unwarranted disturbance or change in her environment would likely cause irreversible harm to her personality and career.

- Conclusion:**
- i) Welfare of minor is the prime and overriding consideration for the courts in determining a custody matter.
 - ii) See above analysis No.ii
 - iii) See above analysis No.iii
 - iv) See above analysis No.iv
 - v) See above analysis No.v
 - vi) The custody of minor can be refused to father even he would become entitle under the Islamic law if welfare of minor so demands.
 - vii) The court is not bound by any agreement between the parents if it is contrary to the interests of the minor.
 - viii) See above analysis No.viii
 - ix) See above analysis No.ix
 - x) See above analysis No.x
 - xi) Remarriage of mother ipso facto does not disentitle her from custody of minor.
 - xii) Disqualification of mother from custody of minor on her remarriage is not an absolute rule.
 - xiii) See above analysis No.xiii

9.

Supreme Court of Pakistan

Muhammad Asghar v. The State

Jail Petition No. 868 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._868_2017.pdf

- Facts:** Through the instant jail petition, petitioner has challenged the judgment of High Court whereby his convictions for offences under sections 302, 354 and 452 PPC were maintained, however, the sentence for the offence under section 302(b) PPC was altered from death to life imprisonment, while the remaining sentences were upheld.
- Issues:**
- i) What is the effect of variance in the statements of witnesses?
 - ii) What will be the legal impact of non-production of reports of the Chemical Examiner and Serologist?
 - iii) Can the assertion of a vague motive, unsupported by credible material, be treated as conclusive proof?
 - iv) What is the law as to extension of benefit of doubt?
- Analysis:**
- i) Variance in the statements raises doubt not only about the credibility of the PWs' account but also their very presence at the scene.
 - ii) No report of the Chemical Examiner or Serologist has been brought on the record. In such a situation, the recovery, stripped of scientific support, stands materially weakened and does not advance the prosecution's case in any meaningful way.
 - iii) The mere assertion of a vague motive, unsupported by credible material, cannot be treated as conclusive proof.
 - iv) The law is obvious and trite that where the prosecution's case contains doubts such as those mentioned in the foregoing paragraphs, the benefit of such doubts accrues in the accused's favour. Furthermore, even a single doubt creating circumstance is sufficient to form the basis of an acquittal.
- Conclusion:**
- i) It raises doubt about the credibility of the witnesses and their presence at the scene.
 - ii) The recovery is clearly weak and does not help the prosecution's case.
 - iii) No. The mere assertion of a vague motive cannot be treated as conclusive proof
 - iv) The benefit of doubts accrues in the accused's favor.

10. Supreme Court of Pakistan
Obaidullah v. The State
Jail Petition No. 14/2020
Zubair Ahmed v. Obaidullah and another
Jail Petition No.17/2020 and Criminal Petition No.1322/2019
Wali Jan v. Zubair Ahmed and another
Criminal Petitions No.1322 & 1323/2019
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat
Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._14_2020.pdf

- Facts:** The deceased was found dead after being reported missing. The petitioners, initially not named in the FIR, were later implicated based on a co-accused's

disclosure and their retracted confessions. The Trial Court convicted both petitioners, and the High Court upheld their convictions while converting one death sentence to life imprisonment. Hence; these petitions.

- Issues:**
- i) What is the evidentiary requirement in cases based on circumstantial evidence?
 - ii) Whether a conviction can be based solely on a retracted judicial confession and under what circumstances it is admissible and reliable?
 - iii) Whether a piece of evidence not put to the accused under Section 342 Cr.P.C. can be used against him for conviction?
 - iv) Is the prosecution evidence regarding recovery of pistol and forensic report reliable when the empties and pistol are kept and deposited together?
 - v) What are the legal requirements for recording a valid judicial confession to ensure its voluntariness and reliability?
 - vi) What is the legal effect of a single doubt arising in the prosecution's case?

- Analysis:**
- i) It is settled law that in such like cases every circumstance should be linked with each other and it should form such a continuous chain that its one end touches the dead body and the other to the neck of the accused. But if any link in the chain is missing then its benefit must go to the accused.
 - ii) 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.
 - iii) It is by now well settled that if a piece of evidence is not put to accused in his statement recorded under Section 342 Cr.P.C, in order to provide him a chance to produce his defence against the said evidence then such evidence cannot be used against the accused.
 - iv) It is, thus, clear that the empties and the pistol were kept together at the Police Station and were deposited together in the office of Forensic Science Laboratory, therefore, the prosecution evidence qua the recovery of pistol and positive report of Forensic Science Laboratory is not worthy of reliance.
 - v) Moreover, in his statement before the Court or in his reports, he has not mentioned that as to how much time was given to the petitioners to think over before making their judicial confession and after how much time they were again called and he (PW-8) satisfied himself that the petitioners were making their judicial confessions with their free will and without any pressure or coercion. It is, therefore, evident that judicial confessions of the petitioners were not recorded in accordance with the law and as mentioned earlier even otherwise, there is no independent corroboration of the said judicial confessions.
 - vi) It is by now well settled that if there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused,

- Conclusion:**
- i) Circumstantial evidence must form an unbroken chain linking the accused to the crime.
 - ii) A retracted judicial confession is only reliable if corroborated by independent evidence and recorded lawfully.
 - iii) Evidence not put to the accused under Section 342 Cr.P.C. cannot be used against him.
 - iv) Recovery of pistol and forensic evidence is unreliable when the pistol and empties are kept and deposited together.
 - v) Judicial confession lacking proper procedure and independent corroboration is legally inadmissible.
 - vi) A single doubt in the prosecution's case is sufficient to acquit the accused.

11. Supreme Court of Pakistan
Iftikhar ud Din (decd.) through L.Rs. v. M/s Askari Bank Limited and others
Civil Appeal No.470 of 2022
Mr. Justice Syed Mansoor Ali Shah & Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 470 2022.pdf

Facts: An ejectment Petition of the Petitioner, filed before Additional Rent Controller under section 17 of the Cantonment Rent Restriction Act, 1963, was allowed but the same was dismissed by the High Court in RFA filed by the respondents. Hence an appeal was filed before the Supreme Court.

Issues: i) Whether non-compliance of the Tentative Rent Order itself is sufficient ground for ejectment of the tenant?

Analysis: i) It will not be out of place to observe that non-compliance of the Tentative Rent Order itself was sufficient ground for ejectment of the tenant without further inquiry into merits as it constitutes wilful default. Reference in this regard can be made to the cases of M.H. Mussadaq v. Muhammad Zafar Iqbal and another (2004 SCMR 1453) and Misbahullah Khan v. Mst. Memoona Taskinuddin (1995 SCMR 287).

Conclusion: i) Non-compliance of the Tentative Rent Order itself is sufficient ground for ejectment of the tenant.

12. Supreme Court of Pakistan
Hidayat Khan and others v. Mst. Nasreen and others
C.P.L.A.No.287-P of 2025
Mr. Justice Syed Hasan Azhar Rizvi, Ms. Justice Musarrat Hilali, Mr. Justice Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 287 p 2025.pdf

Facts: Petitioners claimed title over property through a gift deed allegedly executed by their predecessor-in-interest. They challenged inheritance mutations in favour of Mst. Nasreen. The suit, appeal, and revision were dismissed concurrently by the Courts below..

Issues: i) What are the principles to be considered when transactions in contour of gift, tamleek are put under challenge for determination?

Analysis:

- i) a) Beneficiary of the impugned transaction of gift/transfer of immovable property(s) bears the heavy onus to prove the transaction;
- b) The beneficiary of a gift has to plead and prove three mandatory ingredients of gift i.e. declaration/offer by the donor, acceptance of gift by the donee and delivery of possession in pursuance of the gift;
- c) The possession of immovable property by one of the siblings/L.Rs. to the exclusion of other legal representatives will be treated as constructive possession on behalf of all others unless proved otherwise;
- d) In case of oral transactions, it is compulsory for a beneficiary of oral transaction to prove the same through unimpeachable evidence by stating and averring mandatory material particulars in the pleadings i.e. time, date, venue/place, the witnesses in whose presence the alleged transaction was brought about;
- e) The oral transaction of transfer of immovable property (original transaction), be it sale, gift/tamleek, relinquishment or will etc. has to be proved separate from its incorporation/attestation in revenue record by way of sanctioning of the mutation since a mutation cannot by itself be considered a document of title;
- f) Where a gift, which excluded a legal heir, irrespective of whether such transaction is in the form of registered deed, the donee is required to prove original transaction and must justify the exclusion of a legal heir from the estate;
- g) Parties are bound by their pleadings; no amount of evidence can be led beyond the scope of pleadings; and in case any such evidence is brought on record, the Court cannot consider and rely upon the same and has to discard it;
- h) Mere efflux of time does not extinguish the right of inheritance, therefore, the question of limitation in case of inheritance and fraud is not attracted and becomes insignificant.

Conclusions: i) See above analysis No.i.

13. Supreme Court of Pakistan
Khizar Hayat v. The State
Criminal Appeal No. 181/2022
Mr. Justice Muhammad Hashim Khan Kakar
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 181 2022.pdf

Facts: Petitioner was sentenced to death as Ta'azir under section 302(b) PPC by the trial court. Petitioner assailed the conviction and sentence before Lahore High Court, Lahore through appeal, which was partly allowed and sentence was reduced to life imprisonment, hence this appeal was preferred, wherein leave was granted to reappraise the evidence.

- Issue:**
- i) Whether the prosecution proved the identification of the accused during a night-time occurrence without recovery of torches allegedly used by eyewitnesses?
 - ii) Whether the delayed FIR without justification affected the credibility of the prosecution's case?
 - iii) Whether disbelieving prosecution witnesses for some co-accused impacts the reliability of their evidence against others charged with similar roles?
 - iv) Whether the non-production of medical officer and acquittal of a co-accused having attribution of causing injury to the same injured/star witness undermines witness's credibility to the extent of other accused?
 - v) What are the legal consequences of not proving motive set up by the prosecution?

- Analysis:**
- i) The occurrence in this case had taken place during the night and although the prosecution had mentioned availability of torch with the prosecution witnesses at the spot yet admittedly no torch had been secured during the investigation of this case. Thus, the claim of the above alleged eyewitnesses regarding identification of culprits with graphic details of the incident appears to be a claim which can be accepted only with a lump of salt.
 - ii) The matter was brought to the notice of local police through the statement of Muhammad Ramzan (PW-10) recorded on 01.12.2009 at about 1:05 p.m. after a delay of about 14 hours without any justifiable explanation, thus, a possibility regarding deliberations before lodging of the FIR could not safely be ruled out of consideration.
 - iii) The law is settled that if the eyewitnesses have been disbelieved against some accused persons attributed effective roles then the same eyewitnesses cannot be believed against another accused person attributed a similar role unless such eyewitnesses receive independent corroboration qua the other accused person
 - iv) is being portrayed by the prosecution as a star witness on account of injuries on his body, which fact is projected by the prosecution as stamp of his presence at the time of occurrence. We are mindful of the fact that prosecution witness had allegedly sustained injuries on his head and shoulder caused by co-accused however, due to non-production of the concerned Doctor as well as acquittal of one of the accused no reliance can be placed on his evidence being shaky in nature. Even otherwise, it is not necessary that the injured witness had spoken the whole truth, it cannot be relied upon unless corroborated, which is lacking in the instant case.
 - v) It is by now settled that the prosecution though is not obliged to prove the motive in each and every case, however, once the motive is set up then it must be established and in case of failure to prove the same, then prosecution must suffer its consequences and not the defence.

- Conclusion:**
- i) See analysis No i.
 - ii) In case of delayed FIR possibility regarding deliberations before lodging of the FIR could not safely be ruled out of consideration.

iii) See analysis No iii.

iv) See analysis No iv.

v) Once the motive is set up by the prosecution then it must be established and in case of failure, prosecution must suffer its consequences and not the defence.

- 14. Supreme Court of Pakistan**
Khurshed Ali Khan v. Muhammad Ayub and others
Civil Petition No. 3875 of 2024
Mr. Justice Yahya Afridi (Chief Justice), Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3875 2024.pdf

Facts: The petitioner filed a suit which was dismissed for non-prosecution due to his absence, although the defendants were present. A belated restoration application was filed citing illness of the petitioner's father, but the trial court and appellate court both found the explanation unsatisfactory and dismissed the applications accordingly.

Issues: i) When is a suit considered ripe for hearing and the court dismiss it at that stage?
 ii) Can a suit be dismissed for non-prosecution even if applications are listed, once issues have framed and the case is fixed for evidence?

Analysis: i) In the suit the issues were framed and the moment issues are framed in a suit, it (suit) become ripe for hearing. (...)It is well within the discretion of court to dismiss the suit if it is ripe for hearing i.e. after settlement of issues.
 ii) Notwithstanding the listed applications on the fateful day, the suit has also listed for hearing as the issues have been framed and case was adjourned for evidence of petitioner/plaintiff. This argument therefore is not convincing that suit was not ripe for hearing or that it should not have been dismissed for non-prosecution and/or at the most the application fixed could have been dismissed.

Conclusion: i) Once issues are framed, the suit becomes ripe for hearing and may be dismissed for non-prosecution at the court's discretion.
 ii) The presence of other listed applications does not preclude dismissal of the suit, which was rightly set for hearing after framing of issues.

- 15. Supreme Court of Pakistan**
Shahzad v. The Collector of Customs & another
C.P.L.A.690-K/2022
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 690 k 2022.pdf

Facts: Question of law was proposed in the reference jurisdiction exercised by the High Court whether the Tribunal misinterpreted sections 2(s) and 157 of the Act, thereby defeating the intent of the law while releasing the vehicle seized for transporting smuggled foreign-origin high-speed diesel (HSD).

- Issue:** Whether a conveyance used in the removal of goods liable to confiscation can be released pending adjudication under Section 157 of the Act, subject to conditions prescribed by the authorized customs officer?
- Analysis:** Section 157 of the Act unambiguously talks about the confiscation of the conveyance of whatever kind used in the removal of any goods liable to confiscation under this Act. Proviso to sub-section (2) of section 157 of the Act only caters for its release by an authorized officer of the customs as required by the prescribed rules pending adjudication of the goods involving its confiscation, subject to furnishing sufficient guarantee from the scheduled bank for due production of the conveyance at any time and place it is required by the appropriate officer to be produced. Sub-section (3) of section 157 of the Act also related to confiscation of vessel which includes, tackle, apparel and furniture.
- Conclusion:** Proviso to sub-section (2) of section 157 of the Act caters for release of confiscated conveyance by an authorized officer of the customs subject to furnishing sufficient guarantee from the scheduled bank for due production of the conveyance any time.

16. Supreme Court of Pakistan
Commissioner Inland Revenue, Lahore and others v. Salman Butt and others.
Civil Petition No. 2135-L of 2020
Mr. Justice Yahya Afridi (The Chief Justice), Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2135 1 2020.pdf

- Facts:** A notice issued by the tax department was challenged on the ground that it violated established legal precedent (2016 PTD 2074). The High Court held that while audit proceedings could continue, the taxpayer could not be compelled to produce records due to the expiry of the statutory record retention period under Section 174(1) of the Income Tax Ordinance, 2001. The matter reached the Supreme Court, where the central question was whether the taxpayer remained under a legal duty to retain records in light of a reassessment notice and ongoing proceedings.
- Issues:**
- i) Timeframe prescribed under section 174(1) of the Income Tax Ordinance, 2001 for retaining documents.
 - ii) Whether proceedings against a taxpayer can be initiated on the basis of tax records maintained beyond the six-year period prescribed under Section 174 of the Ordinance, in the absence of any pending proceedings?
- Analysis:**
- i) A timeframe is prescribed under the law i.e. section 174(1) of the Ordinance for retaining the documents however it is supplemented by the proviso along with an explanation inserted by Finance Act, 2010.
 - ii) Such proposition came for consideration before this Court in the case reports as 2022 SCMR 1133 when this Court observed, “Reading of the Ordinance and

Rules envisages that any proceedings against a taxpayer that is based on the tax record maintained by the taxpayer should be initiated within a fixed timeframe. Section 174 creates an obligation on the taxpayer to maintain such accounts, documents and records as prescribed for a period of six year, except in case of pending proceedings, where the obligation of a taxpayer to maintain the record is till the final decision of the proceedings (exception is not attracted the present case), while the same provision protects the taxpayer from being asked to produce the record beyond the said period.”

Conclusion: i) See above analysis No i.
ii) Section 174 creates an obligation on the taxpayer to maintain records as prescribed for a period of six year, except in case of pending proceedings.

17. Supreme Court of Pakistan
Zunair Younas v. The State thr. P.G, Pb. & another
Civil Petition No. 146-P/2015
Mr. Justice Jamal Khan Mandokhail, Mr. Justice Athar Minallah, Mr. Justice Salahuddin Panhwar
https://www.supremecourt.gov.pk/downloads_judgements/crl.p.532.2018.pdf

Facts: The accusation against the petitioner and his co-accused was of committing unnatural offence (sodomy) and thereafter murdering the son of the complainant. the learned Sessions Court, vide judgment, convicted the petitioner under Section 302(b) read with Section 34 PPC and sentenced him to death. Co-accused was similarly convicted under Section 302(b) read with Section 34 PPC, albeit sentenced to imprisonment for life. The learned High Court, while maintaining the conviction of the petitioner, was however persuaded to alter the sentence of death into imprisonment for life. The sentence of compensation and the sentence in default thereof were maintained. However, co-accused was acquitted by the learned High Court by extending to him the benefit of doubt. Hence, this criminal petition before Hon’ble Supreme Court of Pakistan.

Issues: i) What is evidentiary scope of Article 40 of Qanun-e-Shahadat Ordinance, 1984?
 ii) What is doctrine of confirmation by subsequent facts?
 iii) Whether Article 40 of Qanun-e- Shahadat Ordinance, 1984 carves out a limited evidentiary window for statement under section 161 Cr.P.C which leads to the discovery of a relevant fact?
 iv) Whether an object may constitute a “fact” in itself, discovery under Article 40 QSO entails a broader cognitive element than simple recovery?
 v) What are essential elements and parameters to invoke the provisions of Article 40 of Qanun-e-Shahadat Ordinance, 1984?
 vi) What is principle of “last seen together”?
 vii) Whether the conviction of a co-accused resting upon the same evidence can be sustained?
 viii) Whether each link in the chain must be proven to the exclusion of every reasonable doubt?

ix) What are to be measures to ensure adherence to due process, safeguard the principles of justice, and uphold the equitable application of the rule of law?

Analysis:

i) Article 40 QSO, though succinct in its text, embodies a distinct and carefully delineated exception to the general exclusionary provisions found in Articles 38 and 39 of QSO. Whereas the latter provisions proscribe reliance on confessional statements made either to a police officer or while in police custody unless made in the presence of a Magistrate, Article 40 QSO permits a qualified and narrow admission into evidence of only that portion of a statement which directly relates to a fact discovered in consequence thereof. This limited admissibility is not predicated on the veracity of the statement per se, but on the objective and verifiable consequence that ensues from it... It needs to be emphasized that the jurisprudence under Article 40 QSO does not lend itself to an expansive reading. The evidentiary admissibility permitted under this Article must not be employed as a device to sidestep the overarching protections enshrined in Articles 38, 39 QSO and Section 162 Cr.P.C.

ii) Dean Wigmore¹ formulated this doctrine to explain the probative value of a confession which, although otherwise inadmissible, leads to the discovery of real and material evidence. According to Wigmore, "the doctrine was that where, in consequence of a confession otherwise inadmissible, search is made and facts are discovered which confirm it in material points, the possible influence which through caution had been attributed to the improper inducement is seen to have been nil, and the confession should be accepted". Commentators Cowen and Carter² also recognized this principle and referred to it as the doctrine of confirmation by consequently discovered facts. This approach reflects the underlying rationale of Article 40 of QSO, where the discovery of a fact in consequence of a statement serves to validate that limited portion of the statement which led to the discovery. The confirmatory nature of the discovered fact enhances the reliability of that specific part of the information, rendering it admissible within the limits prescribed by law.

iii) Section 161 Cr.P.C. authorizes the police to record statements of persons acquainted with the facts of the case, whereas Section 162 imposes an evidentiary bar against their substantive use during trial. Statements under Section 161 Cr.P.C. are, therefore, not admissible except for the limited purpose of contradiction under Article 140 of QSO. In contrast, Article 40 QSO carves out a limited evidentiary window, not to admit the statement in its entirety, but only to the extent that it leads to the discovery of a relevant fact, such as the recovery of a weapon or article, and only that fragment of the disclosure which is causally connected to the said recovery becomes admissible.... Even where a discovery is made on the basis of such a disclosure, the resultant recovery must be independently evaluated on the touchstone of credibility, reliability, and corroboration through forensic or circumstantial material. The limited admissibility under Article 40 QSO does not, by itself, prove guilt, but only allows a fact to be brought on record which might, when considered in conjunction with other evidence, contribute to the chain of circumstances.

iv) Firstly, the term “fact” as used in the law of evidence includes both physical and psychological states or mental conditions. Secondly, a critical distinction must be drawn between the term’s “discovery” and “recovery”, which are often

mistakenly used interchangeably. According to Black’s Law Dictionary, “discovery” refers to the act or process of finding or learning something that was previously unknown, whereas “recovery” means the regaining or restoration of something lost or taken away. For instance, where an accused discloses, “I have kept the firearm concealed behind the old house in a heap of wood,” the fact discovered is not merely the firearm, but the accused’s knowledge of its location and act of concealment. The discovery thus lies in the disclosure of the place and manner in which the article is hidden. Although an object may constitute a “fact” in itself, discovery under Article 40 entails a broader cognitive element than simple recovery.

v) In order for this provision to be validly invoked, the following essential elements must be satisfied:

(i) The accused must be in lawful police custody in that particular case at the time of making the disclosure. A voluntary disclosure made outside the custodial context does not attract the operation of Article 40. (ii) The information must be specific and must distinctly relate to the fact discovered. Generalised or vague statements are not covered; the discovery must be directly traceable to the information furnished.

(iii) There must be a tangible discovery of a material fact, such as the recovery of an object, article, weapon, or place, which was previously unknown to the investigating agency.

(iv) There must be a clear causal link between the disclosure and the discovery. The fact must be discovered as a direct and immediate consequence of the information provided by the accused.

(v) Only that portion of the statement which relates distinctly to the fact discovered is admissible. The remainder of the statement, including any confessional or incriminating parts not tied to the discovery, remains inadmissible.

(vi) The recovery must be genuine, verifiable, and documented through credible and preferably independent witnesses. The authenticity of the discovery is not presumed and must be established through cogent evidence.

(vii) The evidentiary value of the discovery must be assessed in conjunction with other corroborative evidence. A discovery alone, even if admissible, is insufficient to sustain conviction unless it fits into an unbroken chain of circumstances.

vi) While the principle of “last seen together” is recognised in the jurisprudence of this Court as a relevant circumstance, it is equally well-settled that such evidence must satisfy strict legal scrutiny before it can be relied upon as a basis for conviction. In order for this doctrine to have probative value, it must be established that (i) the accused and the deceased were last seen together in such

proximity of time and place to the occurrence that no possibility of the deceased having met any other person in the interval can reasonably be entertained, and (ii) the time of death must be established with sufficient medical or circumstantial clarity so as to correlate with the alleged last seen incident.

vii) This Court has consistently espoused the principle that where the prosecution evidence has been found unreliable or insufficient by the High Court qua certain accused sharing an identical role, the conviction of a co-accused resting upon the same evidence cannot be sustained.

viii) Where the motive has not been established, the last seen evidence is unreliable, the recoveries are doubtful, and the medical and forensic links are either suppressed or infirm, the chain of circumstantial evidence stands fractured. It is a trite principle of criminal law that where the prosecution's case rests entirely on circumstantial evidence, each link in the chain must be proven to the exclusion of every reasonable doubt. The failure to establish any one link is sufficient to vitiate the entire case.

ix) Therefore, this Court in view of criterion as outlined in Para 16, judicial propriety demands that: the following measures to ensure adherence to due process, safeguard the principles of justice, and uphold the equitable application of the rule of law:

- (i) Inspectors General of Police of all Provinces and the Islamabad Capital Territory shall ensure that all disclosure statements leading to the discovery of facts under custody are:
 - reduced to writing;
 - signed by the Investigating Officer;
 - attested by at least two independent witnesses; and
 - recorded with a corresponding departure entry from the relevant police station.
 - These documents must be placed on record and produced during trial proceedings.
- (ii) The Police Rules of each province and territory shall be amended, in consultation with the appropriate executive and legislative stakeholders, to institutionalize the above-mentioned procedural safeguards.
- (iii) The Prosecutor Generals of all Provinces and the Islamabad Capital Territory shall ensure dissemination of this judgment to all public prosecutors under their jurisdiction. Prosecutors must scrutinize the case files received under Section 173 Cr.P.C. for compliance with these requirements and advise the Investigating Officers accordingly.
- (iv) The Registrars of all High Courts are directed to circulate this judgment to all Criminal Courts and Special Courts functioning under their administrative control for guidance and judicial implementation.
- (v) The Legislature is earnestly urged to consider appropriate statutory amendments to codify the procedural safeguards for custodial disclosures and recoveries, ensuring mandatory documentation, transparency, and accountability.

- Conclusion:**
- i) See above analysis Para No.i
 - ii) See above analysis Para No.ii
 - iii) Article 40 of Qanun-e- Shahadat Ordinance, 1984 carves out a limited evidentiary window for statement under section 161 Cr.P.C which leads to the discovery of a relevant fact
 - iv) See above analysis Para No.iv.
 - v) See above analysis Para No.v
 - vi) See above analysis Para No.vi
 - vii) See above analysis Para No.vii
 - viii) See above analysis Para No.viii
 - ix) See above analysis Para No.ix

18. Supreme Court of Pakistan
Aziz Ahmad and others v. Mst. Musarat & another
C.P.L.A.181/2023
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 181 2023.pdf

Facts: Petitioner(S) in this leave to appeal challenged the entitlement of the respondent to inherit from the estate of the deceased on the ground that she had been divorced prior to his death; courts below held that the respondent, having been divorced, was no longer a legal heir, however, High Court, while setting aside the concurrent findings, held that the succession opens on the death of the deceased and since the iddat period had not lapsed at the time of death, the respondent remained legally wedded and entitled to inherit.

Issues:

- i) Whether talaq takes legal effect without fulfilling the procedural requirement of notice and a ninety-day period under Section 7(3) of the Muslim Family Law Ordinance, 1961?
- ii) Whether divorce becomes final and absolute without observing the iddah period?

Analysis: i) The concept of triple talaq, not finding its roots in the Holy Quran or the authentic Hadith, has been a subject of considerable controversy among various schools of Islamic thought. Notably Fiqah Jaffaria and the Maliki School do not recognize its validity, a view also shared by the Shafi School. The Hanbali School of thought, however, treats triple talaq as a single divorce if the marriage was consummated and the pronouncement made in a specific form. This divergence of interpretation and the social consequences of a unilateral and instant divorce have given rise to legislative intervention and compassion in the form of Sub-section 3 of Section 7 of the Muslim Family Law Ordinance, 1961 (the “Ordinance”). This provision mandates that a talaq shall not take effect unless a period of ninety-days has elapsed from the date on which notice is given to the Chairman of the Union Council.

ii) The Quran prescribes a structured procedure for when divorce becomes final and absolute, which necessarily includes the observance of Iddah, that is, a waiting period a woman must observe following the death of her spouse or a divorce. Iddah is not merely symbolic but serves a substantive purpose, for it allows for reflection, potential reconciliation, and the possible retraction of the pronouncement of divorce.

Conclusion: i) Talaq shall not take effect unless a period of ninety- days has elapsed from the date on which notice is given to the Chairman of the Union Council.
ii) See analysis No. ii.

19. Supreme Court of Pakistan
District Officer Frontier Constabulary Hayatabad, Peshawar v. Haji Amir Badshah and others
C.P.L.A.2478/2024
Mr. Justice Naeem Akhter Afghan, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2478 2024.pdf

Facts: A decree was passed for enhanced compensation in a land acquisition case. A dispute arose over the limitation period applicable for filing a fresh execution petition following an appellate judgment affirming a trial court's decree. The execution petition was initially dismissed as time-barred but later restored by the High Court based on the principle of merger and Section 48 CPC.

Issues: i) Is a fresh execution petition after an appellate judgment governed by Section 48 CPC or Article 181 of the Limitation Act?
ii) Is a fresh execution petition within six years of the appellate decree governed by Section 48 CPC?

Analysis: i) Following the judgments quoted above, we are of the view that the principle of merger applies not only to cases involving reversal and modification but also to all those cases in which the judgment of a lower Court is affirmed in appeal or revision by a higher forum. Therefore, for the purposes of limitation, the starting point for filing a fresh Execution Petition, subsequent to an earlier one, is the date of the final judgment rendered by the final court of appeal. By applying the principle of merger, we hold that, in the instant case, the judgment and decree of the Trial Court stood merged with that of the Appellate Court. Accordingly, it is the appellate decree which becomes operative and executable. As a result, the High Court was correct in treating the fresh application for execution of the appellate decree as being within the limitation period specified under Section 48 of the Civil Procedure Code (CPC), and not governed by Article 181 of the Limitation Act, 1908.
ii) we hold that the fresh Execution Petition filed by the petitioner subsequent to the first one was well within the limitation, as it falls within six years after the decree of the Appellate Court's judgment. The bar of limitation under Article 181 of the Limitation Act does not apply due to the specific application of Section 48

CPC and the principle of merger.

- Conclusion:** i) Yes, the fresh execution petition is governed by the six-year limitation under Section 48 CPC due to the principle of merger.
 ii) Yes, the execution petition was within limitation under Section 48 CPC due to the appellate decree and the principle of merger.

20. Supreme Court of Pakistan
Ghazi Khan Pathan & Marzak Khan v. The State
Jail Petition No. 27/2019
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 27 2019.pdf

Facts: The petitioners were tried, convicted and sentenced u/s 9 (c) Control of Narcotic Substances Act, 1997 by the learned special judge CNS. They filed criminal appeal before High Court which maintained the findings of Sessions Judge/Special Judge (CNSA), hence the instant jail petition.

Issues: i) What is the legal principle governing the competency of official witnesses?
 ii) What is the statutory presumption concerning a driver's knowledge of contraband narcotics discovered in a vehicle under his charge?

Analysis: i) It is a settled principle of law that official witnesses are competent unless mala fide, enmity, or ulterior motive is convincingly established on the record.
 ii) It is significant to note that in other jurisdictions such as the United States, the Court in *State v. Wallace* [372 Md. 137, 812 A.2d 291 (2002)]¹ opined that drivers of vehicles are perceived to have heightened control over the contents of their vehicles supporting the idea of presumption of knowledge or constructive possession. It therefore is a settled principle of law that in such circumstances, the driver is deemed responsible for the contraband found in the vehicle under his charge, and it is presumed that he had knowledge of its presence.

Conclusion: i) Official witnesses are competent unless otherwise mala fide, enmity, or ulterior motive is established on the record.
 ii) A driver is presumed that he had knowledge of presence of contraband narcotics in vehicle.

21. Supreme Court of Pakistan
Zakir Ali v. The State
Jail Petition No. 343 of 2023
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 343_2023.pdf

Facts: Through this Jail Petition, the petitioner has called in question the legality and propriety of the judgment passed by the learned High Court, whereby appeal filed

by the petitioner against his conviction and sentence recorded by the learned Special Judge CNS/Sessions Judge, in criminal case registered under Section 9(c) of the Control of Narcotic Substances Act, 1997 (CNSA), was dismissed, thereby maintaining his conviction and sentence.

Issues: i) Whether the prosecution has to establish an unbroken, secure, and reliable chain of custody of the recovered contraband from the point of seizure to its receipt at the forensic laboratory?

Analysis: i) The law by now is well-settled that in narcotics cases, due to the severity of punishment involved, the prosecution must establish an unbroken, secure, and reliable chain of custody of the recovered contraband from the point of seizure to its receipt at the forensic laboratory. Any lacuna or discrepancy in this regard renders the entire process suspect and the report of the chemical examiner inadmissible or at the very least unreliable... The sanctity of the chain of custody serves as the linchpin of evidentiary reliability in narcotics prosecutions. Where the prosecution fails to conclusively establish the movement and security of narcotic samples at every stage, from the point of recovery to chemical analysis, the benefit of such material lapses must be extended to the accused, in line with the fundamental principle that in case of doubt, the benefit must go to the accused... Consequently, the chemical examiner's report becomes unsafe to rely upon and cannot be made the sole basis for conviction.

Conclusion: i) The prosecution must establish an unbroken, secure, and reliable chain of custody of the recovered contraband from the point of seizure to its receipt at the forensic laboratory.

22. Supreme Court of Pakistan
Altaf Hussain v. The State
Criminal Petition No.507 of 2023
Mr. Justice Muhammad Hashim Khan Kakar,
Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 507_2023.pdf

Facts: The appellant was convicted by the Trial Court for committing murder and causing injuries for an attempt to settle a monetary dispute. The appellant allegedly opened fire, fatally injuring one individual, while another was also injured by a co-accused; the accused fled the scene but were identified by eye witnesses. The trial court convicted the accused and the decision was upheld by the High Court with minor modifications in sentence. Hence; this appeal.

Issues: i) Whether relationship of eye witnesses with deceased is sufficient to discard their testimony?
 ii) Whether acquittal of co-accused undermines the prosecution case against accused whose role was established through reliable evidence?

Analysis: i) Admittedly, the complainant and injured Muhammad Yasin are real brothers of the deceased but their mere relationship with the deceased is not a sufficient ground for discarding their testimony, especially in the absence of any established animus or motive for false implication. The principle that substitution of the actual perpetrator in place of innocent individual particularly where close relatives are killed in the presence of family members is an improbable proposition and finds consistent affirmation in the jurisprudence of this Court... In the absence of any mala fide intent or ulterior motive to falsely implicate the appellant, the testimony of the eyewitnesses being confidence inspiring and having remained consistent throughout cannot be discredited merely on the basis of their relationship with the deceased...

ii) Thus, the acquittal of the co-accused does not in any way undermine the prosecution's case against the appellant, whose role was categorically established through cogent and reliable evidence. This court in its judgment dated 25.02.2025, rendered in Criminal Appeal Nos.229 & 230 of 2021 titled, "Sher Afzal vs the State" held that the application of "'falsus in uno, falsus in omnibus'^ does not render the principle "to sift the grain out of the chaff" redundant, since the judge now still has to sift the grain out of chaff whilst he differentiates between the materiality of the fact in appraisal of evidence.

"The doctrinal principles applied in west cannot strict sensu be applied in Pakistan for multiple reasons which I shall discuss hereafter, a prime example is that "falsus in uno, falsus in omnibus" principle which is that witness who lies about any fact must be disbelieved as to all other facts, considering the social circumstances of the subcontinent, the rule's application has been modified by this court in the Khizar Hayat case (PLJ SC (Cr C) 265) to the extent that the contradiction must be regarding "material facts" only. However, the application of ^falsus in uno, falsus in omnibus'^ does not render the principle of "to sift the grain out of the chaff" redundant, since the judge now still has to sift the grain out of chaff whilst he differentiates between the materiality of the fact in appraisal of evidence. This court has held numerous times, that the primary duty of the judge is to sift the grain out of the chaff e.g. in the Khadim Hussain case (2010 SCMR 1090), Muhammad Afzal case (2017 SCMR 1645) and Munir Ahmad case (2019 SCMR 79) and one shall not lose sight that the criminal case is to be decided in its totality of its circumstances as held in the case of Muhammad Kakki (2021 SCMR 1672) and recently in Sadaruddin case (Criminal Jail appeal No.S-26 of 2019)."

Conclusion: i) Testimony of the eyewitnesses cannot be discredited merely on the basis of their relationship with the deceased.

ii) Acquittal of the co-accused does not undermine the prosecution's case against the co-accused whose role was categorically established through cogent and reliable evidence.

23. **Supreme Court of Pakistan**
Iftikhar Kiyani alias Khara v. The State
Criminal Appeal NO. 703 OF 2020
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 703 2020.pdf

Facts: The appellant was tried for a murder of the deceased. The incident was witnessed by the complainant and a relative. The appellant was convicted and sentenced to death under Section 302(b) PPC by the Trial Court. The High Court declined to confirm the death sentence and upheld the conviction but altered the sentence to life imprisonment. The appellant then approached the Supreme Court, which granted leave to appeal.

Issues:

- i) Whether the possibility of wrongful substitution by closely related eyewitnesses is plausible in cases of murder of a family member?
- ii) Who is an interested Witness?
- iii) Whether trustworthy and confidence-inspiring ocular evidence can be preferred over medical evidence to sustain a conviction despite minor inconsistencies?
- iv) Whether minor discrepancies in a witness's testimony affect its admissibility and reliability in criminal trials?
- v) What kind of discrepancies can undermine the prosecution's version?
- vi) Whether the credibility of a witness depends on the intrinsic value of their testimony rather than their status or relationship to the parties?

Analysis:

- i) The proposition of wrongful substitution, in such circumstances where close relatives have witnessed the murder of their kin, is inherently implausible and rarely encountered in criminal jurisprudence. This view finds support from the judgments of this Court in *Asfandiyar v. The State and others* (**2021 SCMR 2009**) and *Muhammad Abbas and another v. The State* (**2023 SCMR 487**), wherein it was held that substitution of the actual culprit in place of an innocent person, particularly by the witnesses who have lost their loved ones before their eyes, is an extraordinary and improbable occurrence.
- ii) It is by now a settled proposition of law that an "interested witness" is one who is motivated by some extraneous consideration or harbours an ulterior motive to falsely implicate an accused.
- iii) Minor inconsistencies in the testimony of the eyewitnesses with the medical evidence would not be sufficient for acquittal of the appellant. This Court in case titled, "*Ali Taj and another Vs the State*" (2023 SCMR 900), held that where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused.
- iv) It is by now a well-settled principle of criminal jurisprudence that minor discrepancies or omissions, which do not go to the root of the prosecution's case, are to be treated as inconsequential. Such discrepancies are inbuilt proof of

truthfulness of witnesses as a human being cannot be expected to give tape recorded statement. Courts are guided by the rule that if the core of the witness's testimony carries the ring of truth and inspires confidence, minor incongruities must not detract from its probative value. The test for the admissibility and reliability of a witness's evidence is not the mere presence of trivial inconsistencies but whether the testimony, taken as a whole, resonates with truth and credibility

v) Only those discrepancies which impinge upon the material aspects of the case, those which strike at the very heart of the prosecution's narrative may be taken advantage of by the defence.

vi) In adjudging the credibility of a witness, the courts are to assess the intrinsic worth of the evidence rather than apply rigid or mechanical standards based solely on the status or character of the witness. This Court in the case of "Abid Ali v. The State" (2011 SCMR 208), reaffirmed the principle that belief or disbelief in the testimony of a witness hinges upon the intrinsic value of the statement made. There exists no universal rule that interested witnesses are invariably to be disbelieved or that disinterested ones are to be believed without scrutiny. Each case must be decided with reference to prudence, reasonableness, and the surrounding circumstances to ascertain whether the witness was present at the scene of occurrence and is narrating events truthfully. Furthermore, it must be borne in mind that under the cardinal principles of criminal law, the evidence of the prosecution is to be evaluated on the touchstone of quality rather than quantity. It is not the identity or status of the person testifying that determines the credibility of the evidence, but the content and coherence of the testimony itself. It is, therefore, the statement that is to be judged and not the person and it must be weighed on the scales of logic, consistency, and truthfulness.

- Conclusion:**
- i) The wrongful substitution where close relatives have witnessed the murder of their kin, is inherently implausible.
 - ii) See above analysis No ii.
 - iii) Ocular evidence if found trustworthy can be given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused.
 - iv) Minor discrepancies or omissions, which do not go to the root of the prosecution's case, are to be treated as inconsequential.
 - v) See above analysis No v.
 - vi) See above analysis No vi.

24. Supreme Court of Pakistan
M/s Kassim Textile (Pvt) Ltd. v. Commissioner Inland Revenue and other cases
C.A.743/2014
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 743 2014.pdf

Facts: The appellant challenged the tax authority's denial of credit for minimum tax paid

during years of assessed losses. The central question involved in the case is whether Section 113(2)(c) of the Income Tax Ordinance, 2001 permits carry forward of such tax where no actual tax was payable.

- Issues:**
- i) Is carry forward of minimum tax credit allowed when no actual tax is payable due to assessed losses under Section 113(2)(c) of the Income Tax Ordinance, 2001?
 - ii) Can a beneficial tax provision be applied retrospectively without express legislative intent?
 - iii) Can fiscal statutes be interpreted equitably to extend relief where the statutory language is clear?
 - iv) Can administrative circulars override or expand the scope of express statutory provisions in tax law?

- Analysis:**
- i) Section 113(2)(c) as it stood in 2009, speaks of the ‘actual tax payable’. This implies that a quantum of tax should actually be payable in the relevant fiscal year for the benefit of carry forward for adjustment against a tax liability... Therefore, we find ourselves in agreement with this view expressed by the High Court of Sindh... It is well settled that the literal approach is to be adopted while interpreting fiscal or taxing statutes, and the court cannot read into or impute something when the provision of a taxing statute are clear... While interpreting a taxing statute, the Court must look to the words of the statute and interpret it in light of what is clearly expressed therein, it cannot imply something which is not expressed.
 - ii) This relief can, in our view, be availed by tax payers having no tax payable only after the substitution of the first proviso to Section 113(2)(c) through the Finance Act, 2021 and not earlier. It is well settled that no statute shall be construed so as to have retrospective operation, unless its language so directs. Every Statute is deemed to be prospective, unless by express provision or necessary intendment, it is given retrospective effect... In the case of Zila Council Sialkot Vs. Abdul Ghani (PLD 2004 SC 425), this Court has held that a fiscal statute would ordinarily operate prospectively unless by express enactment or necessary intendment retrospective operation is given to it.
 - iii) There is no scope for equity or judiciousness if the letter of the fiscal law is clear and unambiguous. We have read and re-read Section 113(2)(c) and neither find any ambiguity or obscurity or doubt in its language, nor is it in conflict with any other provision of the 2001 Ordinance. The language of Section 113(2)(c) and its proviso as it stood in the year 2009 is such which does not admit interpretation in more than one way. The principles of statutory interpretation are well settled. Where the words of the statute are clear and unambiguous, the provision should be given its plain and normal meaning, without adding or rejecting any words. Departure from the literal rule, by making structural changes or substituting words in a clear statutory provision, under the guise of interpretation will pose a great risk as the changes may not be what the Legislature intended or desired. The Court cannot recast or reframe the legislation for the very reason it has no power

to legislate. The Court cannot add words to a statute or read words into it which are not there unless the principles of interpretation of statute require otherwise. The legislature means what it says and says what it means. It is the obligation of the Courts of law to further the clear intendment of the legislature and not to frustrate it by ignoring the same. Legislative wisdom cannot be replaced by the Judge's views.

iv) The circular does not state that the benefit of such carry forward would also be available to companies paying minimum tax but having no tax payable due to losses. The circular also does not state that the law had been amended to allow the facility of carry forward of minimum tax on turnover for next five years to those companies paying minimum tax but having no tax payable due to losses. Even otherwise, circulars issued by the FBR do not and cannot override the explicit language of the statute.

- Conclusion:**
- i) Carry forward of minimum tax credit is not allowed, where no actual tax is payable due to assessed losses.
 - ii) Beneficial tax provisions cannot be applied retrospectively without express legislative intent.
 - iii) Fiscal statutes cannot be interpreted equitably, when their language is clear and unambiguous.
 - iv) Administrative circulars cannot override or expand the scope of express statutory provisions in tax law.

25.

Lahore High Court

Muhammad Waqas alias Vicky v. The State

Murder Reference No. 134 of 2020

Criminal Appeal No. 59064 of 2020

Ms. Justice Aalia Neelum Chief Justice, Mrs. Justice Abher Gul Khan

<https://sys.lhc.gov.pk/appjudgments/2025LHC2972.pdf>

Facts:

The appellant was involved in case registered under Sections 302, 324, 34 P.P.C., and was tried by the learned Additional Sessions Judge/Judge MCTC. The trial court seized with the matter, convicted the appellant under Section 302 (b) PPC, and sentenced to Death as Tazir for committing Qatl-e-Amd of the deceased, with the direction to pay compensation of Rs.2,00,000/- to the legal heirs of the deceased as envisaged under section 544-A of Cr.P.C and in case of default thereof, to undergo 06- months S.I further. Feeling aggrieved by the trial court's judgment, the appellant, has assailed his conviction and sentence by filing the instant jail appeal. The trial court also referred the Murder Reference to confirm the death sentence awarded to the appellant.

Issues:

- i) Whether an unexplained and suspicious delay in the lodging of the FIR, coupled with signs of ante-dating, renders the prosecution case unreliable?
- ii) Whether the omission to follow medico-legal protocols, including timely police intimation and documentation from the hospital, affects the evidentiary value of the postmortem report and related medical evidence?

iii) Whether a recovery of weapon of offence is admissible and reliable when the chain of custody is compromised and forensic examination is incomplete or inconclusive?

Analysis:

i) The mandatory requirements under the law to inform the police of the unnatural death of the deceased were not fulfilled. No record indicates that the deceased was admitted to or referred to Jinnah Hospital, Lahore, or that the medical examination was conducted. The application for postmortem examination reveals that on “the face of the application”, the FIR number was tampered with, and at the bottom of the application, under the signature of the investigating officer, the date was overwritten. Similarly, the injury statement also shows overwriting of the date. The deposition of (PW-4) reveals that the prosecution witnesses deliberately concealed the facts and that the FIR was not registered as stated. It is also revealed that the inquest report bears signs of interpolation and mentions names of witnesses who were not actually present. This creates doubt about the time of occurrence and suggests that the FIR was ante-dated. Due to the above infirmities, the FIR has lost its value and authenticity. It would seriously and adversely affect the prosecution's story and creates serious doubt about the time of occurrence and the presence of witnesses, thereby rendering the prosecution case unreliable.

ii) It is not possible that if a police case comes to the hospital, the medical officer will not inform the police about it. The doctors neither informed the police about receiving the injured in serious condition nor intimated to the police about the unnatural death of deceased. Instantly, they allowed PW-11-the complainant to take away the dead body from the hospital. The complainant was unable to refer to any document or slip of admission, discharge, or handing over of a dead body by the hospital authorities. The medical officer PW-2 confirmed during cross-examination that the police papers were not produced before him when the dead body was received, and those papers were only received later.

iii) A pistol 30-bore along with two live bullets was allegedly recovered on the pointing of the appellant. However, the Firearms & Tool Marks Examination Report reveals that the parcel submitted to the Punjab Forensic Science Agency only contained the pistol, and the live bullets were not included in the parcel. This discrepancy indicates that the parcel which was prepared at the time of recovery was not the same one sent for forensic examination. The safe custody of the said parcel has thus been compromised and not proved. As a result, the report becomes inconclusive and inconsequential.

Conclusion:

i) See analysis i above.

ii) The failure to follow mandatory medico-legal formalities seriously undermines the evidentiary value of the postmortem report and renders the prosecution's medical evidence unreliable and questionable.

iii) Due to the compromised chain of custody and the failure to submit the recovered bullets for forensic comparison, the recovery of the weapon of offence is rendered unreliable and of no evidentiary value.

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26. **Lahore High Court**
The State v. Mubashir
Murder Reference No.140 of 2020
Mubashir v. The State
Crl. Appeal No.65436-J of 2020
Shafqat Abbas v. Mubashir, etc.
P.S.L.A No.65434 of 2020
Shafqat Abbas v. Zahoor, etc.
P.S.L.A No.65435 of 2020
Ms. Justice Aalia Neelum (The Chief Justice), Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3004.pdf>

Facts: The complainant along with others was sitting at a dera when the accused persons arrived, armed with weapons, and upon exhortation, one of them opened fire causing the death of one individual and injuries to others. The incident was allegedly motivated by a prior grudge stemming from a criminal case in which the deceased had supported the complainant party. The trial court convicted the main accused for intentional murder and sentenced him to death, while acquitting him and co-accused on other charges.

Issues

- i) Can a contradiction between the inquest report and prosecution's version about the place of death cast doubt on the prosecution's case?
- ii) Does mention of FIR details in the inquest report prepared before FIR registration creates doubt about the FIR's authenticity?
- iii) Does absence of FIR attestation by the doctor raise doubt about the actual time of FIR registration?
- iv) Does unexplained delay in post-mortem examination indicate that the FIR was lodged later than claimed?
- v) Can evidence of the deceased's questionable character undermine the prosecution's motive and witness credibility?
- vi) Is the accused entitled to benefit of every reasonable doubt under the law?
- vii) Is it a golden principle of law that convicting an innocent must be avoided at all costs?
- viii) Can an acquittal order be interfered with when an accused earns double presumption of innocence?

Analysis: i) The column of a brief history of the inquest report (Ex. PN) further revealed that the dead body was lying on the ground. Whereas, as per the prosecution's case, soon after the incident (...) the complainant, after the incident, he, along with his witnesses, brought Mehr Mukhtar Sargana and Mukhtar (given up being won over), son of Zulfiqar, to DHQ Hospital Jhang by car. Mehr Mukhtar Sargana died on reaching the hospital. If, shortly after the incident, Mehr Mukhtar was shifted to the hospital, and on reaching the hospital, he expired. The lying of the dead body on the ground within the area of "Mauza Rustam Sargana" raises questions about the mode and manner of the incident.

- ii) When the inquest report (Ex.PN) was prepared, the FIR had not been registered, and its details were not written on its face. However, at the end of the brief history column, the details of the FIR are mentioned. It creates doubt about the registration of the FIR.
- iii) The inquest report (Ex.PN) contains details of the FIR; however, the doctor who conducted the post-mortem did not state that he had also attested the FIR. (...) Till 08:50 p.m. on 18.06.2013, the FIR was not registered. If the FIR had been registered by 8:50 p.m., the doctor would have stated in his testimony that he had also attested a copy of the FIR, along with the inquest report (...) This also threw a cloud of doubt about the time when the incident took place and was reported to the police. Was it because no FIR had been registered at the time, as alleged by the prosecution, and after some consultations and deliberations, it came into existence?
- iv) There is no plausible explanation as to why the post-mortem of the dead body was delayed for five hours. Delay in conducting post-mortem examination also leads to the conclusion that the F.I.R. was recorded with a delay, and the F.I.R. had not been recorded at the time at which it is claimed to have been recorded. This aspect of the matter is sufficient to cast doubt on the authenticity of the F.I.R.
- v) Defence also relied on FIRs, Ex.DK/1 to Ex. DO. Criminal cases registered against the deceased, Asad Abbas. From the above, it is revealed that the deceased Mehr Mukhtar was a man of questionable character. Therefore, the evidence led by the prosecution in connection with motive is not sufficient for placing reliance on the testimonies of the witnesses. As the evidence on the motive part and suggestions put by the defence regarding the questionable character of the deceased (...) This again adversely affects the credibility of the prosecution's version.
- vi) As per the dictates of law, the benefit of every doubt is to be extended in favour of the accused.
- vii) It is a golden principle of law that the Court should let off a hundred guilty but should not convict one innocent person.
- viii) This court has also taken note of the settled principle of criminal jurisprudence that unless it can be shown that the lower court's judgment is perverse or that it is entirely illegal. No other conclusion can be drawn except the guilt of the accused or misreading or non-reading of evidence resulting in a miscarriage of justice. Even otherwise, when a court of competent jurisdiction acquits the accused, the double presumption of innocence is attached to his case. The acquittal order cannot be interfered with, whereby an accused earns double presumption of innocence.

Conclusion:

- i) See analysis No.i.
- ii) The mentioning of FIR details at inquest report creates doubt about the registration of the FIR.
- iii) The absence of FIR attestation by the doctor threw a cloud of doubt about the time when the incident took place and was reported to the police.

- iv) The unexplained delay is sufficient to cast doubt on the authenticity of the F.I.R.
- v) Deceased questionable character adversely affects the credibility of the prosecution's version.
- vi) The benefit of every doubt is to be extended in favour of the accused.
- vii) The Court should let off a hundred guilty but should not convict one innocent person.
- viii) The acquittal order cannot be interfered with, whereby an accused earns double presumption of innocence.

27. **Lahore High Court**
Muhammad Amir alias Aneel v. The State, etc.
Crl. Appeal No.83064 of 2023
Salamat Ali v. Muhammad Amir alias Aneel, etc.
Crl. Revision No.2545 of 2024
Ms. Justice Aalia Neelum, The Chief Justice
<https://sys.lhc.gov.pk/appjudgments/2025LHC2952.pdf>

Facts: The appellant was convicted by the trial court under Section 302(b) PPC and sentenced to life imprisonment for committing murder. The case revolves around eyewitness identification, timing of FIR registration, and evidentiary recoveries.

Issues:

- i) How the adjournments to be managed by trial court during recording evidence?
- ii) What would be the impact of a mistake due to faded memory of witnesses?
- iii) Whether minor contradictions in witness testimony regarding presence and timing are sufficient to discredit the ocular account?
- iv) What is the responsibility of accused, if he sets out any specific defence?

Analysis:

- i) The trial court must ensure that the trial is conducted in accordance with the law and that no adjournments are granted in a manner that would be tantamount to violating the rule of law. It is necessary for the trial court that if the examination-in-chief is over, the cross-examination should be completed on the same day. If recording on the same day is impossible due to running out of time, the trial can be adjourned to the next day for cross-examination.
- ii) It is necessary to mention that no witness can mathematically reproduce what he stated earlier. With the passage of time, the human memory fumbles and falters. Certain contradictions would appear in the testimony of a most truthful witness due to a slip of the tongue, which has no negative impact on the testimony of the witnesses, as the same must be analyzed to see whether it is confidence-inspiring or otherwise. The variation in the statement occurs due to a lapse of time... It is also admitted that the incident occurred on 12.06.2019, whereas cross-examination of the prosecution witnesses was conducted in June 2021, after the lapse of two years. With time, the person's memory is affected, and there could be some variations in the facts that were not directly connected with the incident.
- iii) Normal discrepancies are bound to occur in the depositions of witnesses due to normal errors occurring in memory due to lapse of time. Where the omissions

amount to a contradiction, creating serious doubt about the witness's truthfulness, and other witnesses also make material improvements while deposing in the court, such evidence cannot be safely relied upon. But, if the contradictions and inconsistencies are not so material to create doubt about the appellant's involvement in the instant case or embellishments and improvements are trivial, they do not affect the core of the prosecution case. The same cannot be grounds for rejecting all the prosecution's evidence.

iv) It is an established position of law that the accused need not take any defence in a criminal case. If the accused introduces a definite version of the defence and establishes the said defence, he must show that the preponderance of probabilities is in favor of such a plea based on the material available on record. The accused cannot rely on it without sufficient material supporting such a defence. The accused may take advantage of the information from the prosecution witnesses to create doubt in the court's mind about whether the prosecution's version is true and may take the benefit of such doubt... The appellant had not appeared under Section 340 (2) of Cr.P.C. nor produced any defence witness in his favour to prove his defence plea.

- Conclusion:**
- i) It is necessary for the trial court to record the examination-in-chief and cross-examination same day. If, due to time shortage needed to be adjourned, must be fixed for the next day.
 - ii) The memory of a witness fades with the lapse of time and contradictions may occur due to slip of tongue, which has no negative impact on testimony of witness. The same must be analyzed to see whether it is confidence-inspiring or otherwise. The variation in the statement occurs due to a lapse of time
 - iii) Normal discrepancies occur due to normal errors in memory due to lapse of time. Contradictions and inconsistencies which are not so material to create doubt about the involvement of the accused person in the case, or embellishments and improvements are trivial, they do not affect the core of the prosecution case
 - iv) If the accused introduces a definite version of the defence, he must produce his evidence. The accused cannot rely on it without sufficient material supporting such a defence.

28. **Lahore High Court**
Ghulam Abbas v. The State
Murder Reference No. 116 of 2020 & Criminal Appeal No. 58516-J of 2020
Miss. Aalia Neelum Chief Justice & Mrs. Justice Abher Gul Khan.
<https://sys.lhc.gov.pk/appjudgments/2025LHC3021.pdf>

Facts: The Sessions Court convicted the appellant under section 302(b) PPC, on the charge of murder of complainant's son and niece, and sentenced him to death. Hence the jail appeal was filed by the appellant/convict and Murder reference was also sent to the Hon'ble Lahore High Court.

Issues: i) Whether non-availability of thumb-marked statements raises doubts about statements?

- ii) How the prompt FIR is a vital and valuable piece of evidence?
- iii) What are effects of a delayed FIR?
- iv) Whether in case of doubtful recovery of weapon the positive report of PFSA would have any value?
- v) In whose favour, the benefit of doubt in prosecution case, can be extended?

Analysis:

- i) It is necessary for the investigating officer to promptly record the statements of prosecution witnesses under u/s 161 of the Cr.P.C. to avoid creating a new story. Therefore, the non-availability of thumb-marked statements recorded by the I.O. of both prosecution witnesses, i.e., Muhammad Yar (PW-15) and Mst. Shamim Mai (PW-16) raises doubts about their statements made before the police.
- ii) In a criminal case, particularly in a murder case, the First Information Report (FIR) is a vital and valuable piece of evidence that helps to appreciate the evidence presented at the trial. The objective of promptly lodging the FIR is to obtain the earliest information regarding the circumstances in which the crime was committed, including the names of the actual perpetrators and the roles they played, the weapons, if any, used, as well as the names of eyewitnesses if witnessed. The first information report is not an encyclopedia of the entire case, nor is it a substantive piece of evidence. It undoubtedly has value, but only to corroborate or contradict the maker.
- iii) Delay in lodging FIR often results in embellishment, which is a creature of an afterthought. Because of the delay, FIR not only loses the advantage of spontaneity but also introduces the danger of a colored version of an exaggerated story.
- iv) As per the Firearms & Tool marks Examination Report (Ex. PX), the weapon of offence, i.e., 12-bore repeater and four empty cartridges, were received in the office on the same day, i.e., 17.01.2014, which creates doubt about the recovery of the weapon of offence. So, the positive report of the Punjab Forensic Science Agency (Ex. PX) is of no consequence to the prosecution.
- v) We also found that the prosecution has miserably failed to prove the accused's guilt beyond a reasonable doubt. According to the dictates of the law, the benefit of every doubt must be extended in favor of the accused.

Conclusion:

- i) The non-availability of thumb-marked statements recorded by the I.O. raises doubts about their statements made before the police.
- ii) See above analysis No. ii
- iii) See above analysis No.iii
- iv) In case of doubtful recovery of weapon, the positive report of PFSA has no value.
- v) The benefit of every doubt must be extended in favor of the accused.

29. Lahore High Court
Aamir Nazir v. The Federation of Pakistan etc.
Writ Petition No.10509 of 2025
Mr. Justice Shujaat Ali Khan.
<https://sys.lhc.gov.pk/appjudgments/2025LHC2868.pdf>

- Facts:** The petitioner alongwith others initially filed appeals before the Federal Service Tribunal (FST), seeking ante-dated promotions, which were allowed through a consolidated judgment. The department's appeal and review before the Supreme Court were dismissed. Despite FST's directions for implementation, the department delayed and later initiated disciplinary proceedings against the petitioners for alleged misstatements. The petitioners challenged this, and the High Court directed the department to treat their objections accordingly, but those were rejected by the Controller General of Accounts leading to the present petitions.
- Issues:**
- i) Whether the proper course for challenging a misstatement or concealment in pleadings is to file an application under Section 12(2) CPC?
 - ii) Whether a forum can invoke Section 195 Cr.P.C. to refer the matter for criminal proceedings if it finds that a party misled it through misstatement or concealment of material facts?
 - iii) Whether disciplinary action can be taken against a government servant for private acts not covered by the applicable code of conduct?
 - iv) Whether a forum must first determine the maintainability of proceedings before assuming jurisdiction?
 - v) When are departmental proceedings against civil servants subject to interference by this Court?
- Analysis:**
- i) Firstly, if there was any question of misstatement or concealment in the pleadings, filed by the petitioners before the FST, the department could conveniently file application under Section 12(2) CPC *ibid* for setting aside the judgment of the FST or initiation of any action against the petitioners on said score before approaching the Hon'ble Supreme Court of Pakistan.
 - ii). As per Section 195 Cr.P.C., a forum is authorized to refer the matter to Police for initiation of criminal proceedings in case it has come to the conclusion that a party was guilty of misstatement or concealment of any material fact with a view to misguide the said forum.
 - iii). Every government servant is governed under the code of conduct applicable to him and in case of violation of such code the competent authority reserves right to proceed against him but in my humble opinion, the competent authority cannot proceed against a government servant on the basis of his private acts.
 - iv). It is well established by now that an authority or forum before assuming jurisdiction in a matter would decide the question qua maintainability of the proceedings.
 - v). This Court is cognizant of the fact that this Court rarely exercises its constitutional jurisdiction to interfere in the matters relating to departmental proceedings against civil servants but when the same are found to be void *ab-initio* or are tainted with *mala-fide* the same are to be quashed while following the

principle to nip the evil in the bud and the employees cannot be made to suffer the rigors of unending disciplinary proceedings.

- Conclusion:**
- i) In case of a misstatement or concealment in pleadings proper course is to file an application under Section 12(2) CPC.
 - ii) As per Section 195 Cr.P.C., a forum can refer a matter to the Police for criminal proceedings if it finds that a party deliberately misled it through false statements or material concealment.
 - iii) A govt servant's code of conduct binds only official acts; private acts, do not invite disciplinary action
 - iv) A forum must first determine maintainability before assuming jurisdiction in a matter.
 - v) Judicial interference in departmental proceedings only if void ab initio or mala fide.

30. Lahore High Court
Mst. Razia Bibi, etc. v. Zulfiqar, etc.
Civil Revision No.144 of 2017
Mr. Justice Shujaat Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2880.pdf>

Facts: A suit for specific performance of an agreement to sell and for permanent injunction was filed, which was dismissed by the Trial Court. The appeal was also dismissed by the Appellate Court, leading to the filing of the instant revision petition.

- Issues:**
- i) Does the non-registration of an agreement to sell render it legally inexecutable under the Registration Act, 1908?
 - ii) Is a suit for specific performance time-barred if filed beyond the limitation period prescribed under Article 113 of the Limitation Act, 1908?
 - iii) Is it permissible to prove signatures/thumb impressions of deceased or untraceable marginal witnesses without prior court permission?
 - iv) Can evidence outside pleadings be considered while adjudicating civil suits?
 - v) Can concurrent findings of fact by lower courts be interfered with in revision?

Analysis:

- i) It is well established by now that every document conveying title of immovable property worth more than Rs.100/- is compulsorily registerable under section 17 of the Registration Act, 1908 but non-registration of agreement to sell, subject matter of this petition, with the Sub Registrar concerned, rendered it inexecutable.
- ii) As per Article 113 of Limitation Act, 1908, a vendee can file suit for specific performance of an agreement to sell within three years starting from the date fixed for its performance.
- iii) There is no cavil with the fact that in cases where marginal witnesses die before recording of evidence or they are untraceable, a person acquainted with their handwriting/thumb impression, including his family members, can be produced to prove their signatures/thumb impression on the relevant document

but the same is subject to the condition that firstly it is to be proved by the party concerned that they are no more live or untraceable and secondly, the same can only be done with permission of the court.

iv. It is well entrenched by now that parties cannot be allowed to lead evidence beyond pleadings and if they succeed to do so said portion cannot be read while deciding a lis between the parties.

v. Even otherwise, concurrent findings of facts recorded by the courts below cannot be upset by this Court in exercise of its revisional jurisdiction in a casual manner until and unless the same are proved to be perverse, arbitrary or based on misreading or non-reading of evidence which is not the position in the case in hand.

- Conclusion:**
- i) Yes, non-registration renders the agreement to sell legally inexecutable.
 - ii) Yes, a suit filed beyond the limitation period is time-barred.
 - iii) No, prior court permission is required to prove such signatures/thumb impressions.
 - iv) No, evidence beyond pleadings is not admissible.
 - v) No, not unless such findings are perverse, arbitrary, or based on misreading/non-reading of evidence.

31. Lahore High Court
Rasheeda Saigol v. Zarai Taraqati Bank Limited etc.
Civil Original Suit No.33828/2021.
Mr. Justice Abid Aziz Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC2656.pdf>

Facts: Applicant/defendant filed application under Order VII Rule 11 of the CPC seeking rejection/return of the plaint in hand for lack of jurisdiction of this Court.

Issues:

- i) What are essential elements to maintain a suit under section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001?
- ii) Whether definition of ‘obligation’ as contained in section 2(e) of the Ordinance is exhaustive and include mortgage as well as General Power of Attorney?
- iii) Whether the mortgage of property, confer right to institute suit under section 9 of the Ordinance?
- iv) Whether a separate application under Order VII Rule 11 is maintainable?

Analysis:

- i) In order to maintain Suit under Section 9 *ibid*, the essential elements that must be established are: (i) the existence of a ‘customer’, (ii) a ‘financial institution’, and (iii) a ‘default’ in the discharge of an obligation with regard to any finance.
- ii) The plain reading of definition of “obligation” shows that clause (i) of Section 2(e) of the Ordinance is not relevant to the matter in hand and only the clause (ii) of Section 2(e) *ibid* is applicable in the present case. In terms of aforesaid sub-clause (ii) although a mortgage deed falls in the definition of “obligation”, however, a GPA does not specifically constitute an obligation within the meaning of Section 2(e) of the Ordinance. No doubt, the term “include” in Section 2(e) *ibid*

signifies that the definition is not exhaustive but the obligation imposed by the provision of Section 2(e) pertains specifically to representations, warranties, and covenants made by the customer and not by the financial institutions, as rightly held by this Court in the case of Amtex Ltd. supra.

iii) The mere fact that the plaintiff had mortgaged the property as well does not, by itself, confer upon the plaintiff the right to institute Suit U/S 9 of the Ordinance, particularly in circumstances where the Mortgage Deed was neither invoked nor any proceedings were initiated against the plaintiff in the capacity of a mortgagor. In the forgoing circumstances, this Court cannot proceed with the instant Suit for declaration, cancellation of auction proceedings and Sale Deed in the banking jurisdiction.

iv) Further, the plaintiff's plea that a separate application under Order VII Rule 11 of CPC for rejection/return of the plaint is not maintainable, has also no legs to stand because the issue of jurisdiction was already raised by the defendant-Bank in the PLA and on 28.11.2023 Issue No.1 was specifically framed on maintainability of the Suit, hence, this Court is competent to examine the question of maintainability/ jurisdiction.

- Conclusion:** i) the existence of a 'customer', (ii) a 'financial institution', and (iii) a 'default' in the discharge of an obligation with regard to any finance are essential for such suit under section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001.
- ii) Section 2(e) ibid signifies that the definition is not exhaustive, but the obligation imposed by the provision of Section 2(e) pertains specifically to representations, warranties, and covenants made by the customer and not by the financial institutions. A mortgage deed falls in the definition of "obligation", however, a GPA does not specifically constitute an obligation
- iii) The mere mortgage of property, does not confer right to institute suit under section 9 of the Ordinance.
- iv) A separate application under Order VII Rule 11 is maintainable.

32. Lahore High Court

Muhammad Tufail Thakur v. Asia Insurance Company Limited.

C.O.S (Insurance) No.41188 /2023

Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Waqar Haider Awan

<https://sys.lhc.gov.pk/appjudgments/2025LHC2812.pdf>

Facts: The petitioner filed an insurance claim before the Insurance Tribunal, which framed legal issues and made a Reference under Order XLVI Rule 1 C.P.C. to the High Court for guidance. The High Court examined whether the Reference was legally maintainable given the availability of an appellate remedy.

Issues: i) Whether a Reference under Order XLVI Rule 1 C.P.C. is maintainable when an appeal is provided under Section 124(2) of the Insurance Ordinance, 2000?

Analysis: i) Perusal of the above provision shows that where before or on hearing of a suit

or appeal certain material question of law, usage having force of law arises or points embosomed significant doubts in which “decree is not subject to appeal”, the Court trying the lis drawing up a statement of facts along with its own opinion may send a Reference to this Court and absence of above traits which are condition precedent shatter the very maintainability of the Reference.(...) the claim has been filed under Insurance Ordinance, 2000 before the learned Insurance Tribunal...and against any decision / decree likely to be render by the Tribunal a manifest remedy of appeal is provided under Section 124(2) of the Ordinance ibid as such instant Reference wear no sanction of law.(...) Thus, from the conjoint reading of Order XLVI Rule 1 CPC & Section 124(2) of the Insurance Ordinance, 2000 it evinces that the very Reference is not maintainable.

Conclusion: i) A Reference is not maintainable where an appeal lies under Section 124(2) of the Insurance Ordinance, 2000.

33. Lahore High Court
Shahbaz Akmal Jandran v. Province of Punjab through Director General, Excise and Taxation, Lahore etc.
I.C.A.No.22041/2025
Mr. Justice Malik Waqar Haider Awan, Mr. Justice Ch. Muhammad Iqbal,
<https://sys.lhc.gov.pk/appjudgments/2025LHC2944.pdf>

Facts: The appellant filed two complaints through email under Article 19-A of the Constitution of the Islamic Republic of Pakistan, 1973 read with Section 3 of the Punjab Transparency and Right to Information Act, 2013 the Information Commission seeking information of Excise & Taxation Department regarding Excise & Taxation Officer, Inspectors. The Commissioner directed the respondent-department to provide the sought for information but the said order was partially complied. The respondent-department provided further information regarding number of appeals admitted, decided, remanded and pending cases etc. The appellant vide e-mail requested the respondent department to provide column-wise annotated information including certain information about property tax payer. The Commission directed the respondent department to provide two sets of certified copies of the information to the appellant. The Information Officer of the respondent department intimated the Commission that information requested by the appellant is exempted under Section 13(1) (b) of the Act ibid as it involves privacy of individual taxpayers. The Department challenged the orders of the Commission through Writ Petition No.70457/2023 which was allowed by the learned Single Judge in Chamber. Hence, this appeal.

Issue:

- i) Whether every request under Article 19-A of the Constitution of the Islamic Republic of Pakistan, 1973 read with Section 3 of the Punjab Transparency and Right to Information Act, 2013 should be allowed in toto?
- ii) What are the meanings of legitimate privacy or interest?
- iii) What are the protections to privacy and confidentiality of an individual

provided by Qa'an, Sunnah and the Constitution of the Islamic Republic of Pakistan, 1973?

Analysis: i) Request could validly be regretted under Section 13(1)(b) of the Act *ibid*. For ready reference, aforesaid provision is reproduced as under:

“13. Exceptions. (1) A public information officer may refuse an application for access to information where disclosure of the information shall or is likely to cause harm to—

(a)

(b) a legitimate privacy interest, unless the person concerned has consented to disclosure of the information;”

The aforesaid provision gives the power to Public Information Officer to refuse the application for access to information where such disclosure of information is likely to harm the ‘legitimate privacy or interest of individual unless the person concerned has consented to disclosure of information.

ii) The term ‘legitimate interest’ has not been defined in the Act *ibid* as such its literal meaning are being taken from the dictionaries. In Justia Legal Dictionary, it has been defined as under:

“A preference to be free from interference or intrusion by the government in matters that one can reasonable expect to be private.”

Merriam-Webster Dictionary of Law defines the terms in following words:

“An interest in freedom from governmental intrusion into matters in which one has a reasonable expectation of privacy.”

In Words and Phrases, Volume No.33-C, it has been defined as:

“Privacy interest in constitutional lexicon, consists of reasonable expectation that uninvited and unauthorized persons will not intrude into particular area: one may freely admit guests of one’s choosing, or be legally obliged to admit specific person, without sacrificing one’s right to expect that space will remain secure against all others.”

iii) It also emphasizes on the importance as a mandatory injunction qua spying on others or unwarranted intrusion into their private personal affairs. In this regard, a straightaway reference is made to Ayat No.12 of Surah Al-Hujurat. The translation of relevant portion of said Ayat in Urdu language is reproduced as under:

”اے ایمان والو! دور رہا کرو بکثرت بد گمانیوں سے بلا شبہ بعض بد گمانیاں گناہ ہیں اور نہ جاسوسی کیا کرو اور ایک دوسرے کی غیبت بھی نہ کیا کرو۔“

سورت الحجرات: آیت نمبر 12

(ترجمہ: پیر محمد کرم شاہ: ضیاء القرآن پبلیکیشنز، لاہور)

The Last Holy Prophet Muhammad (ﷺ) has also guided in this regard. For ready reference, translation of two Hadiths is reproduced as under: **I.C.A. No.22041/2025 4**

”حضرت ابو ہریرہ رضی اللہ عنہ سے مروی ہے کہ رسول اللہ ﷺ نے فرمایا: (برے) گمان سے بچو کیونکہ برا گمان جھوٹی بات ہے۔ ایک دوسرے کی ٹوہ نہ لگاؤ۔ ایک دوسرے کی جاسوسی نہ کرو، قیمت چڑھانے کے لئے بولی نہ دو، ایک دوسرے سے حسد نہ کرو، ملاقات کے

وقت بیٹھ نہ پھیرو اور اللہ کے بندے بن کر بھائی بھائی بن جاؤ۔"

(بخاری شریف : جلد سوم : حدیث نمبر 5606)

ایڈیشن ستمبر 2014 ، بار چہارم : ضیاء القرآن پبلیکیشنز ، لاہور)

"حضرت ابو ہریرہ رضی اللہ عنہ نے بیان کیا کہ رسول اللہ (ﷺ) نے ارشاد فرمایا:

اے ان لوگوں کے گروہ جو اپنی زبان کے ساتھ ایمان لائے ہو اور ابھی تک ایمان ان کے

دل میں داخل نہیں ہوا، تم مسلمانوں کی غیبت نہ کرو۔ کیونکہ جس نے ان کے عیوب تلاش

کیے (اور ان کی عزت میں دست درازی کی کوشش کی) تو اللہ تعالیٰ اس کے عیوب کا پیچھا

کرے گا اور جس کے عیوب کو اللہ تعالیٰ نے تلاش کیا، تو یقیناً وہ اسے اس کے گھر میں رسوا

کر دے گا۔"

(سنن ابی داؤد : جلد سوم : حدیث نمبر 4236)

ایڈیشن سوم، فروری : 2015 ضیاء القرآن پبلیکیشنز ، لاہور)

Further the solemnity of privacy of a person has been guaranteed under Article 14(1) of the Constitution of the Islamic Republic of Pakistan, 1973 [hereinafter referred as "Constitution"] which is reproduced as under:

"14 (1) The dignity of man and, subject to law, the privacy of home, shall be inviolable."

- Conclusion:** i) See above analysis No. i
ii) See above analysis No. ii
iii) See above analysis No. iii

34.

Lahore High Court

M/s Madina Steel Mills Vs. Federation of Pakistan through Secretary, Revenue Division

Chairman, FBR, Islamabad & others

W.P. No. 17285 of 2025

Mr. Justice Muhammad Sajid Mehmood Sethi

<https://sys.lhc.gov.pk/appjudgments/2025LHC2627.pdf>

Facts: Petitioner filed Writ Petition challenging an order by the Commissioner Inland Revenue, which denied their representation against the levy of extra and further tax during the suspension of their Sales tax registration number (STRN). The suspension, caused by departmental error and not attributable to the petitioner, was previously reversed following the Lahore High Court's direction in earlier writ petition. Despite furnishing all required documentation, the petitioner was denied tax relief, prompting fresh litigation.

Issues: i) Whether a tax-payer is entitled to tax benefit which has been wrongfully denied to him due to some error on part of the tax authorities?
ii) Whether discrimination amongst tax-payers regarding tax liabilities amounts to violation of Article 25 of the Constitution of Islamic Republic of Pakistan?
iii) Whether arbitrary exercise of administrative discretion violates the principle of legitimate expectation?

Analysis: i) In legal terms, where a person is deprived of a tax benefit due to an error or unlawful act committed by the tax authorities, and the said error is subsequently

recognized and rectified by the authorities themselves, the general legal position—particularly under the principles of administrative law, restitution, and legitimate expectation—is that the individual is entitled to have such benefits restored, subject to fulfillment of applicable conditions. Restitution, in this context, refers to the restoration of benefits wrongfully denied or compensation for the unjust deprivation suffered. Its objective is to reinstate the affected party to the original position prior to the wrongful act... Once the error is admitted and rectified, the petitioner acquires a legitimate right to restitution, as the tax authority cannot retain benefits arising from its own mistake. Such entitlement is firmly grounded in the principles of fairness, equity, and the doctrine against unjust enrichment. Reference can be made to *Woolwich Equitable Building Society v. Inland Revenue Commissioners* [1993] A.C.

ii) *Ubi eadem ratio, ibi idem jus*— Where there is the same reason, there is the same law – is a foundational legal maxim that encapsulates the principle that justice demands the consistent treatment of similarly situated individuals. This principle finds constitutional backing in Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, which provides that: (1) All citizens are equal before the law and are entitled to equal protection of the law. (2) There shall be no discrimination on the basis of sex. (3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children. Article 25, thus enshrines equality before the law as a fundamental right. When tax authorities treat similarly situated taxpayers differently—particularly in the assessment or adjustment of tax liabilities—such conduct may amount to a violation of this constitutional guarantee.

iii) It is well-settled that administrative discretion must be exercised fairly, consistently, and without arbitrariness or caprice. The principle of legitimate expectation further reinforces this notion, as taxpayers in comparable circumstances reasonably expect similar treatment from revenue authorities. This position is supported by the judgment of the Division Bench of this Court in *Misbah Masood v. Principal Government College For Women* (1997 MLD 2397) where the Court emphasized that arbitrariness must be avoided at all levels of governance, besides observing that legal instruments must be interpreted in a manner that prevents arbitrary use of power, and any provision that permits or facilitates such arbitrariness is incompatible with constitutional principles... In the United Kingdom, the House of Lords in the *Council of Civil Service Unions v. Minister for the Civil Service*, commonly referred to as the *GCHQ* case [(1985) AC 374], established that even discretionary powers exercised by high executive authorities are subject to judicial review when they are used arbitrarily or unfairly. The Court rejected the idea of unfettered discretion, affirming that the rule of law requires the exercise of power to be rational, just, and transparent.

- Conclusion:**
- i) Yes. Once the error is admitted and rectified, the tax payer acquires a legitimate right to restitution.
 - ii) Yes. It amounts to violation of Article 25 of the Constitution.

iii) Yes. Arbitrary exercise of administrative discretion violates the principle of legitimate expectation

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- 35. Lahore High Court**
M.S. 555 Tobacco Merchant (SMC Pvt. Ltd.) etc. v. Federation of Pakistan, etc.
Writ Petition No.665/2025
Mr. Justice Asjad Javaid Ghural
<https://sys.lhc.gov.pk/appjudgments/2025LHC2801.pdf>

Facts: The petitioners filed the writ petition under Article 199 of the Constitution after a criminal complaint was registered against them by the respondent department alleging tax fraud. This was done without any prior tax adjudication or determination of liability by the competent authority under the Sales Tax Act, 1990. The petitioners contended this was unconstitutional and beyond the scope of the law.

Issues:

- i) Whether, for safe administration of justice, criminal proceedings dependent on the outcome of civil adjudication (tax liability determination) could be stayed till such civil rights are determined?
- ii) Whether criminal proceedings under Section 37A of the Sales Tax Act, 1990 can be initiated without prior adjudication and determination of tax liability by the competent authority under Section 11 of the Act?
- iii) Whether launching criminal prosecution under Section 2(37) read with Section 33 and 37A of the Sales Tax Act, 1990, without assessment of "tax due", violates the taxpayer's right to compound the offence under Section 37A(4) of the Act?

Analysis

- i) There is no cavil to the proposition that civil and criminal proceedings can run side by side but at the same time it is also a time honoured principle of law that where the criminal liability dependent upon or connected with the result of civil adjudication, for safer administration of justice, criminal proceedings can be stopped till the outcome of civil matter.
- ii) it is manifestly clear that any tax payer, who was found to have contravened the provisions of Section 2(37) of the Act *ibid* was liable to, *inter-alia*, pay sentence of "fine" which is dependent on the "amount of tax involved". It is not disputed by the learned counsel for the respondents that the Special Judge/Trial Court is not vested with any authority to assess the tax or determine the amount or loss of tax involved, which falls in the exclusive domain of the Officers of Inland Revenue, against whose decision a tax payer can prefer a departmental appeal and then knock the door of Appellate Tribunal of Inland Revenue by way of filing appeal and that of the High Court in the shape of Tax Reference. (See Sections 45-B, 46 & 47 of the Act). Mechanism for recovery of arrears of Tax provided in Section 48 of the Act would come into play only once the Tax was finally assessed and penalties imposed continued to be unpaid. From the above scheme of law, we can easily draw the conclusion that until the determination of liability of a tax payer by the Adjudicator under the Act *ibid*, no criminal proceedings can

be launched against him, as in the absence whereof, the Special Judge/Trial Court could not pass the sentence of fine which is the “amount of tax involved” and part of the penalty provided under the law.

iii) It is well settled law that “tax due” means amount duly determined under the law through an independent process of adjudication (...) Seeing from this angle, if the amount of tax due against a tax payer was not assessed prior to launching of criminal proceedings, then it would amount to shut the window of compoundability for a tax payer, as without determination of amount of tax due, the Commissioner would not be able to compound the offence. (...) As has been discussed supra without determination of “amount of tax due against the petitioner” by the competent Adjudicator, against whose decision the petitioners have remedy of appeal, no criminal proceedings can be launched against them.

- Conclusion:**
- i) criminal proceedings can be stopped when outcome of the same is dependent upon civil adjudication.
 - ii) No criminal proceedings can be launched unless the adjudicator determines the tax liability.
 - iii) Criminal prosecution without assessment of tax due effect the privilege of tax payer to compound offence..

36. Lahore High Court
Imran Ahmed Malik and 2 others v. Sohawa Flour and General Mills (Pvt.) Limited and 3 others
Civil Original No.06 of 2021
Mr. Justice Jawad Hassan.
<https://sys.lhc.gov.pk/appjudgments/2025LHC2634.pdf>

Facts: The Petitioners through this Civil Original Suit filed under section 126(1)(b) of the Companies Act, 2017 (the Act) seek rectification in register of share of respondent No.1/ “company”. They claim that Respondents No.2 & 3 sold their entire shareholding in the “company” to the Petitioners through agreements dated 20.01.2020 & 04.01.2021, but the transfer has not been recorded. They request the transfer to be updated in both the Company’s register and SECP’s records.

- Issues:**
- i) Whether the Company Bench, under Section 5 of the Act, has exclusive jurisdiction over company-related disputes with overriding authority?
 - ii) Who can apply to the Court for rectification of the register under Sections 126(1)(a) and (b) of the Act, in case of fraudulent or improper entries or delays in updating the register?
 - iii) What right does Section 126(1)(a) of the Act provide for rectification of the register if a name is fraudulently or improperly entered or omitted?
 - iv) Whether the terms “member” and “shareholder,” have distinct legal meanings?
 - v) When a person becomes a shareholder in a company?
 - vi) What is the requirement to treat a person as a member of a company?
 - vii) What is the remedy for a person, not being a member, shareholder, or debenture-holder, in case of delay or default in registration affecting their rights?

- viii) Whether the Board of a private company is bound under Sections 74 and 75 of the Act, to register a duly executed share transfer, and failure to do so gives the aggrieved party the right to seek rectification under Section 126?
- ix) Whether Section 76 of the Act requires notice to the Board and offer to existing shareholders before executing a share transfer deed?
- x) Who can seek transfer rectification under Section 126(1)(b) of the Act?
- xi) Who can be considered an “aggrieved person” under Section 126(1)(b) of the Act?
- xii) When does the cause of action arise under Section 126 of the Act?

Analysis:

- i) It is imperative to add that the Company Bench established under Section 5 of the “Act”, has special civil jurisdiction to adjudicate company-related disputes; Section 4 whereof grants the “Act” overriding authority over other laws, making the Company Bench a specialized civil court.
- ii) Above provision of law makes it clear that any aggrieved person or any member of the company, or debenture-holder of the company, or the company may apply to the Court for rectification of the register in case name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members in terms of Section 126(1)(a) of the “Act”, or there is default or unnecessary delay in entering on the register of members the fact of the person having become or ceased to be a member in terms of Section 126(1)(b) of the “Act”.
- iii) Primarily, Section 126(1)(a) of the “Act” provides a right to make an application before the Court for the purposes of rectification of register of members or register of debenture holders of a company in a case where name of a person “fraudulently” or “without sufficient cause” was entered in or omitted from said registers.
- iv) The terms “member” and “shareholder” are often used synonymously, yet both are different.
- v) For a person to become a shareholder, allotment or purchase of shares from another shareholder is enough.
- vi) A person may not be treated as a member of the company until his name is entered in the register of members of the company.
- vii) If a person, outside the scope of member, debenture-holders or shareholders, believes that default or unnecessary delay has happened in registering members, shares, or debenture-holders affecting his claimed rights, he has certain options depending on his status which may include lodging of a complaint with the “SECP” (which can conduct an inspection, investigation or even can issue orders to a company to correct the defaults, if necessary) and may avail remedy in the Civil Court due to breach of a contract.
- viii) Furthermore, the Petitioner No.1, in the alleged agreement dated 27.12.2019, has claimed the ownership of the land but no transfer deed or any instrument of transfer of shares has been produced which is mandatory requirement of Section 74 of the “Act” according to which, the execution of transfer shall be submitted to the “Company” to register the same and to add and omit the name of the

transferee and the transferor as the case may be. Subsequently, when a duly executed transfer deed signed and stamped by the transferor and transferee is tendered to the Board of Directors of a private limited Company, then in such circumstances the Board as per Sections 74 and 75 of the Act is bound to register the transfer of shares i.e. to add and omit the name of the transferee and the transferor respectively, and failure of the board to register the same shall grant the aggrieved party the right to move the Court under Section 126 for rectification of the register of members.

ix) The process for transfer of shares as per Section 76 must be complied with i.e. a notice must be issued to the Board of Directors by the prospective selling member indicating an intention to sell the shares, the Board of Directors upon such a requisition shall offer the shares to all the shareholders in proportion to their existing shareholding, upon acceptance by the shareholders of the offer so made a duly recognized instrument of transfer shall be executed between the parties (a share transfer deed).

x) The requirement of transfer of shares as envisaged under Section 126(1)(b) of the “Act” is that the person has to be an “aggrieved person”.

xi) The expression "aggrieved person" would include a transferor of shares who had handed over the transfer documents to the transferee who lodged them with the company and the same were rejected by the company as bad delivery.

xii) The cause of action to invoke the provisions of section 126 of the “Act” arises only when the fact of any member having ceased to be a member is brought before the company or its board and there is default or delay in taking decision.

- Conclusion:**
- i) The Company Bench, established under Section 5 of the Act, has special civil jurisdiction to adjudicate company-related disputes, with the Act overriding other laws.
 - ii) Under Section 126 of the Act, any aggrieved person, company member, debenture-holder, or the company may apply to the Court for rectification of the register in cases of fraudulent or improper entries or delays in updating membership status.
 - iii) Section 126(1)(a) of the Act grants the right to apply to the Court for rectification of the register if a name is fraudulently or improperly entered or omitted.
 - iv) The terms “member” and “shareholder” are different.
 - v) See above analysis No. v).
 - vi) See above analysis No. vi).
 - vii) A person, who is not member, debenture-holder, or shareholder in case of delay or default in registration affecting their rights, can lodge a complaint with SECP or pursue a remedy in Civil Court.
 - viii) See above analysis No. viii).
 - ix) See above analysis No. ix).
 - x) An “aggrieved person under Section 126(1)(b) of the “Act” can ask for transfer of share;
 - xi) See above analysis No. xi).

xii) See above analysis No. xii).

37. Lahore High Court
Ghulam Qadir v. The State and another
Criminal Appeal No.79724/2021
Kashif v. The State and another
Criminal Appeal No.79726/2021
Muhammad Asif v. The State, etc.
Criminal Revision No.2871/2022
Muhammad Asif v. The State, etc.
(P.S.L.A. No.2870/2022
Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2025LHC2815.pdf>

Facts: The appellants/convicts have filed appeals their conviction and sentence. Whereas, the complainant filed revision for enhancement of sentence of convicts and appeal against acquittal of one of the accused persons.

Issues:

- i) What is the effect of delay in reporting the incident to the police?
- ii) Whether an injured witness is always stamped as a truthful witness?
- iii) What is the evidentiary value of testimony of a witness, who introduces dishonest improvements?
- iv) What is the nature of medical evidence?
- v) Whether acquittal could be reversed on the ground that another view was also possible?

Analysis:

- i) It is well settled that when there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay and failure to do that will badly reflect upon the credibility of prosecution version.
- ii) By now it is also well settled that mere presence of injury on the person of prosecution witness does not stamp him to be a truthful witness.
- iii) It is trite law that if prosecution witness including injured witness introduces dishonest improvement in order to strengthen the case, then his evidence is to be thrown away altogether and cannot be relied upon.
- iv) 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.
- v) By now it is well settled that acquittal cannot be disturbed for the reason that another view was equally possible.

Conclusion:

- i) The prosecution is under obligation to explain the delay in reporting the occurrence, failure to that would badly affect the credibility of prosecution case.
- ii) The presence of injury on a witness does not stamp him with credibility of truthfulness.
- iii) Evidence of a witness who makes dishonest improvements is to be thrown away altogether and cannot be relied upon.

- iv) The medical evidence is mere supportive/ confirmatory type of evidence; it can tell about locale, nature, magnitude of injury and kind of weapon used. It cannot tell about identity of the assailant.
- v) Acquittal cannot be disturbed for the reason that another view was equally possible.

38. Lahore High Court
Mazhar Hussain Shah & another v. The State
Criminal Appeal No.80490-J/2021
Mr. Justice Ali Zia Bajwa, Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2025LHC2927.pdf>

Facts: The appellants were tried by the learned Additional Sessions Judge/Trial Court, in respect of offences under sections 302, 109, 148, 149 P.P.C. for committing Qatl-i-Amd. The learned trial court convicted and sentenced the appellants. Feeling aggrieved, the appellant lodged this Criminal appeal through jail assailing his conviction and sentences. The learned trial court submitted Murder Reference under section 374 Cr.P.C. seeking confirmation or otherwise of the sentence of death awarded to the appellant before the High Court.

Issues

- i) What is impact of unexplained delay in lodging of FIR upon the case of prosecution?
- ii) Whether the testimony of chance witness, who are inimical as well as having grudge can be relied for convicting and sentencing the accused?
- iii) Whether medical evidence is mere supportive/confirmatory type of evidence but it cannot tell about identity of the assailant who caused the injury?
- iv) Whether safe custody of parcel of recovered pistol has to be proved?

Analysis:

- i) After delay of about three hours and five minutes of the occurrence and FIR was recorded at 12:05 p.m. on 03.10.2019....Matter has not been reported to the police promptly rather with considerable delay for which any plausible explanation has not been offered by the prosecution, which leads to the conclusion that none of the cited witnesses including complainant was present at the time and place of occurrence, time was consumed for procuring, engaging and introducing witnesses, tailoring story for the case of prosecution and then registering the case in its present form
- ii) Ocular account comprising of chance witnesses, who are inimical as well as having equal attribution of stated grudge/motive for the occurrence with the assailants, is neither convincing nor confidence inspiring, hence cannot be relied for convicting and sentencing the appellants.
- iii) 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 neither can provide any corroboration nor is of any help to the prosecution in peculiar facts and circumstances of the case.

iv) It is crystal clear that according to own case of prosecution, pistol along with two live bullets statedly recovered from the possession of appellant were sealed into parcel and similarly pistol along with two live bullets allegedly recovered from appellant were sealed into parcel. If said parcels were deposited in the office of Punjab Forensic Science Agency, Lahore, then it must have been mentioned in the report that said parcels were containing live bullets also however it is not mentioned so in said report, meaning thereby that said parcels were not those parcels which were prepared at the time of recovery of pistols containing bullets as well. Hence, safe custody of parcels of pistols has been compromised and not proved, which has ultimately made report of Punjab Forensic Science Agency, Lahore as inconclusive as well as inconsequential and of no help to the case of prosecution.

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

39. Lahore High Court
Yasir Shaban v. The State, etc.
Criminal Appeal No.39118/2021
Ali Raza & another v. The State.
Criminal Appeal No.40003-J/2021
The State v. Ali Raza & another
Murder Reference No.152/2022
Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC2992.pdf>

Facts: The appellants were tried in a case stemming from an F.I.R. registered under Sections 394 and 302 PPC. The trial court, through its impugned judgment, convicted and sentenced both appellants. This single judgment addresses the criminal appeal filed by one appellant and the appeal filed by both appellants through jail authorities against their convictions and sentences. Additionally, it includes a Murder Reference sent by the trial court under Section 374 Cr.P.C. for the confirmation of the death sentence awarded to both appellants, as all matters arise from the same judgment issued by the trial court.

Issues: i) What are the mandatory features required to identify an unknown accused person?
 ii) Can medical evidence identify the assailant responsible for an injury?

Analysis: i) It is well established that facial features of the unknown accused persons are mandatory to identify him on re-seeing alongwith other features i.e. height, complexion, age and stature etc.
 ii) As far as, medical evidence is concerned, same is a type of supporting nature evidence which can tell about nature, locale, size and duration of the injury but cannot tell about identity of the assailant.

- Conclusion:** i) Facial features alongwith other features are mandatory to identify an unknown accused person.
ii) No, it cannot identify the assailant.

40. Lahore High Court
Muhammad Iqbal and others v. Muhammad Ashraf and others
C.R. No.2164 of 2011
Mr. Justice Rasaal Hasan Syed.
<https://sys.lhc.gov.pk/appjudgments/2025LHC2719.pdf>

Facts: Plaintiffs preferred a suit for declaration along with specific performance of agreement of sale. One of the defendants filed an application under Order VII, Rule 11, C.P.C, which was accepted. Appeal filed there-against was accepted by Addl. District Judge, in result, the order of trial court rejecting the plaint was set aside, the suit was restored and the Civil Judge was directed to decide it after recording evidence of parties. The said order was impugned through this revision petition.

Issues: i) Under what circumstances can a Court reject a plaint?
 ii) What is the starting point of limitation in a suit for specific performance of contract under Article 113 of Limitation Act, 1908?
 iii) From when does the period of limitation begin if no specific date is given in the agreement?

Analysis: i) Under Order VII, Rule 11, C.P.C. the plaint could be rejected only if from the statement in plaint, it does not disclose any cause of action or is barred by law or is incorrectly valued for the purpose of court fee or insufficiently stamped and on being required to make up the deficiency within time allowed to the plaintiff to make up the deficiency.
 ii) Article 113 of Limitation Act, 1908 contemplates the period of three years for the specific performance of contract from the date fixed in the agreement for performance or if no such date is fixed, when the plaintiff has the notice that the performance is refused.
 iii) If specific date is not given in the agreement to perform the same, the case will fall in second part of Article 113 of Limitation Act, 1908 which provides for three years from the date of notice of refusal to perform.

Conclusion: i) See above analysis No.i.
 ii) The limitation period for specific performance is three years from the date fixed in the agreement, or, if no such date is fixed, from when plaintiff learns that the performance has been refused.
 iii) If agreement is not having the date of performance, the period of limitation will start from the date of notice of refusal to perform.

41. Lahore High Court
United Bank Limited v. President of the Islamic Republic of Pakistan, etc.
Writ Petition No.983 of 2025 (along with connected petitions)
Mr. Justice Asim Hafeez
<https://sys.lhc.gov.pk/appjudgments/2025LHC2736.pdf>

Facts: Petitioners challenged the orders of the Banking Mohtasib and the President of Pakistan, arising out of complaints regarding unauthorized electronic fund transfers. The central issue was whether the Mohtasib had jurisdiction under banking laws to adjudicate such complaints and order compensation.

Issues:

- i) Does the Banking Mohtasib have jurisdiction under the Banking Companies Ordinance, 1962 to entertain complaints involving unauthorized electronic fund transfers and related allegations of fraud or maladministration?
- ii) Can the Banking Mohtasib render findings on disputed questions of fact under its statutory mandate?
- iii) Is the Mohtasib required to assess the role of contributory negligence by complainants before awarding compensation?
- iv) Was it appropriate for the Mohtasib to apply section 41 of the Payment Systems and Electronic Fund Transfers Act, 2007 without examining the circumstances of each transaction?
- v) Does a finding by the Mohtasib require strict adherence to evidentiary procedures under the Qanun-e-Shahadat Order, 1984?

Analysis:

- i) Law entitles and empowers Mohtasib to adjudicate upon subject-matter complaints, wherein complainants alleged incidences of banking malpractices, violations of banking laws, rules, regulations and guidelines, instances of maladministration, fraud in relation to transfer of funds and complain against fraudulent or unauthorized withdrawals or debit entries in the accounts. Hence, assumption of jurisdiction is lawful and is in accord with the mandate of Ordinance, 1962.
- ii) Judgment had not placed any judicial clog / encumbrance on the powers, functions and jurisdiction of Mohtasib, except observing that no binding decisions to be made with respect to disputed questions of facts.
- iii) Mohtasib ignores and overlooks to consider the effect and consequence of ‘contributory negligence’ and ‘comparative negligence’. Apparently, Mohtasib shifted absolute responsibility on banks by placing reliance on section 41 of the Act 2007.
- iv) Section 41 of the Act 2007 used expression ‘unauthorized Electronic Fund Transfer’ which prima facie raised a query that whether such transactions where instructions were issued by the customer(s) authenticity whereof is though disputed, if at all application of strict rule of burden to prove is to be applied. Whether strict compliance of rule of burden of proof is warranted qua transactions where customer had issued instruction for payment, but renege afterwards and raise plea of inducement by deception or fraud. Whether any evidence could be produced by the bank in such situation to meet the test of burden of proof. I

refrain from commenting on all these issues because determination of these issues would enable the Mohtasib to reach conclusion, whether to exercise jurisdiction or avoid adjudication and suggest invocation of remedy under section 50 of the Act, 2007 or other concurrent remedies.

v) Ombudsman does not decide intricate and complex questions of law and facts; Ombudsman does not interfere in matters which are sub-judice in court(s) of law; Ombudsman does not conduct regular trials, still empowered to call for affidavits and appoint commission for recording of evidence. Jurisdiction conferred is in the nature of quasi-judicial jurisdiction, where Mohtasib is entitled to receive evidence on affidavits, without the necessity of strictly following evidentiary principles. One must not overlook, evidently the significant role of the Mohtasib, which is to act as mediator for the purposes of resolving the disputes amicably, which makes application and adoption of evidentiary principles inapplicable for such mediation proceedings. Qanun-e-Shahadat Order 1984 is not applicable to arbitration proceedings, which leads to inference that mediators are not bound by the rigours of Qanun-e-Shahadat Order 1984 – and so is the Mohtasib.

- Conclusion:**
- i) Yes, the Banking Mohtasib has lawful jurisdiction under the Ordinance, 1962.
 - ii) Yes, the Mohtasib may examine facts but cannot issue binding findings on materially disputed facts.
 - iii) Yes, contributory negligence must be considered in determining entitlement to compensation.
 - iv) No, the Mohtasib must evaluate factual context before invoking section 41.
 - v) No, the Mohtasib is not required to strictly follow the Qanun-e-Shahadat Order, 1984.

42. Lahore High Court
Muhammad Naeem v. Judge Family Court, etc.
Writ Petition No. 2313 of 2025/BWP
Mr. Justice Ahmad Nadeem Arshad
<https://sys.lhc.gov.pk/appjudgments/2025LHC2671.pdf>

Facts: Respondent No.2 instituted a suit for recovery of dowry articles which was decreed in her favour. For the satisfaction of the decree, she filed an execution petition. Respondent No.3 stood surety of the petitioner and learned Executing court for the satisfaction of the decree put his property on the open auction and appointed respondent No.4 as Court Auctioneer. Respondent No.4 failed to submit report with regard to the auction proceedings. Petitioner filed an objection petition which was dismissed and appointed fresh Court Auctioneer, hence, this petition.

Issue: i) What is the implicit duty of the court, while exercising discretionary powers to appoint a court auctioneer, local commissioner, receiver and Liquidator ?

Analysis: i) The Court, while exercising its discretionary powers to appoint Advocates in such quasi-judicial roles, is under an implicit duty to take into account

following aspects:

1. Competency and Expertise: The advocate must possess sufficient legal knowledge and familiarity with the procedural aspects of the specific task (e.g., auction proceedings, asset valuation, report writing) in the light of High Court Rules & Orders.
2. Professional Integrity: The individual's past conduct, reputation in the legal community, and any pending disciplinary matters should be evaluated.
3. Accountability and Transparency: Appointees must be capable of acting independently, impartially, and with full accountability, given that they are entrusted with parties' rights and valuable assets.

Conclusion: i) See above analysis No. i

43.	Lahore High Court Munawar Ali. v. Addl. Sessions Judge, etc. Crl. Misc. No.1620-M of 2024. Mr. Justice Muhammad Amjad Rafiq https://sys.lhc.gov.pk/appjudgments/2025LHC2439.pdf
Facts:	The petitioner assailed the orders of learned ASJ, wherein, he overturned the order of the learned Magistrate and directed the petitioner to produce the allegedly fake certificates.
Issues:	i) What is procedure to produce a document in evidence, which is in possession of adverse party/against whom to be used? ii) Whether such adverse party is bound to produce the required document? iii) Whether the requirement of prior notice to produce secondary evidence, is exempted in any case? iv) Whether the party seeking the production of document, could refuse its production upon production by the adverse party? v) Whether the adverse party can produce such document in evidence, when it refused earlier to produce the document upon notice?
Analysis:	i) It is trite that when any document which is sought to be produced in the evidence happens to be in possession of adverse party, the law requires that a notice to produce shall be given to the party or his counsel. If on notice document is not produced, the party seeking for production of such document becomes entitled to produce secondary evidence of the document. Article 76 of the Qanun-e-Shahadat Order 1984 mentions the situations when the secondary evidence may be given of the existence, condition or contents of a document. ii) It is discretion of such person to produce or not to produce the same. Thus, he cannot be compelled in any manner, which is in consonance with the safeguard provided by Article 13 of the Constitution of the Islamic Republic of Pakistan 1973; however, refusal thereof gives a right to the adverse party to produce secondary evidence of such document. iii) The only requirement for secondary evidence in above case was of giving a

prior notice to adverse party, as mentioned in Article 77 of the Qanun-e-Shahadat Order 1984...But requirement of giving prior notice is also exempted through the said Article 77 of the Qanun-e-Shahadat Order 1984 in following cases;

- (1) when the document to be proved is itself a notice;
- (2) when, from the nature of the case, the adverse party must know that he will be required to produce it;
- (3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;
- (4) when the adverse party or his agent has the original in Court;
- (5) when the adverse party or his agent has admitted the loss of the document;
- (6) when the person in possession of the document is out of reach of, or not subject to, the process of the Court.

iv) However, if the petitioner produces such certificates before the Court in compliance with the order, then respondent No.4, after perusing it, cannot refuse its production in evidence if the petitioner requires him to do so. This command of law is enshrined in Article 159 of the Qanun-e-Shahadat Order 1984, which is as under;

“159. Giving, as evidence, of document called for and produced on notice: When a party calls for a document which he has given the other party notice to produce and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so”.

v) Once the secondary evidence of such certificates is produced, petitioner cannot afterwards use the certificates as evidence, without the consent of the respondent No.4 or the order of the Court, as directed through Article 160 of the Qanun-e-Shahadat Order 1984.

- Conclusion:**
- i) When any document which is to be produced in evidence, is in possession of adverse party; a notice to produce shall be given to him or his counsel. If it is not so produced the party seeking its production would be entitled to produce its secondary evidence.
 - ii) The party to whom notice is given to produce document could not be compelled to produce the same.
 - iii) Requirement of prior notice is exempted when the document required to be produced is itself a notice; when the party from the nature of the case, must know the he will be required to produce it; when it obtained the possession of original by fraud or force; when it has original in the court; when the loss of document is admitted; person in possession of original is out of reach of court etc.
 - iv) Party seeking a document from an adverse cannot afterword refuse to tender it in evidence, if the adverse party directs him to do so.
 - v) When the party in possession of document does not produce the same upon notice and secondary evidence of the same is produced; he cannot be allowed to produce the same in evidence later.

44. Lahore High Court
Karim Bakhsh. v. The State, etc.
Criminal Revision No.78 of 2025.s
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC2432.pdf>

Facts: The petitioner has assailed the orders of learned Special judge Anti-Corruption, whereby, it partially disagreed the cancellation report of a case FIR registered with the Anti-Corruption Establishment.

Issues:

- i) Whether the Punjab Anti-Corruption Establishment is to follow the Punjab Police Rules, 1934?
- ii) Whether the Rule 24.7 of the Police Rules is stricto sensu applicable upon ACE?
- iii) On what grounds the Punjab Anti-Corruption Establishment could drop a case?
- iv) Whether private individuals could be subject to Anti-Corruption Establishment?
- v) What would be the scheme of law, if ACE recommend no or droppage of judicial action?
- vi) What would be remedy to complainant when no judicial action taken or case cancelled upon his complaint?
- vii) Whether the Special Court Anti-Corruption could cancel a case partially?

Analysis:

- i) Under Rule 14 of the Punjab Anti-Corruption Establishment Rules, 2014 (the Rules 2014), the Establishment shall, as far as may be, follow the provisions of the Punjab Police Rules for purposes of inquiry and investigation of offences specified in the Schedule.
- ii) But the Rules 2014 itself suggest a deviation from above Rule 24.7 of the Police Rules 1934 and introduce different grounds for dropping of inquiry as well as dropping of case.
- iii) Thus, unlike ordinary regime of law, where FIR is required to be registered if the information or intelligence discloses commission of a cognizable offence, Anti-Corruption establishment shall not register the case if the “allegations are not substantiated” or “sufficient evidence is not available”. In ordinary regime of law case is dropped/cancelled on three recognized grounds mentioned in Rule 24.7 of the Police Rules 1934 as cited above but Anti-Corruption Establishment shall drop the case either on the ground that “the allegations are not established” or “judicial action is not warranted but reasonable evidence is available to initiate disciplinary action against the public servant”.
- iv) Anti-Corruption Establishment was primarily established for the investigation of offences set forth in the Schedule, and for holding preliminary inquiries for determining whether such offence shall be investigated or departmental inquiries into the conduct of any public servant concerned in such offences shall be held, as mentioned in Section-3 of the West Pakistan Anti-Corruption Establishment

Ordinance, 1961, but private individuals who are in league with the public servants in commission of such offences can also be inquired and investigated by the Anti-Corruption Establishment... Paragraph (a) [of schedule attached to West Pakistan Anti-Corruption Establishment Ordinance, 1961] specifically deals with offences relating to public servants only, therefore, abetment and conspiracies by private individuals get them into the jurisdiction of Establishment. Paragraph (b) [of schedule attached to West Pakistan Anti-Corruption Establishment Ordinance, 1961] contains offences which can be committed by both public servant as well as the private individuals; therefore, apart from abetment and conspiracies it was specifically added that person acting jointly with or abetting or attempting to abet or acting in conspiracy with any public servant as such, shall also be subject to the jurisdiction of the Establishment. Whereas paragraph (c) [of schedule attached to West Pakistan Anti-Corruption Establishment Ordinance, 1961] though deals with abetments and conspiracies of offences in relation thereto or connected with offences under the Prevention of Corruption Act, 1947, yet Section-2 of said Act makes it clearer when it says that “Act shall apply to all citizens of Pakistan and persons in the service of Government wherever they may be”.

v) Complainant then can move to the local police for further action against the private individuals because there remains no jurisdiction with Anti-Corruption Establishment to investigate the private individuals any more, and it is like situation when an offence is not committed within the jurisdiction of a Police Station, it is cancelled by the order of Superintendent of Police in the district without the order of a Magistrate as mentioned in Rule 25.7 of the Police Rules, 1934... Under Rule-14 of the Rules 2014, the Establishment is bound by law to follow the provisions of the Punjab Police Rules, therefore, in such situation, FIR shall be cancelled by the order of Director General Anti-Corruption Establishment without seeking its confirmation from the Special Judge Anti-Corruption Court which is the mandate of Rule 10(1)(a) of the Rules 2014.

vi) When the case is dropped/cancelled by the order of Director General or by the Court, the complainant can move to the local police for registration of case against the private individuals or can file private complaint before Anti-Corruption Court on the ground that sufficient evidence was also available against the public servants which was not considered by the Anti-Corruption Establishment, and in such eventuality, Special Judge Anti-Corruption Court if entertains the complaint can direct for investigation as mentioned in Section-6, Sub-section-5 of the Criminal Law (Amendment) Act 1958.

vii) Thus, under Rule 10(1)(b) of the Rules 2014, the only course available to the learned Special Judge, Anti-Corruption Court was either to confirm the cancellation report, or disagree to it in toto if considered that the allegations are established against public servants as well. There is no concept of trial of private individuals by the Special Judge Anti-Corruption Court without framing charge against the public servants, because it is like trying the abettors, instigators, conspirators, facilitators while exonerating the principal offender which is against the very spirit of criminal prosecution.

- Conclusion:**
- i) As per Rule 14 of the Punjab Anti-Corruption Establishment Rules, 2014 the provisions of the Punjab Police Rules shall be followed for the inquiries and investigations by the Anti-Corruption Establishment.
 - ii) The ACE Rules 2014 suggest a deviation from above Rule 24.7 of the Police Rules 1934 and introduce different grounds for dropping of inquiry as well as dropping of case.
 - iii) Anti-Corruption Establishment shall drop the case either on the ground that “the allegations are not established” or “judicial action is not warranted but reasonable evidence is available to initiate disciplinary action against the public servant”.
 - iv) Private individuals who are in league with the public servants in commission of such offences can also be inquired and investigated by the Anti-Corruption Establishment.
 - v) When the ACE did not recommend judicial action against Public Official or cancel the case, there remains no jurisdiction of ACE to investigate private individual. The scheme of Rule 25.7 of Police Rules would prevail, and information would be submitted to the concerned police station
 - vi) In case of droppage/cancellation of case by DG, the complainant can move to local police or move a private complaint before ACE, if still thinks that sufficient evidence is there to proceed against the Public Officials.
 - vii) The Special Court Anti-Corruption is to confirm the cancellation report or disagree to it in toto. Since, there is no concept of trial of private persons by Special Court, without framing charge against public servants.

45.	Lahore High Court Muhammad Waqas. v. The State etc. CrI. Misc. No.2020-B/2025. Mr. Justice Muhammad Amjad Rafiq https://sys.lhc.gov.pk/appjudgments/2025LHC2421.pdf
Facts:	The petitioner seeks post arrest bail in a registered under Sections 324, 337-A(v), 34 PPC
Issues:	i) In case of a contradiction between the text of PPC and an entry in Schedule II of the Cr.P.C., which shall prevail? ii) Whether an accused person has a right to bail in offences, which entail optional imprisonment?
Analysis:	i) Explanatory Note attached to Schedule II of CrPC makes it clear the offences and punishment cited in the schedule are just reference of respective Sections of PPC and not Sections itself or abstract of them, which means for the purpose of definition of offence and its punishment, the concerned Section of PPC shall be read and followed as per command of such Sections. Thus, despite the fact schedule-II of Cr.P.C. finds mentioned the punishment of Section 337A(v) PPC as 14 years’ imprisonment, it shall not be followed rather text of Section 337A(v) PPC, which entails punishment of 10 year’s imprisonment would be preferred. It

is however expected that legislature shall review such entry in schedule-II of Cr.P.C. or amend the Section 337A(v) PPC with corresponding punishment in the schedule.

ii) Section 337A(v) PPC entails primary punishment as arsh, therefore, petitioner may or may not be awarded optional punishment of imprisonment by the trial court depending upon the requirement of law as enshrined in Section 337N (2) PPC. This ratio has been settled by this Court in case reported as “ALI MUHAMMAD versus THE STATE” (PLD 2009 Lahore 312) and also upheld by the Supreme Court of Pakistan in a case reported as “ABDUL WAHAB and others versus THE STATE and others” (2019 SCMR 516).

Conclusion: i) Explanatory Note attached to Schedule II of Cr.P.C. makes it clear that in case of a contradiction between text of PPC and an entry in Schedule II of Cr.P.C., the concerned section of PPC shall prevail.
ii) Accused person has a right to bail in offences, which entail optional award of punishment by imprisonment as Tazir in addition to Arsh or Daman, depending upon the requirements of section 337N (2) PPC.

46. Lahore High Court
Samar Abbas v. The State etc.
Crl. Misc. No. 699-B/2025.
Muhammad Ramzan v. The State etc.
Crl. Misc. No. 1362-B/2025
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC2726.pdf>

Facts: The petitioners have approached the Hon’ble High Court seeking their post-arrest bail in a murder case FIR registered against them.

Issues: i) What is evidentiary value of CDR without voice message/transcript?
 ii) Under what situations press clippings are used by the courts?
 iii) When the statements/speeches published in newspapers can be used as evidence in matters of public importance?
 iv) What presumption is attached to press clippings in criminal jurisdiction?
 v) Whether courts could take judicial notice of news items?
 vi) What are the parameters to take judicial notice of newspaper reports?
 vii) What is evidentiary value of press clippings in criminal proceedings?
 viii) Whether the rule of hearsay has any exception?
 ix) What approach courts should adopt at bail stage?

Analysis: i) Though CDR data was claimed showing connection of Samar Abbas and Muhammad Ramzan near the place of occurrence but without any voice message/transcript. Thus, it does not connect the petitioners with the commission of offence until and unless such CDR is formalized in accordance with law as enunciated in judgment of Full Bench of this Court in a case reported as “Mst. SAIMA NOREEN Versus The STATE and another” (PLJ 2023 Cr. C 371 (FB)).

ii) Press clippings have been used by the Courts in following three situations;

- a) In Constitutional jurisdiction for matters of public importance.
- b) Presumption by Courts in criminal jurisdiction.
- c) Evidence of any party in criminal jurisdiction.

iii) While dealing with political statements/speeches against the State published in newspapers attributed to political leaders, Hon'ble Supreme Court of Pakistan has held that such statements if have not been denied or repudiated could be used as evidence against them.

iv) Presumption by Courts in criminal jurisdiction, is the subject matter of the Evidence Act 1872 which with certain modifications was also applicable to the different States of India and by virtue of that Court was authorized to presume the genuineness of newspapers or journal as per Section 81 of said Act... but by the promulgation of Qanun-e-Shahadat Order 1984, Section 81 of the Evidence Act 1872 was not re-enacted rather opted to skip it in the new legislation. Thus, Courts in Pakistan by law cannot presume the genuineness of a newspaper.

v) Some misunderstanding in law prevails that Court can take judicial notice of only those facts which are listed in Article 112 of Qanun-e-Shahadat Order 1984, and of course newspaper or journal is not mentioned in such Article. Suffice it to say that such Article says that "Facts of which Court must take judicial notice" the word "must" make it obligatory for the Court to take judicial notice of all such facts listed in Article 112 *ibid* without asking for a formal proof. Whereas Article 111 *ibid* gives a discretion to the Court to take judicial notice of any fact not listed in Article 112 *ibid*, depending upon the circumstances of the case. Thus, Court can take judicial notice of a news clipping subject to the considerations that its admissibility depends on several factors, including the relevance to the case, the authenticity of the clipping, and whether the court deems it reliable.

vi) As a general principle the Supreme Court of Pakistan has held in case reported as "WATTAN PARTY through President Versus FEDERATION OF PAKISTAN through Cabinet Committee of Privatization, Islamabad and others" (P L D 2006 Supreme Court 697) that following parameters must be met for the purpose of taking judicial notice of a newspaper report and articles: -

- (i) *Where direct evidence is not available.*
- (ii) *Where it is sought to be proved that a person has notice of the contents of the newspaper report.*
- (iii) *Where it is sought to be shown that a person is an author or otherwise responsible for the statement or article published in a newspaper which is to be used against him.*
- (iv) *In cases of defamation.*
- (v) *If the issue/occurrence is rather old and eye-witnesses are either wanting or less reliable.*

vii) It is consensus that press clipping is hearsay evidence and is not admissible under the law unless the author or reporter volunteers to appear as witness to prove the authenticity of the facts stated therein.

viii) Even the rule of hearsay is not absolute, for, it is subject to certain

exceptions. One of these is that statements accompanying and explaining facts are not hit by the hearsay rule. Thus, even in the case of hearsay as observed in Halsbury's Laws of England (3rd Edn., Vol 15, at page 320) in estimating the weight to be attached to a statement "regard must be had to all circumstances from which any inference as to the accuracy or otherwise of the statement can reasonably be drawn, and in particular to the questions whether the statement was contemporaneous with the facts stated and whether the maker had any incentive to conceal or misrepresent the facts". Explanatory facts are regarded as relevant facts as per Article 22 of Qanun-e-Shahadat Order 1984 which says that **facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact....., are relevant in so far as they are necessary for that purpose.** In such situation, of course press clipping could be considered as explanatory evidence, that shall be read in conjunction with other evidence on the record, because press clipping as sole evidence cannot prove a fact beyond reasonable doubt.

ix) It is trite that while considering material at bail stage, Court always acts inquisitorially to search for avenues of further inquiry into the guilt of accused, and thus, can consider any material, that can be transformed into admissible format at a later stage, in order to grant or decline bail to the accused.

- Conclusion:**
- i) Mere CDR only shows use of SIM in territorial/geographical jurisdiction of cell phone tower; and does not disclose that who is using or carrying said SIM. Therefore, without "Voice Recording Transcript", mere "Call Data Record" (CDR) alone of the SIM is inconclusive piece of evidence regarding identity of its user/carrier.
 - ii) The courts used newspaper clippings in constitutional jurisdiction for matter of public importance; presumption in criminal matters; and as evidence by any party in criminal jurisdiction.
 - iii) The statements/speeches published in newspapers attributed to political leaders, if have not been denied or repudiated could be used as evidence against the maker.
 - iv) Previously sections 81 & 81A of Evidence Act, 1872 had presumption of genuineness of newspapers but QSO being re-enacted skipped these provisions. Thus, courts in Pakistan by law cannot presume the genuineness of a newspaper.
 - v) Court can take judicial notice of news clipping subject to the considerations that its admissibility depends on several factors, including the relevance to the case, the authenticity of the clipping, and whether the court deems it reliable.
 - vi) The courts could take judicial notice of news clips where direct evidence is not available; where it is sought to be proved that a person has notice of the contents of the newspaper report; where the news or statement is to be used against the author or person otherwise responsible; defamation cases; old issue/occurrence and eye-witnesses are either wanting or less reliable.
 - vii) Press clipping is hearsay and is not admissible in evidence unless the author or reporter appears as witness to prove the authenticity of facts stated therein.

- viii) The statements accompanying and explaining create an exception to the hearsay rule. Press clipping could be considered as explanatory evidence that shall be read in conjunction with other evidence on the record.
- ix) Courts at bail stage always act inquisitorially to search for avenues of further inquiry into guilt of accused.

47. Lahore High Court
Engro Fertilizers Limited, etc. v. Assistant Director Agriculture, etc.
Writ Petition No.1957 of 2017
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC2701.pdf>

Facts: The respondents undertook collection and testing of fertilizer samples, followed by imposition of penal measures. The petitioners challenged these actions through the writ petitions, asserting procedural improprieties and lack of jurisdiction by the respondents in certain cases.

Issues

- i) Is ISO a certificate-awarding body for laboratory accreditation under Pakistani law?
- ii) How do the Federal and Provincial regulatory frameworks function with respect to fertilisers, and are they legally compatible?
- iii) What is the role of Pakistan Standards and Quality Control Authority (PSQCA) and Pakistan National Accreditation Council (PNAC) at the federal level in regulating fertilisers in Pakistan?
- iv) What is the legal status of PNAC accreditation and does it guarantee market protection from substandard fertilisers?
- v) Does the existence of PSQCA and PNAC oversight exclude or displace the authority of the Provincial Government in regulating fertilisers?
- vi) Can the Provincial Government lawfully regulate and penalise substandard imported fertilisers after they enter the provincial market?
- vii) What regulatory provisions are contained in the Punjab Fertilizers (Control) Order, 1973 regarding pricing, sampling, testing, and the sale of adulterated fertilisers?
- viii) What does Section 22 of the Punjab Fertilizers (Control) Order, 1973 provide regarding laboratory reports and the right of appeal?
- ix) Does the Punjab Fertilizers (Control) Order, 1973 qualify as a valid Notified Order under Section 3 of the Punjab Essential Articles (Control) Act?
- x) Does the Punjab Fertilizers (Control) Order, 1973 serve as a valid legal basis for regulatory and penal actions without requiring repeated notifications?
- xi) Does excluding manufacturers from the testing process violate the principles of natural justice and the right to due process under Article 10-A of the Constitution?
- xii) Does the Punjab Fertilizers (Control) Order, 1973 require a test report before holding an accused culpable?

xiii) Does manufacturers entitled to notice at the time of sample collection to prevent liability based solely on batch identification or presumption of ownership?

Analysis:

- i) the Hon'ble Supreme Court in case of Saleem Ijaz supra wherein the august Supreme Court read down Rule 22 of the Rules by holding that the ISO is not a certificate awarding institute, rather, the same merely sets and issue international quality standards, which are to be adhered to and enforced by National Accreditation Institutes/bodies.
- ii) the regulatory landscape for fertilizers in Pakistan involves a layered mechanism where federal and provincial regimes operate in tandem. (...)Both Federal and Provincial frameworks operate in distinct but complementary spheres, ensuring a robust system of quality control.
- iii) At the federal level, the PSQCA, operating under the Act 1996, is responsible for issuing licenses to manufacturers, including importers, for products that fall under the Compulsory Certification Scheme. Fertilizers, especially those imported into Pakistan, must conform to the PSQCA mandated standards before being cleared for sale. The issuance of a license, under the Act, 1996 follows a rigorous process that includes product testing, factory audits, and compliance with prescribed Standards. Complementing this framework is the PNAC, which accredits laboratories for testing such products.
- iv) Accreditation under PNAC is valid for specific parameters and product categories and is subject to periodic reassessment to ensure technical competence and compliance with ISO/IEC 17025. (...)the adherence to PSQCA and PNAC ipso facto does not stand as a guarantee that counterfeit, substandard and/or fake fertilizers would not penetrate into the market. This check is ensured through the Provincial laws the obliteration whereof would amount to leaving the market unchecked.
- v) The presence of PSQCA standards for imported fertilizers does not displace the regulatory authority of the provincial government under the Control Order. (...)the existence of PSQCA and PNAC oversight does not displace or oust the authority of the Provincial Governments. Instead, both frameworks work in synergy.
- vi) Thus, imported fertilizers may lawfully be subjected to sampling, testing, and penal action by the provincial authorities if found to be sub-standard post-import.
- vii) Perusal of the Control Order in general and above quoted provision in particular indicates that not only the fixation of maximum price has been dealt with under the Control Order but also information to be furnished by the importers as also the distributors alongwith disposal of the fertilizers and the maximum quantity is dealt with in various provisions thereof. Section 18 prohibits sale of adulterated and fake fertilizers whereas Section 20 pertains to testing laboratories. Similarly, dispatch of samples for test or analysis has been dealt with under Section 19 read with Section 21. The power of the Controller to search and inspect has been envisaged under Section 17 of the Control Order. Section 19 pertains to the procedure of sampling, which contemplates that it should be in the

prescribed form and the person from whose possession it is taken is provided one portion thereof with effective seal and suitable marks.

viii) the report of the testing laboratory is dealt with under Section 22, which also confers the right of appeal before the Additional Secretary (Task Force), Government of Punjab Agriculture Department.

ix) The above referred analysis of Section 3 of the Act read with Preamble of the Control Order indicates that the latter legislation is the Notified Order under the law and the argument raised by the petitioners that penal provisions of the Act are inapplicable in the absence of a specific Notified Order is not tenable. The Control Order itself constitutes a valid and operative legislation under the parent statute—the Act. Its issuance satisfied the requirement of Section 3, which enables the Provincial Government to regulate or prohibit the production, supply, movement, distribution of essential articles

x) this Court is of the opinion that once such Control Orders are notified and are enforceable legal instruments, they are not required to be repeatedly re-notified for every regulatory action. (...) hence, provides the legal foundation for regulatory actions including penal consequences arising from its breach.

xi) the procedure adopted must ensure fairness. The lack of association of the manufacturers—against whom the ultimate penal action is taken—raises a serious concern regarding compliance with the principles of natural justice. This undermines the guarantees as to due process assured under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 as the manufacturer is denied right to be associated with the testing procedure and is, ultimately, roped in the consequences of such procedure.

xii) It is imperative to note that the Control Order does not envisage automatic culpability of the accused unless test report is submitted. While it is well understood that in cognizable offences, the law enforcement agencies may register an FIR without prior notice, the scheme under the Control Order operates differently.

xiii) Therefore, ends of justice require that such manufacturers be given a notice at the time the sample is collected from its distributors/dealers and the former is not implicated solely on the basis of batch identification or presumption that the goods seized in respect of which the samples are taken in fact belong to the manufacturers.

- Conclusion:**
- i) ISO does not issue certifications; it sets international standards enforced by national accreditation bodies like PNAC.
 - ii) Federal and provincial regulatory frameworks operate jointly and complement each other to ensure effective fertiliser control.
 - iii) PSQCA handles licensing under a strict process at the federal level, while PNAC accredits testing laboratories based on technical standards.
 - iv) PNAC accreditation does not guarantee market immunity from substandard fertilisers; provincial oversight remains essential.
 - v) Federal oversight through PSQCA and PNAC does not displace the regulatory authority of the Provincial Government.

- vi) Provincial authorities are legally empowered to test and penalise imported fertilisers found substandard after import.
- vii) The Control Order comprehensively governs pricing, sampling, testing, and prohibits adulterated fertilisers, with procedural safeguards.
- viii) Section 22 of the Control Order mandates issuance of test reports and provides a statutory right of appeal to aggrieved parties.
- ix) The Control Order qualifies as a valid Notified Order under Section 3 of the Act and supports enforcement actions.
- x) Once notified, the Control Order remains enforceable without repeated notifications and forms a lawful basis for penalties.
- xi) Excluding manufacturers from sampling and testing violates due process and undermines the constitutional guarantee under Article 10-A.
- xii) Culpability under the Control Order is conditional on test results, and its framework differs from ordinary cognizable offence procedures.
- xiii) To ensure fairness, manufacturers must be given notice at the time of sampling to avoid unjust implication based on presumption.

48. Lahore High Court
Muhammad Nawaz etc. v. Muhammad Farrakh Rauf etc.
Civil Revision No.1-D/2015
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC2682.pdf>

Facts: The respondents instituted a civil suit for seeking declaration and permanent injunction regarding gift deed. Trial Court decreed the suit. Appellate Court upheld the reasoning and rational of the decree of the trial court and dismissed the appeals filled by the petitioners. Through this Civil Revision, the petitioners have challenged the concurrent findings of the lower courts before the High Court.

Issues

- i) Whether in the presence of competing claims regarding the identity of the donees, under a registered deed, particularly, when the donor is alive and denying the claimants as the actual donees, the registered deeds can be construed as void or whether it can still be given effect in the light of attending circumstances?
- ii) Whether oral assertions can overturn the documentary evidence?
- iii) Whether a plaintiff has to prove his case beyond a shadow of a doubt or only on a balance of probabilities?
- iv) Whether the donor can retroactively claim that the donees were not the intended beneficiaries?
- v) Whether incorrect details of parentage would invalidate the entire gift deed?
- vi) Whether once a gift is completed, it becomes irrevocable?

Analysis: i) Mere denial of a gift or *tamleek* by the donor even if alive does not *ipso facto* render a registered deed void, particularly, where its execution stands admitted or is otherwise proven. The Courts must examine not only the content of the document but the context in which the same was executed, *inter alia*, relationship of donor and donee, absence of fraud, so as to ascertain the identity of the donee.

ii) Oral assertions cannot overturn the documentary evidence, particularly, the registered documents executed, under the law—*Men may lie, but the documents do not*. Once a fact is reduced to writing in a registered instrument, the burden to dislodge that fact becomes extremely heavy... Suffice to mention that Article 103 of the *Qanun-e-Shahadat* Order, 1984 (—QSO) bar the introduction of oral evidence to contradict the terms of a written instrument, except under limited exceptions.

iii) Even though the oral testimony of the respondents—plaintiffs along with ancillary documentary evidence may not have been entirely forceful or free from doubt, the law does not require a plaintiff to prove his case beyond a shadow of a doubt but only on a balance of probabilities. The case of the respondents was based on registered documents whereas the defence has not only failed to bring forth independent evidence in support of its claims but has relied entirely on speculative inferences and afterthoughts, unsupported by any admissible material, which cannot take away the force of registered deeds in favour of the respondents and such defence collapses under its own weight... While both the parties exhibit certain weaknesses in their respective stances, the balance of probabilities favours the respondents. It is an admitted and undisputed fact that petitioners No. 2 and 3 were not even in existence at the time of the execution of the *tamleek* deeds. This fact alone undermines the petitioners' claim that the deeds were executed in favour of the children who were yet to be born.

iv) Petitioner No.1, having executed a gift in favor of the donees shown to be his sons, cannot now retroactively claim that the donees were not the intended beneficiaries, particularly, when he concedes that his own sons were not even born at the relevant time. The doctrine of estoppel bars a party from denying what he has previously affirmed by conduct, representation, or silence when it was his duty to speak. Furthermore, mere error in recording parentage within a registered instrument/deed is generally not fatal and does not invalidate the *tamleek*/gift deed itself, as long as the identity of the donor, donee, and the property being transferred, are clearly and correctly identified, along with the donor's intention to make a gift and the donee's acceptance.

v) Whereas the details of parentage are often included for identification purposes, these details are not considered as fundamental element that, if incorrect, would invalidate the entire gift deed as the registration of the gift deed provides legal validity and ensures that the transaction is properly documented and recognized. Moreover, an error in parentage may lead to some confusion or difficulties in proving lineage in certain situations, but it does not automatically render the gift deed invalid. If there is a dispute arising from an inaccurate recording of parentage, the parties can seek clarification or rectification of the deed through appropriate legal channels.

vi) Under Islamic law, once a *gift/hiba/tamleek* is completed—by way of declaration, acceptance, and delivery of possession, it becomes irrevocable, and any attempt to undo such a transaction is strongly discouraged. The Prophet Muhammad (ﷺ) has strongly deprecated such act of revocation, in the strongest moral terms, by stating that the revocation of a gift is

akin to a dog returning to its vomit. This Court is of the opinion that where a gift and/or *tamleek* is further recognized through a registered document, the presumption of finality and intentionality is fortified under both Islamic and statutory principles.

- Conclusion:**
- i) Mere denial of a gift or *tamleek* by the donor even if alive does not *ipso facto* render a registered deed void.
 - ii) Oral assertions cannot overturn the documentary evidence
 - iii) the law does not require a plaintiff to prove his case beyond a shadow of a doubt but only on a balance of probabilities.
 - iv) See above analysis No. iv
 - v) See above analysis No. v
 - vi) See above analysis No.vi

49. Lahore High Court
M/s GB Security Services (PVT) Limited v. The Federation of Pakistan and 4 Others
Writ Petition No. 13433 of 2023
Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC2854.pdf>

Facts: The petitioner was providing service under item No. 26 of the second schedule to the Punjab Sales Tax on Services Act-2012, for security purposes at the sites described in the related agreement to the recipient of the services. It was the claim of the respondent-authority that the tax is leviable on the entire invoice amount including salaries or other allowances that are paid by the service providers to security personnel, labour and manpower. Service providers have argued that the claim of the respondent-authority is based on misinterpretation of different provisions of Punjab Sales Tax on Services Act-2012.

Issue:

- i) Whether salaries paid to employees by service providers are liable to sales tax under the Punjab Sales Tax on Services Act, 2012?
- ii) Whether the phrase “gross amount” in Section 7(1) of the PSTS-Act can be interpreted to include salaries, in light of the rules of statutory construction requiring harmonious interpretation and avoidance of redundancy?

Analysis:

- i) Section 6(3) of PSTS-Act has specifically excluded the activities of employees providing service in that capacity to the employer, from the purview of economic activity. A reading of the agreement clearly reflects that the individuals deployed at the sites of the recipient(s) of service retain their positions of employment with the service providers. The individuals are the employees of the service providers.
- ii) Adopting harmonized approach it is clear that the words 'gross amount' are introduced to clarify that tax is to be levied on the amount that include all the taxes or duties, Federal or Provincial besides sales tax on services. The words 'gross amount' if given construction to include the salaries results into redundancy of section 6(3) of PSTS-Act. No provision of an enactment can be treated as

redundant or surplus and should be given its meaning and effect. Courts should avoid any interpretation of an enactment or rules that flouts common sense and results into absurdity and harmonize the contradictory provision in order to give effect to both the provisions.

Conclusion: i) The quantum and component of service is taxable and not the amount being reimbursed by the recipient as salaries of the individuals to the service providers.
ii) The phrase “gross amount” in Section 7(1) of the PSTS-Act cannot be interpreted to include salaries, as doing so would render Section 6(3) redundant and violate the established rules of statutory construction requiring harmonious interpretation and the avoidance of absurd or conflicting outcomes.

50. Lahore High Court
M/s. Auto Craft v. Appellate Tribunal Inland Revenue, Lahore and another
STR No.23259 of 2017
Mr. Justice Sultan Tanvir Ahmad, Mr. Justice Hassan Nawaz Makhdoom
<https://sys.lhc.gov.pk/appjudgments/2025LHC2906.pdf>

Facts: This Sales Tax Reference has been filed under section 47 of the Sales Tax Act, 1990 challenging the order passed by the Appellate Tribunal Inland Revenue, whereby it has rectified its earlier decision.

Issues: i) What is the limitation and requirement for assessment or recovery order under section 11(5) of the Sales Tax Act, 1990?
 ii) What is limitation for assessment order after issuance of show cause notice and under what situation extendable?
 iii) Whether section 57 of the Sales Act, 1990 authorizes Appellate Tribunal Inland Revenue to rectify a mistake?
 iv) Whether dismissal of a lis on limitation due to mistaken reliance on an incorrect date could be rectified under section 57 of the Sales Tax Act, 1990?

Analysis: i) It is observed that the aforesaid provision mandates that no assessment or recovery order shall be passed by an officer of Inland Revenue unless a show cause notice is issued within five years from the end of the financial year in which the relevant date falls, clearly specifying the grounds of action, and the taxpayer is provided a fair opportunity of being heard.
 ii) Furthermore, the assessment order should be passed within 120 days from the issuance of the notice; however, the Commissioner may extend this period by recording reasons in writing, but such extension shall not exceed 90 days. Additionally, the period during which proceedings remain stayed by a court, are pending ADR, or are adjourned due to the taxpayer’s own request (not exceeding 60 days) shall be excluded from the computation of the prescribed limitation.
 iii) A careful reading of the above reproduced provision of law reveals that it authorizes the Tribunal to rectify any mistake apparent from the record on its own motion or upon being brought to its notice.
 iv) In the present case, the date of issuance of the SCN formed the sole basis of

the finding on the question of limitation. The mistaken reliance on an incorrect date led to an erroneous conclusion that the assessment order was barred by time. The correction of this error being purely factual, apparent, and fundamental squarely falls within the ambit of section 57 of the Act.

- Conclusion:**
- i) An assessment or recovery order by An Inland Revenue Officer cannot be passed without issuance of a show cause notice, within five years from the end of the financial year in which the relevant date falls.
 - ii) The assessment order should be passed within 120 days from the issuance of the notice, which is extendable by the Commissioner upto 90 years. Further the time consumed in litigation would be excluded in such computation.
 - iii) Section 57 of the Sales Act, 1990 authorizes Appellate Tribunal Inland Revenue to rectify a mistake.
 - iv) The mistaken reliance on an incorrect date led to an erroneous conclusion that the assessment order was barred by time. The correction of this error being purely factual, apparent, and fundamental squarely falls within the ambit of section 57 of the Act.

51. Lahore High Court

Tassawar Ali Khan Rana etc. v. Province of Punjab etc.

Writ Petition No. 42822/2021

Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Malik Waqar Haider Awan

<https://sys.lhc.gov.pk/appjudgments/2025LHC2787.pdf>

Facts: Through this constitutional petition, petitioners have questioned the legality and validity of acts/orders/amendments made by Government of the Punjab and it has been prayed that same may be declared as ultra vires, unconstitutional, illegal and void ab initio.

Issues:

- i) Whether an adverse statutory rule or notification affecting a civil servant's terms and conditions falls within the exclusive jurisdiction of the Administrative Tribunal under Article 212 of the Constitution.
- ii) Whether the constitutional jurisdiction under Article 199 is ousted by Article 212 in matters relating to the terms and conditions of service of a civil servant?
- iii) Whether the term "public servant" encompasses a broader category than "civil servant"?

Analysis:

- i) A statutory rule or notification adversely affects terms and conditions of a civil servant, the same will be treated as a final order and for adjudicating upon the same, exclusive jurisdiction lies with an Administrative Tribunal established under the command of Article 212 of the Constitution.
- ii) The language used by the legislature in Article 212 of the Constitution makes Article 199 of the Constitution subservient to it and gives Article 212 an overriding effect over the other Articles of the Constitution qua the enforcement of terms and conditions of service of a civil servant. As the jurisdiction exercised by this Court under Article 199 of the Constitution is subject to the Constitution,

therefore, Article 212 of the Constitution ousts the jurisdiction of this Court in the cases pertaining to enforcement of terms and conditions of services of a civil servant.

iii) It would be important to mention here that “public servant” is a broader term which includes not only civil servants but also other government entities like armed forces, judiciary and statutory corporations, thus it could be said that every civil servant is a public servant because he serves the public and is paid salary from the public exchequer but every public servant is not a civil servant.

Conclusion: i) See analysis No i.

ii) Article 212 of the Constitution ousts the jurisdiction of this Court in the cases pertaining to enforcement of terms and conditions of services of a civil servant.

iii) “Public Servant” is a broader term which includes not only civil servants but also other government entities like armed forces, judiciary and statutory corporations.

52. Lahore High Court
Shabana Parveen v. Malik Mohsin Hassan Rasheed etc.
Writ Petition No. 45912/2022
Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2894.pdf>

Facts: The respondents No. 1 to 3 submitted an application requesting the production of a witness. Concurrently, the petitioner filed an application seeking directions for respondents No. 1 to 3 to deposit rent in the Court. Through a consolidated order, the learned Civil Judge granted the application from respondents No. 1 to 3 while dismissing the petitioner's application. Dissatisfied with this outcome, the petitioner appealed the decision, but the learned Additional District Judge dismissed the appeal. Hence this writ petition.

Issues: i) Whether provision of Section 22(3) of the Act is directory or mandatory in nature?
 ii) Whether order for deposit of rent in Court can be passed by the Special Judge (Rent)/Rent Tribunal when relationship of landlord and tenant is yet to be determined?

Analysis: i) Although in Section 22(3) of the Act, the words “affidavits of not more than two witnesses” have been mentioned but these words are directory in nature and Court can exercise its jurisdiction keeping in view the facts of the case and can allow more witnesses to appear in the witness box and depose. The purpose of the Act is to regulate the relationship between landlords and tenants in Punjab and provide a mechanism for resolving disputes in a timely and cost-effective manner. The rationale behind mentioning of number of witnesses is actually to curtail the time spent in rent matters and expeditious disposal thereof.
 ii) Where relationship of landlord and tenant is denied by the tenant, he cannot be compelled to deposit the rent till the relationship is established. It is, however,

observed that at the definitive end of the proceedings, if petitioner succeeds to establish the relationship of landlord and tenant with respondents No.1 and 3, rent would be recoverable through an execution petition.

Conclusion: i) Said provision is directory in nature.
ii) No, until the relationship is established.

53. Lahore High Court
Province of Punjab etc. v. Syed Muhammad Ali Raza Shah
ICA No. 2407/2025
Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2777.pdf>

Facts: Through the petitions, the petitioners claimed appointments under Rule 17-A of the Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974 prior to its rescission. The appellants challenged the judgment which granted such claims, arguing its inconsistency with a subsequent Supreme Court ruling.

Issues

- i) Who is protected under the exceptions carved out in the case of General Post Office, Islamabad and others v. Muhammad Iqbal?
- ii) Do declarations by superior courts apply retrospectively to pending, unresolved situations?
- iii) Whether Rule 17-A of the Rules becomes non est from its insertion?
- iv) What is the legal effect of the omission of Rule 17-A on persons whose appointments were still in process?
- v) What is the legal status of persons who had already taken benefit of Rule 17-A before its omission?

Analysis:

- i) It is very much clear from the above that only two following exceptions have been given:- (i) Appointments already made of the widow/widower, wife/husband or child of deceased or retired civil servants. (ii) The benefits given to the legal heirs of martyred personnel or the law enforcement agencies and of civil servants who die on account of terrorist activities and were protected through policies, rules or compensation packages of the Federal and Provincial Governments.
- ii) It is the principle of interpretation that declarations made by the superior courts are operative retrospectively over all the pending situations which have not been finalized.
- iii) We are not inclined to agree with the argument of learned Additional Advocate General that Rule 17-A of the Rules becomes non est from its insertion for the reason that neither malafide has been attributed to Rule 17-A of the Rules nor any violation of law has been agitated as a consequence to which Rule 17-A of the Rules becomes inoperative from the date of its omission (24.07.2024), hence the case of Shahid Pervaiz (supra) would not be attracted and applicable retrospectively over the past and closed chapter to the employees who had been appointed before the omission of Rule 17-A of the Rules.

- iv) However, the case of General Post Office, Islamabad and others (supra) will be applicable retrospectively to the persons who had not been appointed till the omission of Rule 17-A of the Rules and their appointments are still in process.
- v) The persons who have taken benefit of Rule 17-A of the Rules till its omission dated 24.07.2024, that process would deem to be a past and closed chapter.

Conclusion:

- i) See analysis No.i.
- ii) Superior court declarations apply retrospectively to all unresolved and pending legal matters.
- iii) Rule 17-A remains valid until its omission, and does not become void from its inception; prior appointments under it are legally protected.
- iv) Appointments not finalized before the omission of Rule 17-A are subject to the retrospective effect.
- v) Completed appointments under Rule 17-A before its omission are considered final and unaffected by subsequent legal changes.

54. Lahore High Court
Sheikh Proteins Pvt. Ltd. v. Punjab Food Authority, Lahore etc.
Writ Petition No. 5943 of 2022
Mr. Justice Syed Ahsan Raza Kazmi
<https://sys.lhc.gov.pk/appjudgments/2025LHC2696.pdf>

Facts: By way of filing writ petition, the respondents, being the regulatory authority, issued the impugned notice to the petitioner company, therein communicating certain instructions and requiring the petitioner company to obtain registration certificate under the Punjab Food Authority Act, 2011 for carrying out the sale of eggs for human consumption.

Issue: Whether the petitioner company, being licensed under the Punjab Poultry Production Act of 2016 for poultry farming is still subject to the licensing requirement under section 15 of the Act of 2011 when it engages in the sale of eggs for human consumption?

Analysis: The Act of 2016 deals with the registration of poultry premises, regulation of poultry production, and enhancement of biosecurity measures. The Act of 2011, by contrast, is designed as a food safety statute. Its preamble makes clear its object: to protect public health and regulate food safety and standards. It is evident that the two statutes operate in distinct but complementary spheres. The Act of 2016 regulates the production environment and standards applicable to poultry farming. The Act of 2011 intervenes at the point where food is introduced into the consumer supply chain. The sale of eggs for human consumption falls squarely within the ambit of the latter.

Conclusion: The petitioner, upon engaging in the sale of eggs, is operating a food business within the meaning of Section 15 of the Act of 2011. The Food Authority was, therefore, acting within its statutory mandate in requiring the petitioner to obtain a license.

55. Lahore High Court
Zain ul Abiden v. Province of the Punjab etc.
W.P.No.6561 of 2024
Mr. Justice Syed Ahsan Raza Kazmi
<https://sys.lhc.gov.pk/appjudgments/2025LHC2676.pdf>

- Facts:** Through the instant Writ Petition, the petitioner has challenged the action of the respondents whereby the respondents No.3 and 4 withheld the LL.B degree of the petitioner on the direction of respondent No.2 alleging that the petitioner obtained scholarship from respondent No.2 deceitfully and he is, therefore, liable to return the same.
- Issues:** i) How should a statutory authority / organization or an autonomous body align its actions?
- Analysis:** i) It is trite law that a statutory authority / organization or an autonomous body must ensure its actions aligned with the principles of justice and settled law, avoiding the measures that contradict these norms.
- Conclusion:** i) It must ensure its actions aligned with the principles of justice and settled law, avoiding the measures that contradict these norms.

56. Lahore High Court
Jahandad v. Additional District Judge & others
Writ Petition No.1230 of 2015
Mr. Justice Malik Javid Iqbal Wains
<https://sys.lhc.gov.pk/appjudgments/2025LHC2916.pdf>

- Facts:** The plaintiff filed a suit against the defendant alleging street encroachment between the parties, which the trial court decreed in his favour. The appellate court, while disposing of the appeal, required the municipal authority to determine the encroacher. The executing court dismissed the execution based on official reports denying the street's existence. The High Court upheld this dismissal, restoring the executing court's order.
- Issues:** i) What is meant by the term "observation" in legal context?
 ii) What would be legal consequences when term "observation" is used alongside the term "has come to conclude"?
 iii) What is mean by the term "disposed of"?
 iv) What are the powers of Appellate Court while deciding an appeal?
- Analysis:** i) Let take a look into this term so as to understand its implication. In legal contexts, the term "observations" refers to comments, remarks, or opinions expressed by a judge in a judgment. These are also known as "obiter dicta" ("things said by the way"). Mere observations in judgments/decisions do not have the force of law and do not create any binding legal precedent. Furthermore, it is settled principle of law that judicial observations are not binding unless they form

part of the decision's reasoning. These observations may provide guidance but do not have the force of law unless they form part of the ratio decidendi. Black's Law Dictionary does not provide a direct definition for "observations", but it defines related terms like "obiter dictum", which is closely linked, Obiter Dictum (Dicta): "A remark, opinion, or statement in a judicial decision that is not necessary to support the ruling and therefore not legally binding as precedent. Oxford Dictionary of Law, defines judicial "observations" as "remarks or comments made by a judge in a case that do not form a necessary part of the legal decision." Wharton's Law Lexicon, describes "observations" as "judicial expressions that may be persuasive but are not legally enforceable."

ii) The use of term "observations" alongside "has come to conclude" indicates that, after thoroughly reviewing the facts, legal arguments, and evidence, the appellate court has reached a definite point, an actual bone of contention. Based on these findings, the appellate court's actions effectively amount to a modification of the trial court's decree, when, in particular, appellate court indicated root cause of controversy, touching issue of alleged encroachment over a street. Even if the term "modification" has not been explicitly used, any alterations made by the appellate court in the judgment while explaining mechanism and process of determination of defaulting- party and steps to be taken for the enforcement of decree, in a suit for injunction. These observations and findings tantamount to introduce material modification in the original judgment.

iii) Another term which was explicitly used by the appellate court in its judgment is "disposed of". "The "OXFORD PAPERBACK THESAURUS, INDIAN EDITION" at page 239 shows informal meaning of dispose of as "get shut of"... As per Cambridge dictionary, dispose of means "to get rid of someone or something or deal with something so that the matter is finished"

Taking benefit from the information mentioned supra, in view of this Court, by "disposing of" means that the Court has reached a conclusion or determination on the merits of the case.

iv) The Hon'ble Supreme Court of Pakistan in a case of BASHIR AHMED vs. Mst. TAJA BEGUM and others (PLD 2010 Supreme Court 906) while elaborating the scope of appellate court has held as under: -

"5. Section 96 of C.P.C. in relevant part provides as under:-...

This provision enables the appellate Court to take a second look at all legal and factual aspects of a case brought it by a party aggrieved of the judgment of a trial Court. The appellate Court not only can but is required to reappraise the evidence and to thereby reach its own conclusion which may be different from the one arrived at by the trial Court."

Similar view was affirmed in the case of "MUHAMMAD AKRAM vs. Haji IJAZ AHMED and others (2006 S C M R 946). In "Punjab Industrial Development Board vs. United Sugar Mills Limited" (2007 SCMR 1394), it was further held as under: - "6. It is also a settled law that Appellate Court has to decide the appeal after independent application of mind and mere reproduction of the judgment of the trial Court and thereafter dismissing the appeal is not in consonance with the law laid down by this Court in Ghulam Mohayyuddin's case PLD 1964 SC 829."

The crux of these judgments enunciates that the appellate court was fully competent to independently re-evaluate both the legal and factual aspects of the case. It must not merely adopt the trial court's reasoning, but instead apply its own judicious mind to ensure that the decree of the trial court reflects a just and fair outcome. When the appellate court finds that the trial court's order requires adjustment, it has the authority to modify the decree to better align with the principles of justice.

Conclusion: i) See above analysis (i)
 ii) See above analysis (ii)
 iii) See above analysis (iii)
 iv) See above analysis (iv)

57. Lahore High Court
Danish Riaz Dar v. The State, etc.
Crl.Misc.No.1832-B of 2025
Mr. Justice Malik Javid Iqbal Wains
<https://sys.lhc.gov.pk/appjudgments/2025LHC2901.pdf>

Facts: The petitioner has sought pre-arrest bail in criminal case registered with allegations that he being employed at an Electronic Shop and assigned duty to recover installments from customers, committed criminal breach of trust by misappropriating large number of collected evidence.

Issue: i) What is concept of trust envisaged in Pakistan Penal Code, 1860 (PPC)?
 ii) What are necessary ingredients to constitute the offence of criminal breach of trust under PPC?
 iii) What are requirements of first condition as above to make out offence of criminal breach of trust under PPC?
 iv) Which grounds can be taken into account by the Court to grant pre-arrest bail to the accused?

Analysis: i) The concept of trust envisages that one person (the settlor), while relying on another (the trustee) and reposing special confidence in him, entrusts property or assets to him. There is a fiduciary relationship between the two in law.
 ii) The necessary ingredients of criminal breach of trust under the above provision are, (i) the accused must be entrusted with property or dominion over it, and (ii) he must have dishonestly misappropriated the property or converted it to his own use, or disposed of it in violation of the trust.
 iii) The first condition under Section 405 PPC involves three key elements, entrustment, dominion, and property. "Entrustment" refers to the transfer of possession for a specific purpose without conferring ownership. "Dominion" implies control or authority over the property. The term "property" is used broadly and should not be confined to movable assets alone. However, the presence of "entrustment" and "dominion" must be assessed in the context of the relationship between the parties and the nature of the property allegedly

misappropriated. Notably, a breach of trust can only occur if the property belongs to someone other than the accused.

iv) It is a settled principle of law that pre-arrest bail is an extraordinary relief and may be granted where the petitioner can show that the accusation has been made with mala fide intent, ulterior motives, or to cause humiliation and disgrace, and where irreparable harm may result from arrest (...) It is well-settled that pre-arrest bail may be granted not only on the basis of mala fide or ulterior motives, but also where the accusation necessitates further investigation.

- Conclusion:**
- i) Trust involves one person giving property to another with confidence, creating a fiduciary duty.
 - ii) Necessary ingredients to constitute offence of criminal Breach of Trust are entrustment of property and dishonest misappropriation.
 - iii) First condition of criminal breach of trust involve entrustment, dominion and property.
 - iv) pre-arrest bail can be granted not only on the basis of mala fide or ulterior motives, but also where the accusation necessitates further investigation.

58. Lahore High Court
Muhammad Hafeez. V. Muhammad Ramzan & 17 others
Writ Petition No. 10459 of 2019
Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC2832.pdf>

Facts: The petitioner filed a suit challenging a registered gift deed concerning agricultural land, alleging that the donor has lost normal prudence due to protracted illness, thereby unlawfully depriving certain heirs. The property was later transferred through registered sale deeds to third parties, and the petitioner, claiming inheritance, contested these transactions after the death of the original heir. The trial court dismissed an application under Order VII rule 11 of CPC for rejection of the plaint. The appellate court reversed the trial court's decision and rejected the plaint.

- Issues**
- i) Does a legal heir retain the right to challenge a transaction if the predecessor did not contest it during their lifetime and third-party rights have been created?
 - ii) Under what exceptional circumstances can an inheritance claim avoid the bar of limitation where the predecessor failed to challenge the impugned transaction during their lifetime?
 - iii) Can an inheritance claim be sustained despite limitation, waiver, and acquiescence, particularly where third-party rights have subsequently accrued?
 - iv) Is the question of limitation automatically inapplicable in inheritance claims by female heirs against male heirs?
 - v) Is recording of evidence necessary when the plaint is evidently barred by law?
 - vi) Whether a litigant should explain each day of delay when filing a suit beyond the limitation period?

- vii) Does Order VII Rule 11 C.P.C empower the Court to reject frivolous suits on its own motion?
- viii) Is it the Court's duty to examine limitation under Section 3 of the Limitation Act even without an objection from the parties?
- ix) Can a person who fails to timely object be later estopped from raising that objection?
- x) Does limitation apply even to the challenge of a void order?
- xi) Can the High Court interfere under Article 199 merely because a subordinate court's decision is incorrect?
- xii) Can Article 199 jurisdiction be used as a substitute for a second appeal or revision?

Analysis:

- i) The law has been well settled that if a predecessor has not challenged a transaction in his/her lifetime, which transaction purports to deprive the predecessor of his/her share and 3rd party rights have been created, simple claim on the basis of inheritance will not absolve the question of limitation.
- ii) the settled legal position emerges that only in the cases of exceptional facts, the question of limitation has not been treated as a statutory bar against the claims of inheritance. Those exceptional cases may be summed up in the following terms: i. Cases filed by female heirs, within their lifetime, claiming fraud and misrepresentation played against them qua the immoveable property left behind by their predecessor in interest; ii. Cases where it is pleaded and proved that the deprived female heir(s) were being paid some proportionate share from the income/lease of the immoveable property in question; iii. Cases where a co-sharer has successfully pleaded and proved that the rival heir or co-sharer was in deemed possession of immoveable property on behalf of all other heirs/siblings; iv. Cases where no third-party rights have been created in the immoveable property, which is/was subject matter of undisputed inheritance; v. Cases where the elements of acquiescence and waiver are absent on the part of the claimant legal heir or his/her predecessor in interest.
- iii) For the cases, where the element of acquiescence and waiver is depicted from the facts of the case, though the claim was based on inheritance, the argument of brushing aside the limitation on the basis of inheritance claim was not entertained, (...)The above judgments authoritatively settle the law on the subject that a claim of inheritance must cross the bridge of limitation, waiver and acquiescence. An unchecked tendency of encouraging a relief in the guise of inheritance is not warranted under the law, particularly when the property in issue changes hands and the slumber of a purported claimant of inheritance crystalizes valuable rights in favour of third party(s). The encouragement of such claims and long drawn trials in statute barred suits is counterproductive for genuine and bona fide claims of female heirs.
- iv) In various claims of inheritance brought by female legal heirs against their brothers/male heirs, the Supreme Court of Pakistan has authoritatively held that the question of limitation cannot be ignored in every such case and such question of limitation is dependent upon the facts and circumstances of each case.

- v) it is observed that when the plaint is barred by any law on the face of it, recording of evidence would be a futile exercise and meant to encourage the abuse of process of law.
- vi) Aggrieved person has to pursue his legal remedies with diligence and if a suit is beyond limitation, the delay of each and every day consumed for approaching the Court beyond the period of limitation has to be explained
- vii) By specifically incorporating the provision in terms of Order VII Rule 11 C.P.C, the legislature has empowered the Court with an independent Suo Motu and Sua Sponte power to examine the plaint by using its wisdom. The Courts always nip a frivolous suit in the bud, by rejecting such frivolous, fictitious and untenable claims in order to retain Courts' docket and time for more serious claims.
- viii) Keeping in view the mandatory provision of Section 3 of the Limitation Act, it is duty of every Court and forum itself to look into the question of limitation irrespective of the fact whether any objection in this regard has been raised or not
- ix) Moreover, where a person is aggrieved of an action and if such person did not object, he/she shall be held to have waived his/her right to object and shall be estopped from raising such objection at later stage
- x) It is also settled principle of law that the limitation runs even against a void order and a void order too has to be challenged within limitation
- xi) The extent to which the jurisdiction under Article 199 of the Constitution can be invoked has been assessed by the Supreme Court of Pakistan over the course of several decades. In the case of Muhammad Hussain Munir²⁷, Supreme Court of Pakistan has held that High Court, while exercising Jurisdiction under Article 199 of the Constitution, in the matters arising from Appellate or Revisional orders, should only be concerned with whether or not the Courts below acted within their jurisdiction. If such a Court has the jurisdiction to decide a matter, it is considered competent to make a decision, regardless of whether the decision is right or wrong and even if the said decision is considered to be incorrect, it would not automatically render it as being without lawful authority
- xii) The object of exercising Jurisdiction under Article 199 of the Constitution is to foster justice, preserve rights and to right the wrong. The conversion of scope of exercise of constitutional jurisdiction into that of a second appeal or second revision has consistently been deprecated by the Supreme Court of Pakistan.

- Conclusion:**
- i) Inheritance claims can't bypass limitation if the predecessor didn't challenge the transaction and third-party rights exist.
 - ii) Limitation in inheritance claims is only relaxed in exceptional cases involving fraud, income sharing, constructive possession, absence of third-party rights, or no waiver/acquiescence.
 - iii) Inheritance claims must overcome limitation, waiver, and acquiescence; courts discourage misuse of inheritance claims where third-party rights have vested.
 - iv) Limitation is not automatically inapplicable in female heirs' claims; its applicability depends on the specific facts and circumstances of each case.

- v) When a suit is clearly barred by law on the face of the plaint, evidence is unnecessary.
- vi) Every day of delay in filing beyond limitation must be explained.
- vii) Courts can reject baseless suits under Order VII Rule 11 C.P.C on their own motion.
- viii) Under Section 3 of the Limitation Act, every court must independently examine limitation, even if not raised by the parties.
- ix) Failure to object in a timely manner constitutes waiver, and the aggrieved party is estopped from later challenging the action.
- x) Limitation also applies to void orders.
- xi) Under Article 199, the High Court can only intervene in lower court decisions where jurisdictional error exists, not merely for incorrect rulings.
- xii) Article 199 cannot be used as a second appeal or revision.

59. Lahore High Court
The State vs. Shahid Mahmood alias Demo
Murder Reference No.323 of 2023
Shahid Mahmood alias Demo Vs. The State.
Criminal Appeal No. 4189 of 2024
Mr. Justice Muhammad Tariq Nadeem, Mr. Justice Raja Ghazanfar Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2794.pdf>

Facts: A robbery occurred at a jewellery shop during which several armed assailants looted valuables and opened fire, resulting in the deaths of a shop occupant and a passer-by. Initially, the case was registered against unknown persons. Later, a co-accused arrested on the same day disclosed the appellant's name. The appellant was arrested over a year later and was identified in a delayed identification parade held after 20 months. A Kalashnikov was recovered at his instance from an abandoned location not proven to be in his exclusive possession. He denied all allegations and claimed false implication. The trial court convicted him and awarded the death sentence, which was subsequently challenged.

Issues:

- i) Whether mere suspicion, however strong, can substitute legal proof in a case involving a capital charge?
- ii) Whether the statement of a co-accused can be used as evidence against another accused in a criminal trial?
- iii) Whether an identification parade conducted after an unexplained delay of over 20 months, without prior description of the accused's features, holds any evidentiary value?
- iv) Whether a piece of prosecution evidence not put to the accused in his statement under section 342 Cr.P.C. can be used against him?
- v) Whether medical evidence alone, without attributing a specific role to the accused, can be used to establish his culpability in a murder case?
- vi) Whether the recovery of a weapon, without its forensic linkage to crime empties, can be treated as incriminating evidence against the accused?

vii) Whether recovery from an open place, not in exclusive possession of the accused holds evidentiary value?

- Analysis:**
- i) In a case of capital charge, the prosecution must prove its case beyond reasonable doubt through cogent and convincing evidence. Mere suspicion, howsoever strong, cannot substitute legal proof.
 - ii) It is settled principle of law that statement of accused cannot be used against his co-accused because the same is inadmissible in the eye of law. Reliance is placed upon the following case laws titled as “Shabiul Hassan vs. The State” (PLD 1991 SC 898) and “Shafqat Abbas and another vs. The State” (2007 SCMR 162).
 - iii) The incident took place on 29.08.2018, but the identification parade was conducted after more than 20 months on 30.04.2020. No explanation has been offered for this considerable delay... Similarly, no features of the appellant and his co-accused have been described in the crime report as well as statements of PWs under section 161 Cr.P.C. In this way, identification parade has no legal worth.
 - iv) It is also worth mentioning here that the said identification parade was never put to the appellant in his statement under section 342 Cr.P.C. It is settled law that if any piece of prosecution evidence, which has not been put to accused in his statement under section 342 Cr.P.C does not have any legal sanctity.
 - v) In the present case, no specific role of inflicting the injuries on the body of any deceased has been attributed to the appellant, thus the medical evidence does not support to his extent. z. It is settled by now that the medical evidence is only a corroborative piece of evidence which can tell about nature of injuries, the kind of weapon used etc. but cannot identify the culprit.
 - vi) The said recovery is totally inconsequential in proving the guilt of the appellant for multiple reasons. Firstly, no crime empty was sent to the Punjab Forensic Science Agency (PFSA) for matching with the recovered Kalashnikov (P.15). The absence of such forensic linkage renders the recovery a disjointed event, unconnected with the actual offence in question. It is now firmly established that mere recovery of a weapon cannot by itself be treated as incriminating unless it is corroborated through forensic comparison with crime empties.
 - vii) The principle that recovery must be from the conscious and exclusive possession of the accused has been emphasized by the august Supreme Court of Pakistan in case of “*Arshad Khan vs. The State (2017 SCMR 564)*” wherein it is held that recoveries effected from open or unoccupied places, or from places not shown to be in exclusive possession of the accused, carry little evidentiary value.

- Conclusion:**
- i) See above analysis No i.
 - ii) Statement of accused cannot be used against his co-accused.
 - iii) See above analysis No iii.
 - iv) if any piece of prosecution evidence, which has not been put to accused in his statement under section 342 Cr.P.C does not have any legal sanctity.

- v) Medical evidence is only a corroborative piece of evidence which cannot identify the culprit.
- vi) mere recovery of a weapon cannot by itself be treated as incriminating unless it is corroborated through forensic comparison with crime empties.
- vii) See above analysis No vii.

60. Lahore High Court
Sheraz, etc. v. The State, etc.
Criminal Appeal No.77776 of 2021
Mrs. Justice Abher Gul Khan.
<https://sys.lhc.gov.pk/appjudgments/2025LHC2663.pdf>

Facts: The appellants were convicted under various sections of the Punjab Food Authority Act, 2011, as amended in 2016, for allegedly operating a unit that manufactured synthetic/adulterated milk. The prosecution's case was based on a raid by the Food Authority, during which certain materials allegedly used for producing synthetic milk were recovered. However, the appellants filed appeal against conviction in which they denied the allegations and claimed that no conclusive evidence was presented against them.

Issues:

- i) Importance of presenting all relevant physical evidence in court.
- ii) Quantity of the adulterated material to met the threshold requirement to constitute an offence.
- iii) What are the legal and procedural requirement of documenting and communicating the seizure of adulterated food products?
- iv) Whether the withholding of material evidence by the prosecution raises a presumption adverse to its case under the Qanun-e-Shahadat Order?

Analysis:

- i) It is important to mention here that Rule 14-F, Part-B, Chapter-24, Volume III of the Rules and Orders of the Lahore High Court, Lahore emphasizes the importance of presenting all relevant physical evidence in court and highlights the necessity of establishing their connection to the case and verifying their identity through witness testimony. Besides that, the rule also underscores the role of tendering tangible evidence in supporting legal arguments and ensuring a fair trial.
- ii) Under section 22A of the Punjab Food Authority Act, 2011, as amended in 2016, clearly states that the offence applies only when the quantities of adulterated food meet or exceed the specified levels outlined in the Schedule
- iii) Section 13 (2) of the Punjab Food Authority Act, 2011 envisages that a Food Safety Officer shall create a statement detailing the food, equipment, utensils, or vehicle that has been seized and shall provide a copy of this statement to the individual from whom the items were taken. If that individual is not present, a copy shall be sent to him by mail.
- iv) The Hon'ble Supreme Court of Pakistan in the case of *Muhammad Rafique, etc. v. State & others* (PLJ 2011 SC 191) held as under:-

“that if any party withholds the best piece of evidence then it can fairly be presumed that the party had some sinister motive behind it. The presumption under Article 129 (g) of Qanun-e-Shahadat Order can fairly be drawn that if PW would have been examined, his evidence would have been unfavourable to the prosecution.”

Conclusion: i) All relevant physical evidence should be produced in court
 ii) See above analysis No ii.
 iii) See above analysis No iii.
 iv) If evidence is withheld by the prosecution, presumption under Article 129 (g) of Qanun-e-Shahadat Order can fairly be drawn that if such evidence would have been produced, that would have been unfavourable to the prosecution.

61. Lahore High Court
Criminal Revision No.17582 of 2025
(Muhammad Ashraf etc. Vs. Additional Sessions Judge etc.)
Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC2763.pdf>

Facts: According to record Muhammad Akram, husband of Mst. Naseem Rani was murdered and FIR was got registered on the complaint of Mst. Naseem Rani who did not nominate any accused and mentioned in the complaint that three unknown accused took the life of Muhammad Akram. Petitioner No.1 got recorded statement under section 161 Cr.P.C. in which he implicated Mst. Naseem Rani (respondent No.2) for the commission of murder of his brother along with her son, during the course of investigation they got recovered the bloodstained clothes of the deceased along with weapon of offence i.e. club and shirt used for strangulating the deceased. She on the one hand was facing the trial in challan case and on the other hand filed a complaint under section 200 Cr.P.C. The learned Additional Sessions Judge, whereby summoned all of them to face trial in a private complain, hence this revision.

Issue: i) Which facts must be disclosed in the body of a private complaint for issuance of summons and what is the duty of a court in this regard?
 ii) What is the purpose and objective of examination of a complaint under Section 200 of the Code of Criminal Procedure?

Analysis: i) The complaint is to state the facts to satisfy the Court of the existence of every ingredient of alleged offence, otherwise, complainant would not be entitled to invoke aid of the Court and to foist travails of criminal trial on a person, accused by him. In order to constitute offence, complainant must disclose existence of both basic ingredients namely unlawful act “actus rea” and criminal intent “mens rea” on the part of accused. Before issuing process, the Court is under obligation to satisfy itself for the purpose of ascertaining the truth or falsehood of the complaint as to the existence or non-existence of sufficient grounds to issue process against the accused.

ii) Main object of dealing with the examination of complaint under Section 200 Cr.P.C. is to protect the public from false, frivolous and vexatious complaints filed against them.

Conclusion: i) Before issuing process, the Court is under obligation to satisfy itself for the purpose of ascertaining the truth or falsehood of the complaint as to the existence or non-existence of sufficient grounds to issue process against the accused

LATEST LEGISLATION/AMENDMENTS

1. The Punjab Legal Aid Agency (Appointment, Terms and Conditions of Service) Rules, 2025 dated 16-04-2025 issued by Prosecution Department.
2. The Punjab Legal Aid Rules, 2025 dated 16-04-2025 issued by Prosecution Department.
3. The Code of Conduct for Accredited Advocates, 2025 sated 16-04-2025 issued by Prosecution Department for accredited advocates.
4. Vide notification No. SOR-III(S&GAD)1-3/2023 dated 16-04-2025, amendments are made at serial Nos.1 to 3 of The Punjab Fisheries Department Service Rules, 2011.
5. Vide notification No. SO(Cab-I)2-10/2011 dated 17-04-2025, amendments are made at serial No.13 & 13A of The Punjab Government Rules of Business, 2011.
6. Vide notification No. SOR-III(S&GAD)1-4/2019 dated 22-04-2025, amendment is made in the S&GAD, Banquet Hall 90-SQA and VVIP Guest House Staff Service Rules, 2019
7. Vide notification No. SOR-III(S&GAD)1-17/2024 dated 24-04-2025, amendments are made in rule 1 & schedule of The Punjab Transport Department (Transport Authority/Technical Wing) Service Rules, 2015 (Amendment).
8. The Punjab Spatial Planning Authority Act, 2025 dated 02-05-2025 is enacted to ensure balanced growth and sustainable development of hierarchy wise settlements in the Districts.
9. Vide The Punjab Finance (Amendment) Act, 2025 dated 02-05-2025, amendment is made in section 3 of the Punjab Finance Act, 1977.
10. The Punjab Energy Efficiency and Conservation Agency Act, 2025 dated 02-05-2025 is enacted for the implementation of the provisions of Punjab Energy Efficiency and Conservation Act, 2016.
11. Nawaz Sharif Institute of Cancer Treatment and Research Act, 2025 dated 02-05-2025 is enacted for Cancer Treatment and Research, Lahore.
12. The Punjab Acid Control Act, 2025 dated 02-05-2025 is enacted to regulate and control the business of acid in Punjab.
13. The Punjab Thalassemia Prevention Act, 2025 dated 02-05-2025 is enacted to make provisions for the control and prevention of Thalassemia and other genetic orders.

14. The University of White Rock Act, 2025 dated 02-05-2025 is enacted to provide for the establishment of the University of White Rock.
15. The Nexis University Sialkot Act, 2025 dated 02-05-2025 is enacted to provide for the establishment of the Nexis University, Sialkot.
16. The Next Institute of Science and Technology Act, 2025 dated 02-05-2025 is enacted to provide for the reconstitution of the Next Institute of Science and Technology.

SELECTED ARTICLES

1. Lawyers Club of India

<https://www.lawyersclubindia.com/articles/rights-of-injured-workers-what-you-need-to-know-17691.asp>

Rights of Injured Workers: What You Need to Know by Yaksh Sharma

Injuries at work can significantly impact a person's life, both physically and financially. Understanding the rights of injured workers is essential for navigating the complexities of workers' compensation and ensuring fair treatment. This knowledge empowers individuals to advocate for themselves effectively during the recovery process. Many workers are unaware of their entitlements, which can lead to missed benefits and prolonged challenges. Rights can vary by state, making it crucial for injured workers to familiarize themselves with the specific regulations that apply to their situation. With the right information, they can navigate the system confidently and secure the support they need to recover. This blog post will explore the key rights of injured workers, outlining important facts and necessary steps to take after an injury. By highlighting these critical aspects, readers will gain insight that helps them make informed decisions regarding their health and financial well-being.

2. MANUPATRA

<https://articles.manupatra.com/article-details/PROTECTED-AREAS-NATIONAL-PARKS-UNDER-THE-WILDLIFE-PROTECTION-ACT-REFERENCE-TO-CORBETT-NATIONAL-PARK-UTTARAKHAND>

Protected Areas (National Parks) Under the Wildlife Protection Act: Reference to Corbett National Park, Uttarakhand by Prisha Jain

One of the best methods to protect the environment and conserve biodiversity, particularly endemic and threatened species, is through national parks as one of the protected areas. This research paper examines the effectiveness of the Wildlife Protection Act in protecting and managing protected areas, specifically national parks, with a special reference to Corbett National Park in Uttarakhand. It focuses on the various conservation projects implemented by Corbett National Park to protect its diverse range of wildlife species and examines the objectives of each project including habitat restoration, animal rehabilitation, and community engagement and evaluates their impact on the animal population within the park. The paper assesses the difficulties the

park experienced in carrying out these initiatives, including a lack of financing, conflicts between people and animals, and climate change. It also focuses on the continuation of these initiatives, as well as the exploration of new and innovative approaches to address the ongoing conservation challenges faced by the park. Overall, the research concludes that the conservation projects implemented by Corbett National Park have been effective in protecting and preserving its wildlife.

3. **Lawyers Club of India**

<https://www.lawyersclubindia.com/articles/guernsey-united-kingdoms-introduces-a-new-and-updated-law-on-sexual-violence-what-has-changed--17635.asp>

Mediation of International Disputes by USA: Important International Treaties in Focus by Sankalp Tiwari

Few international rivalries match the intensity, history, and complexity of the India–Pakistan conflict. Born from the trauma of Partition in 1947, the bilateral relationship has endured four wars, persistent border skirmishes, a bitter dispute over Kashmir, and a nuclear arms race. In such a geopolitically charged environment, external actors have often sought to mediate or influence the dialogue between the two nuclear-armed neighbours. The United States, in particular, has repeatedly acted as an informal mediator or power broker, leveraging its global influence to de-escalate crises or nudge parties toward negotiation. While some of these interventions have temporarily succeeded in averting war or restoring diplomatic channels, their legal sanctity and long-term effectiveness remain ambiguous. This article interrogates the nature of U.S. mediation between India and Pakistan, evaluates the historical instances of such involvement, and examines the enforceability and legitimacy of these diplomatic efforts through the lens of international law.

4. **MANUPATRA**

<https://articles.manupatra.com/article-details/Safeguarding-Privacy-Implementing-the-Right-to-Be-Forgotten-for-Biometric-Data>

Safeguarding Privacy: Implementing the Right to Be Forgotten for Biometric Data By: Kundan Kumar

This article explores the intricacies of biometric data and right to be forgotten with respect to biometric data. Considering the peculiar and sensitive nature of the biometric data, it requires special data protection framework as any unauthorised access of such data to miscreant would be devastating for the data subject, it is further discussed in this article. Currently most of the data protection laws around the world regulate the personal data but have not emphasised regulation of biometric data explicitly despite its crucial and vulnerable attributes. India's latest data protection act DPDP has no mention of biometric data in the entire act. This article dwells upon the current position of legislations of different jurisdictions with special focus on provisions ensuring right to be forgotten for this sophisticated form of data and challenges in ensuring such rights due to its special features.

5. Lawyers Club India

<https://www.lawyersclubindia.com/articles/the-role-of-technology-in-criminal-justice-17687.asp>

The Role of Technology in Criminal Justice by Yaksh Sharma

Technology plays a crucial role in modernizing the criminal justice system, enhancing its efficiency, accuracy, and transparency. From data analytics that support crime prevention to body cameras that promote accountability among law enforcement, the use of technology is transforming how justice is administered. These advancements not only streamline operations but also improve public trust in institutions. Innovative tools, such as artificial intelligence and machine learning, are being employed to analyze vast amounts of criminal data, ultimately guiding strategic decision-making. Law enforcement agencies leverage predictive policing to allocate resources effectively, while digital forensics aids in solving complex cases. As technology evolves, the possibilities for improvement in criminal justice become increasingly expansive.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*
Volume - VI, Issue - X
16 - 05 - 2025 to 31 - 05 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(16-05-2025 to 31-05-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles
Prepared & Published by the Research Centre Lahore High Court

JUDGMENTS OF INTEREST

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1. Supreme Court of Pakistan
Dr. Muhammad Asif v. Dr. Sana Sattar and others
Civil Review Petition No. 458 of 2024 in Civil Petition for Leave to Appeal No. 2514 of 2024
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.r.p._458_2024.pdf

Facts: The review petition arises from a custody dispute concerning two children, resolved through prior litigation, wherein custody was granted to one parent. The petitioner challenges the final order on grounds of insufficient consideration of child participation and best interest standards.

Issues:

- i) Whether courts are bound to hear the voice of the child in custody and guardianship proceedings?
- ii) Should the term “welfare” under Section 17 of the Guardians and Wards Act, 1890 be interpreted in light of the CRC and the Constitution?
- iii) Are courts obligated to adopt a child-centered and participatory approach in all matters involving children?
- iv) Can a mother’s employment status be used to deny her custody of her children?
- v) Should courts promote Alternative Dispute Resolution (ADR) in custody and guardianship disputes involving children?

Analysis:

- i) The earlier proceedings regrettably failed to provide the children an opportunity to be heard, an omission that undermines both domestic constitutional protections and our international commitments... We underline that a child must be heard so that her best interests can be properly understood and protected. The participation of a child in legal proceedings is not a formality; it is fundamental to a justice system that respects the dignity and agency of the child.
- ii) In this light, Section 17 of the Act, must be interpreted through the lens of the CRC and the doctrine of updating construction of statutes. This interpretive approach empowers courts to move beyond archaic conceptions of ‘welfare’ and adopt a rights-based framework that gives full effect to the dignity, agency, and voice of the child. To harmonize Section 17 with the CRC, the term ‘welfare’ must not be understood in isolation. Instead, it must be interpreted within the CRC’s normative framework, thereby transforming the concept into one that is inclusive, participatory, and rights-affirming. While ‘welfare’ is a broader, more traditional term, and ‘best interests’ its more structured and contemporary legal counterpart, the two are not irreconcilable. Through a dynamic interpretation of ‘welfare’ using the doctrine of updating construction, courts can incorporate the core elements of the best interest’s standard, most notably, the child’s right to participation. Such an interpretation not only aligns domestic law with Pakistan’s international obligations but also with its constitutional values, notably the rights to life, dignity, equality, and the protection of childhood, as guaranteed under Articles 9, 14, 25, and 34 of the Constitution. Though Section 17 was enacted in a different era, it must now be read as a ‘living’ provision. The principle that

statutes extend to new circumstances has evolved into the modern doctrine of updating construction. Given that continuous statutory revision is rarely feasible and societies often function under inherited laws, courts operate on the presumption that legislation is ‘always speaking’, meant to apply in evolving social and legal contexts. This interpretive approach ensures that statutes remain effective and aligned with contemporary values, including shifting constitutional and human rights norms. The phrase ‘welfare of the minor’ can no longer be confined to its colonial-era meaning. Instead, it must be enriched by the modern, internationally recognized concept of the best interests of the child, as codified in Article 3 of the CRC, to which Pakistan is a State Party. The ‘welfare’ standard is thus not static, it is a living standard that encompasses a child’s emotional, psychological, cultural, and developmental needs, extending far beyond material well-being or parental preference.

iii) It must be underscored that courts are bound to approach all matters involving children through the lens of a dedicated child-centered and child justice framework, a judicial philosophy grounded in both legal and moral obligations to safeguard, nurture, and empower children within the justice system.

iv) The mere fact that the mother, is a working mother, cannot be held against her in custodial determinations as her professional commitments do not diminish her role as a mother and the primary caregiver, unless established otherwise.

v) In matters involving children, such as custody, guardianship, and family disputes, the courts must recognize that a strictly adversarial approach often exacerbates conflict, delays resolution, and undermines the child’s sense of stability and security. In contrast, Alternative Dispute Resolution (‘ADR’), particularly mediation, offers a more collaborative, efficient, and child-sensitive mechanism for resolving such disputes. While the CRC does not explicitly reference the term ADR, its spirit and structure clearly support its use. Article 3 of the CRC demands that the best interests of the child be a primary consideration in all actions concerning children, while Article 12 guarantees the child’s right to express views freely and to have those views given due weight. In General Comment No. 12 (2009), the UN Committee on the CRC explicitly encourages States to develop mechanisms that ensure meaningful child participation in family law proceedings, including through non-judicial and informal processes such as mediation. Such processes must be voluntary, child-friendly, and facilitated by professionals trained to respect the evolving capacities of the child and prioritize their best interests. Properly designed ADR mechanisms reduce the psychological burden on children, promote parental cooperation, and lead to faster, more sustainable outcomes that support the child’s long-term welfare. Accordingly, Family Courts and Guardianship Tribunals must prioritize mediation as a first recourse, particularly where parties demonstrate a willingness to engage in good faith. Adjudication should be pursued only when mediation fails or is deemed unsuitable due to concerns of safety, coercion, or imbalance of power. This approach not only aligns with Pakistan’s international obligations under the CRC but also reinforces the constitutional commitment to protect the dignity, welfare, and future of every child.

- Conclusion:**
- i) Yes, courts must hear the child in such proceedings.
 - ii) Yes, it must be interpreted in line with CRC and constitutional values.
 - iii) Yes, a child-centered and participatory approach is mandatory.
 - iv) No, a mother's employment status cannot be a ground for denial of custody.
 - v) Yes, courts should promote ADR in such disputes.

2. Supreme Court of Pakistan

**Muhammad Niaz Khan v. R.P.O. Sheikhpura Region at Lahore, etc.
C.P.L.A. No. 2283-L/2016**

Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi

https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2283 1 2016.pdf

Facts: Disciplinary proceedings were initiated against a police officer for alleged faulty investigation, resulting in his dismissal. On departmental appeal, the penalty was reduced to a two-stage pay reduction, and he was reinstated. The Punjab Service Tribunal further modified the penalty to a one-stage reduction, prompting the petitioner to file a constitutional petition before the Supreme Court seeking full exoneration and reinstatement with all benefits.

Issues:

- i) Whether the principle of proportionality can be applied when the foundational basis for disciplinary action is unproven?
- ii) What are the four-step proportionality test to assess the legality and fairness of administrative and disciplinary actions?
- iii) Whether courts must follow a clear and careful reasoning process when using proportionality in cases involving basic human rights?
- iv) Whether a tribunal is bound to grant full reinstatement with all benefits upon finding the disciplinary proceedings flawed and evidence lacking?

Analysis:

- i) Without proven misconduct, there can be no legitimate objective warranting disciplinary action. Any penalty, however minor, is thus disproportionate by default. The absence of evidence removes the legal basis for any sanction.
- ii) The principle of proportionality provides a structured framework for judicial review of administrative actions. Developed across various constitutional jurisdictions, it involves a four-step test: (i) the measure must pursue a legitimate aim; (ii) be suitable to achieve that aim; (iii) be necessary, in that no less restrictive alternative exists; and (iv) strike a fair balance between the measure's impact on individual rights and the public interest. This Court has recently introduced and adopted this four-stage test to assess the legality and fairness of administrative and disciplinary decisions. Such framework ensures that any interference with rights is justified, necessary, and lawful.
- iii) Proportionality promotes a stable and systematic method of constitutional adjudication. Courts employing this approach are expected to articulate clearly the reasoning behind their decisions at each stage of the analysis thereby enhancing transparency, accountability, and legitimacy in judicial reasoning. Proportionality must, therefore, be applied with discipline, care, and sensitivity to context, particularly where fundamental rights and human dignity are at stake.

iv) Once the Tribunal reached the conclusion that the disciplinary proceedings conducted against the petitioner were procedurally defective and lacked any supporting evidence—meaning there was neither credible oral nor documentary proof to substantiate the allegations of misconduct—it became a legal and constitutional imperative for the Tribunal to fully reinstate the petitioner. This reinstatement was to include not only restoration to his original position but also all consequential service-related benefits as if the disciplinary penalty had never been imposed. The principles of natural justice and constitutional guarantees under Articles 4, 14, and 25 of the Constitution demand that in situations where injustice is evident and no wrongdoing is proven, the response must be one of complete correction and exoneration. A partial or compromised remedy, such as merely reducing the penalty despite a finding of innocence, undermines fairness and fails to uphold the constitutional commitment to justice. Thus, the Tribunal's role is not to mediate or soften the disciplinary action but to wholly rectify the injustice where it is clearly established that the foundational basis for punishment does not exist.

- Conclusion:**
- i) No, proportionality does not apply where the basis for action is unproven.
 - ii) Yes, the four-step proportionality test is essential to ensure that administrative actions are justified, necessary, and lawful.
 - iii) Yes, proportionality requires structured reasoning and careful contextual application where fundamental rights are involved.
 - iv) Yes, the tribunal must fully reinstate with benefits when proceedings are flawed and unsupported by evidence.

3. Supreme Court of Pakistan

Shahbaz Latif v. DIG Pakistan Railways Headquarters Officer, Lahore etc.
C.P.L.A. No. 2646/2023

Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi

https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2646_2023.pdf

Facts: The petitioner was wrongly appointed in public service due to the reason that he secured less marks in Matriculation against the required threshold. Petitioner had rendered 15 years of continuous service. The only question for determination before the Supreme Court is whether the petitioner is liable to refund the salary received during period of service.

- Issues:**
- i) What is the validity of public employment secured through misrepresentation or tampered credentials?
 - ii) What does the doctrine of *quantum meruit*, mean?
 - iii) What does the doctrine *quantum meruit* enable a party to do?
 - iv) In what circumstance, does the doctrine *quantum meruit* permit award of reasonable compensation?
 - v) On what principle, does the doctrine *quantum meruit* rest?
 - vi) Does the doctrine of *quantum meruit* furnish any grounds to preclude retrospective recovery of salary?

- vii) Does the principle *quantum meruit* find statutory recognition in Pakistani law?
- viii) What is the idea on which the doctrine of *administrative acquiescence* based?
- ix) In presence of silence, can the department take retrospective punitive measures?
- x) What prevents the employer from making a retrospective recovery of wages?

Analysis:

- i) It is trite that public employment secured through misrepresentation or tampered credentials is void ab initio and confers no vested right upon the appointee.
- ii) The doctrine of *quantum meruit*, literally meaning “as much as he has earned” or “as much as he deserves”.
- iii) It enables a party to claim reasonable compensation for services rendered or work performed, even where a contract is void, unenforceable, or otherwise defective.
- iv) This equitable principle permits reasonable compensation for services rendered where one party has knowingly accepted and benefited from the work of another, even in the absence of a valid or enforceable contract.
- v) The doctrine rests not merely on contractual notions, but on the broader equitable premise that a person who has received and retained a benefit should not be allowed to do so without paying reasonable compensation, particularly where the services were not intended to be gratuitous.
- vi) The doctrine of quantum meruit furnishes both a moral and legal basis to preclude retrospective recovery of salary.
- vii) The principle finds statutory recognition in Section 70 of the Contract Act, 1872, which provides: “*Where a person lawfully does anything for another person...not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered.*”
- viii) This doctrine is based on the idea that if a person, observing another about to perform an act that might infringe upon their rights, remains silent in circumstances where an objection might have prevented the act, they may later be estopped from objecting.
- ix) Administrative silence over such an extended period, particularly where it results in the receipt and acceptance of services, may amount to acquiescence and estop the department from seeking retrospective punitive measures.
- x) Principles of equity, good conscience, and public interest dictate that in the absence of fraud or dishonest conduct by the employee, retrospective recovery of wages is not only unjust, but contrary to settled legal precedent.

Conclusion:

- i) Such procured employment is void ab initio.
- ii) See above analysis No.ii
- iii) To claim reasonable compensation for the services rendered.
- iv) Where one party has knowingly accepted and benefited from the work of another.

- v) See above analysis No. v
- vi) Yes. Both moral and legal basis
- vii) Yes. Section 70 of the Contract Act, 1872
- viii) Silence over infringement of rights, despite having the opportunity to raise an objection, operates as estoppel.
- ix) The department cannot seek retrospective punitive measures.
- x) See above analysis No. x

**4. Supreme Court of Pakistan,
Frontier Holdings Limited through its Chief Executive, Islamabad and another v. Petroleum Exploration Pvt. Limited through its Chief Executive Officer, Islamabad.
Civil Petitions No. 1982 & 1983 of 2025
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi.
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1982_2025.pdf**

- Facts:** A dispute between the parties was referred to arbitration under International Chamber of Commerce (ICC), London, resulting in a partial foreign arbitral award dated 12.12.2024 and a separate cost award dated 31.03.2025. These awards were filed for enforcement before the High Court under the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011. Upon admitting the enforcement petition, the learned Single Judge granted interim relief, restraining the respondents from assigning or encumbering their working interest in Badin Fields. However, this interim relief was suspended by a Division Bench through the impugned order in an intra-court appeal. The petitioners now seek leave to appeal, challenging the impugned Order.
- Issues:** i) Whether the Supreme Court is empowered, under Orders XI, XX, and XXXIII of the Supreme Court Rules, 1980, to grant leave and suspend the impugned order of a High Court Division Bench?
- Analysis:** i) For completeness, it is clarified that a collective reading of Orders XI, XX, and XXXIII of the Supreme Court Rules, 1980 establishes that this Court, while entertaining a petition arising out of an order of a Division Bench of a High Court, is competent to grant leave and suspend the impugned order.
- Conclusion:** i) See above analysis No. i.

**5. Supreme Court of Pakistan
District & Sessions Judge (Authority), Jhang, etc. v. Ghulam Shabbir
C.P.L.A. No. 2987-L/2019
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2987_1_2019.pdf**

- Facts:** Disciplinary proceedings were initiated against a civil servant on charges of corruption and misconduct, culminating in dismissal from service by the competent authority. The Tribunal, while affirming the charges, reduced the

penalty to forfeiture of two years of service. The order was challenged before the Supreme Court through the present petition.

- Issues:**
- i) Can a tribunal reduce a major penalty in disciplinary proceedings after finding the charges proven?
 - ii) Is the principle of proportionality applicable in disciplinary actions against civil servants?
 - iii) What are the four-step proportionality test to assess the legality and fairness of administrative and disciplinary actions?
 - iv) Does a tribunal need to clearly explain its reasons when changing a disciplinary penalty based on proportionality?

- Analysis:**
- i) The Tribunal without explicitly mentioning it, has relied upon the principle of proportionality to reduce the penalty imposed on the respondent." "The Tribunal's decision to substitute the major penalty of dismissal with forfeiture of two years of service fails the proportionality test.
 - ii) At its core, the principle of proportionality requires that when an administrative authority exercises discretionary power, it must strike a fair balance between the adverse effects of its decision on the rights, liberties, or interests of individuals and the legitimate aim or purpose the decision seeks to achieve.. The principle of proportionality also finds firm footing within our constitutional framework, particularly in Article 4..., Article 14..., and Article 25.
 - iii) A more refined version of the *principle of proportionality* analysis adopts a structured, four-stage test, requiring courts to address the following questions to determine whether an impugned measure is constitutionally or legally justifiable. It includes: (i) *Legitimacy*: Does the action pursue a legitimate objective recognized by law? (ii) *Suitability* (Rational Connection): Is the measure capable of achieving that objective, i.e., is there a rational nexus between the means employed and the aim pursued? (iii) *Necessity*: Could the same objective have been achieved through a less restrictive or less onerous alternative? and (iv) *Proportionality stricto sensu* (Balancing): Does the measure maintain a fair balance between the severity of its impact on the individual and the importance of the public interest it serves?
 - iv) The application of the principle of proportionality cannot rest on bare assertions or subjective impressions. Rather, it is a structured principle that demands cogent reasoning and a transparent, systematic evaluation of the nature, gravity, and context of the established misconduct, assessed against the penalty imposed... In the absence of a clear, structured, and transparent justification, the Tribunal cannot simply conclude that a penalty is excessive based on personal belief or an undefined sense of fairness.

- Conclusion:**
- i) No, a tribunal cannot reduce a major penalty without fulfilling the legal criteria for proportionality.
 - ii) Yes, the principle of proportionality is applicable in disciplinary proceedings.
 - iii) The structured proportionality test requires assessing legitimacy, suitability,

necessity, and balancing to justify any impugned measure.

iv). Yes, structured reasoning is mandatory for modifying penalties based on proportionality.

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- 6. Supreme Court of Pakistan**
Additional Collector of Customs, Faisalabad through Collector of Customs v. M/s. Fatima Enterprises, Multan & another
C.P.L.A.2475-L/2024
Mr. Justice Munib Akhtar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2475_1_2024.pdf

Facts: The adjudicating authority's decision against the respondent was reversed by the Appellate Tribunal on the ground that the order-in-original was time-barred by holding that the extension granted by the Board under subsection (4) was ineffective as it was sought after the limitation period under subsection (3) had expired; High Court upheld this finding and dismissed the Department's reference thereafter department sought leave to appeal to the said decision.

. Issues: i) Whether the prescribed statutory timeline for issuing an order was mandatory or directory?
 ii) Whether the power to extend time under section 179(4) of the Customs Act is limited to exceptional circumstances?

Analysis: i) It was held that the timelines were mandatory and not directory and any breach thereof invalidated the order-in-original. The timelines could, however, be extended in terms of s. 74 of the 1990 Act, within the framework set out in para 12 of the judgment Collector of Sales Tax, Gujranwala and others v Super Asia Mohammad Din and others 2017 SCMR 1427, 2017 PTD 1756 ("Super Asia"). Later, some doubt was expressed in this Court as to the correctness of the principles enunciated in Super Asia. However, a Larger Bench of this Court has recently, by judgment dated 14.05.2025 in Wak Ltd. v Commissioner Inland Revenue CA 634/2018 and other connected matters, upheld the decision in Super Asia and has reaffirmed the correctness of the views expressed and principles enunciated therein.

ii) For present purposes, the point is that there is clearly a difference between a power of extension to allow the doing of the requisite act or thing within an "appropriate" time period on the one hand, and a power to extend a time-limit in "exceptional circumstances" on the other. The latter expression is more restricted than the former term. The power of the Board, in other words, to grant an extension under s. 179(4) of the Customs Act is much narrower and more circumscribed. It must also be kept in mind that s. 74 is a general provision, applying to "any" act or thing required to be done within a specified timeframe, whereas s. 179(4) moves within a much more circumscribed locus, being relatable only to matters of adjudication within the four corners of the section itself. Furthermore, the power to extend a time-limit under subsection (4) must be

understood and applied while keeping in mind that the timelines set out in subsection (3) have been held to be mandatory and not directory, in terms of the decisions noted above.

- Conclusion:**
- i) The timelines set in subsection (3) of s. 179 of Customs Act, 1969 are mandatory and not directory.
 - ii) The power to extend time under section 179(4) of the Customs Act is limited to exceptional circumstances

7.

Supreme Court of Pakistan

Mst. Parveen Ara v. Muhammad Hanif and others

Civil Appeal No.47-K of 2021

Mr. Justice Muhammad Ali Mazhar & Mr. Justice Syed Hasan Azhar Rizvi

https://www.supremecourt.gov.pk/downloads_judgements/c.a. 47 k 2021.pdf

Facts: An ejectment application under Sindh Rented Premises Ordinance 1979 (“SRPO”), filed by the respondent on the ground of personal bona fide need, was accepted. The possession of demised premises was handed over by the appellant to the landlord /respondent. Later on, the appellant filed an application for restoration of possession on the grounds as provided under Section 15-A of the SRPO. The learned Rent controller accepted the application for restoration of possession but in appeal the application was dismissed up to High Court. Hence appeal before Supreme Court.

- Issues:**
- i) What does mean by the term ‘personal use’, whether the land lord can seek ejectment on the ground of ‘personal use’?
 - ii) Upon which party thy initial burden to prove the ‘good faith’ lies?
 - iii) On what grounds the tenant can seek the restoration of possession of premises which was earlier given to the landlord?
 - iv) What period is provided for the tenant to apply for restoration of possession?
 - v) Whether the application for restoration of possession can be rejected on the point of laches?
 - vi) Whether the need of a servant can be equated with ‘personal need’?
 - vii) What is difference between the remedies the court is bound to give and the discretion to grant by the court.
 - viii) What is meant by the phrase ‘no man is above the law’?
 - ix) What powers enjoys by the Rent Controller under Section 20 of the SRPO?

Analysis:

- i) If we conscientiously explore the definition of personal use in juxtaposition with the condition of ejectment sought to be achieved on the foothold of clause (viii) of Sub-section 2 of Section 15 of the SRPO, it undoubtedly resonates that the landlord has to prove that he/she requires the premises in good faith for his/her own occupation or use or for the occupation or use of his/her spouse or any of his children.(---) It is unequivocally clear from unembellished reading of the above provisions that the ejectment of the tenement can be sought by the landlord/owner if the premises is required in good faith for personal use.

- ii) Unambiguously, the initial burden of proof that the premises is required in good faith shall be on the landlord, and once this burden is discharged, then the onus to prove the contrary is shifted on the tenant.
- iii) According to the letter of law, Section 15-A encompasses two indispensable limbs: reletting the building or premises after obtaining possession to any person other than the previous tenant, or putting it to a use other than personal occupation within one year of such possession. If any violation or breach of this provision is committed, the tenant may apply to the Controller for an order directing that he/she shall be restored to possession of the building or the premises, as the case may be
- iv) However, at the same time, the tenant cannot be given an unlimited period of time to apply under Section 15-A of the SRPO. The one-year time period cannot be construed as a period of limitation for the tenant to apply, but this right cannot be extended indefinitely at the leisure of the tenant. Such an application should be preferred within a reasonable period of time, and it is for the Rent Controller to decide whether the application is hit by laches, rather than applying the limitation period as provided under the residuary Article 181 of the Limitation Act.
- v) So, in our view, for all intents and purposes, the principle of deciding question of laches may be elected/opted by the Rent Controller, and if the application seems to have been filed beyond a commonsensical or reasonable period of time, or the tenant failed to approach vigilantly or was found in deep slumber, the application may be rejected on the point of laches.
- vi) While deciding a crucial question under a special law, neither any controversy with regard to the relationship of principal or agent is involved, nor can the personal need of a landlord be equated with the need of a servant, which is totally alien to the provisions of the SRPO.
- vii) The doctrine of “ex debito justitiae” refers to the remedies to which a person is entitled to as of right, as opposed to a remedy which is discretionary. This maxim applies to the remedies that the court is bound to give when they are claimed, as distinct from those that it has discretion to grant, where it is the foremost duty of the Court to do complete justice.
- viii) The turn of phrase “no man is above the law” explicates that everyone must obey the law and no one is above the law. The law is a signpost and benchmark for amenable demeanour in the society, so it should be obeyed subject to its sanctions and legal consequence in case of default. The law of land obliges its due implementation with full force to all people, heedless of their status, race, or religion, and should be treated equally and fairly and also entitled to the equal protection of the law not only in substantive but also in procedural justice.
- ix) In order to resolve this controversy, the learned Rent Controller, under Section 20 of the SRPO, has the powers of a Civil Court under the CPC in respect of the following matters, namely (a) Summoning and enforcing the attendance of any person and examining him on Oath; (b) Compelling production or discovery of documents; (c) Inspecting the site; and (d) Issuing commission for examination of witnesses or documents.

- Conclusion:**
- i) See above analysis No. i
 - ii) The initial burden of proof shall be on the landlord.
 - iii) See above analysis No. iii
 - iv) See above analysis No. iv
 - v) The application may be rejected on the point of laches.
 - vi) The personal need of a landlord cannot be equated with the need of a servant.
 - vii) See above analysis No. vii
 - viii) See above analysis No. viii
 - ix) See above analysis No. ix

8. Supreme Court of Pakistan
Ahmed Owais Peerzada, Chief Commissioner (Rtd) Federal Land Commission, Islamabad v. Principal Secretary to the Prime Minister, Prime Minister's Secretariat, Islamabad & others.
CPLA No.44 of 2022
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._44_2022.pdf

Facts: This Civil Petition for leave to appeal is directed against an Order passed by the Federal Service Tribunal (FST) on a Misc. Petition moved in an appeal for the implementation of the FST judgment. The petitioner was recommended for promotion to BS-22 and his dossier was included in the agenda of the High-Power Selection Board (HPSB) meeting for consideration, but due to paucity of time, his case could not be considered. Upon attaining the age of superannuation, he retired from service. He invoked the jurisdiction of the FST and filed a service appeal, which was decided with directions to the Establishment Division to put up his case before the competent forum for consideration of proforma promotion with effect from the date of the HPSB's meeting. The judgment of the FST attained finality as no appeal was filed against it. Although a summary was submitted to the Prime Minister, his case was again deferred in a subsequent HPSB meeting due to a lack of time. Despite the petitioner filing a Misc. Petition for implementation, the FST's directions were not acted upon, compelling him to approach the FST a third time. However, the FST disposed of the Misc. Petition without determining whether its own judgment had actually been implemented or not.

- Issues:**
- i) Whether a retired civil servant, who was eligible and recommended for promotion before retirement, can be considered for proforma promotion after superannuation?
 - ii) Whether the Federal Service Tribunal (FST) has the jurisdiction and responsibility to ensure the implementation of its final judgments, even in the absence of explicit procedural rules?
 - iii) Whether a final and unchallenged judgment of the FST is binding upon the government authorities, and must be implemented in full unless stayed or overturned by the Supreme Court?

- Analysis:**
- i) The petitioner's name was recommended for promotion and his case was also included in the agenda of the HPSB meeting as Item No.6, but he could not be considered due to paucity of time (...)We do not agree with this argument of the respondents that the appellant was deferred by the HPSB for promotion to BS-22 as he was ignored due to paucity of time, therefore, he cannot be granted pro forma promotion despite the fact that he was fully eligible for consideration of promotion which was not made due to inordinate delay on the part of the respondents (...)If a civil servant is unjustly denied promotion and he reached the age of superannuation, he can also be provided relief after superannuation under the SRO No. 1/18/2002-CP-11 dated 20.2.2002.
 - ii) It is an onerous duty of the FST, being the first judicial fact finding forum provided for the civil servants, to ensure the implementation of its orders/judgments, come what may, unless it is set aside by this Court (...)To ensure timely and proper execution and implementation of its judgments and orders, the FST, while exercising its jurisdiction under Section 5 of the Service Tribunals Act, 1973, is always deemed to be a Civil Court with all powers as are vested in such court under the CPC for execution (...)In case of delay or evasion, it should take all necessary steps to enforce compliance with its judgments or orders to alleviate the suffering of the recipient of the judgment or order, rather than divesting itself of jurisdiction or simply disposing of the MP without ensuring proper implementation.
 - iii) If the department had any reservations or was dissatisfied with the FST's main judgment, it could have challenged it before this Court. However, once the judgment attained finality, there was no lawful justification to prolong the matter rather than implement it (...) Unless the order of FST is suspended specifically by an order of the Supreme Court, the same must be implemented forthwith. Finality of judgments ensures the culmination of the judicial process (...) it is in the interest of the state that there should be an end to the litigation.
- Conclusion:**
- i) Retirement is not a bar for consideration of promotion of an officer who was already qualified to be promoted but could not be considered for any reason after his retirement.
 - ii) Even in the absence of a specific rule governing implementation or execution of FST judgments, the Tribunal is not stranded, helpless, or incapacitated and has the jurisdiction and responsibility to ensure the implementation of its final judgments.
 - iii) See analysis iii above.

9. Supreme Court of Pakistan
Ammar Bashir v. Irfan Shafi Khokhar and others
C.A. No. 202/2025
Mr. Justice Shahid Waheed, Mr. Justice Salahuddin Panhwar, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.a._202_2025.pdf

- Facts:** The appellant, an unsuccessful candidate in a provincial assembly election, challenged the declaration of the respondent as returned candidate, alleging malpractices and irregularities. His election petition was dismissed by the Election Tribunal due to non-compliance with statutory requirements regarding verification on oath. The present lis arises out of the challenge to the said dismissal before the Supreme Court.
- Issues:**
- i) Whether Article 225 of the Constitution mandates that election disputes must be initiated only through an election petition before the designated Tribunal?
 - ii) Whether the Elections Act, 2017 is a self-contained code that exclusively governs the conduct of elections and resolution of related disputes?
 - iii) Whether the right to contest an election is a statutory right subject to limitations imposed by law?
 - iv) Whether the verification of an election petition must comply with Section 144(4) of the Elections Act, 2017 and Order VI Rule 15 of the CPC, and whether such compliance is mandatory?
 - v) What is the significance of administering an oath in the verification of an election petition?
 - vi) Whether the verification of an election petition must be formally attested by a competent authority under Section 139 CPC to ensure its validity?
 - vii) What are the essential requirements for attestation of verification in an election petition, and whether non-compliance with these mandatory requirements entails penal consequences?
- Analysis:**
- i) Before delving into the moot question, it is essential to clarify that Article 225 of the Constitution establishes a clear framework relating to disputes over elections to a House or a Provincial Assembly. Specifically, it stipulates that any challenge to such elections can only be initiated through an election petition that must be submitted to a designated Tribunal, following procedures determined by the Act of Majlis-e-Shoora (Parliament).
 - ii) This Act encompasses the entire election process, beginning with the issuance of a notification that calls upon a specific constituency to elect its representative(s). It extends through to the final resolution of any disputes that may arise regarding the election outcome. Various provisions within the Elections Act, 2017, address different stages of this process, thereby creating a comprehensive legal framework governing elections. Similarly, any challenge to such an election must adhere strictly to the protocols established by this legislation. The Elections Act, 2017, functions as a fully self-contained code, meaning that any assertions or claims about elections or electoral disputes must be within its provisions. (...) An election petition, as defined under the Act, constitutes a statutory procedure where standard principles of equity and common law do not apply; rather, the process is governed exclusively by the rules and regulations set forth within the statute itself.

- iii) This framework implies that the right to contest an election is not inherent but is instead a construct of statute and is, consequently, subject to specific statutory limitations.
- iv) It is now well recognised that the verification of an election petition is a fundamental requirement as stipulated in sub-section (4) of Section 144 of the Elections Act, 2017. Such verification must be conducted in accordance with the detailed processes outlined in Order VI Rule 15 of the Code of Civil Procedure, 1908 (CPC). It is important to emphasise that, under the Elections Act of 2017, verifying an election petition though requires the submission of an oath that aligns with civil law; this process carries significant penal consequences.
- v) The oath serves as a vital element in the validation of an election petition. There are several critical reasons for this: first, it serves to establish accountability for the statements and claims made within the petition, binding the individual who signs the verification to the accuracy and truthfulness of the contents. Second, it aims to deter the submission of baseless and reckless allegations that lack factual substantiation. Third, the success of a candidate who has been elected should not be overturned lightly, as such actions could undermine the democratic process. Fourth, nullifying an election carries serious implications not only for the elected representatives and their constituency but also for the broader public, particularly since conducting a re-election involves substantial expenditures from public funds and administrative resources. Fifth, the introduction of false claims not only burdens the Tribunal with unnecessary work, consuming time that could be dedicated to genuine cases, but also obstructs those who truly seek justice through the legal system.
- vi) This verification process mustn't be treated as a routine formality by the deponent. Instead, as a solemn declaration, it must be formally attested by an Oath Commissioner or any authorised officer who is competent to administer oaths under section 139 CPC, ensuring that the Oath has been correctly, physically, and authentically administered to the election petitioner or deponent. This meticulous process not only upholds the integrity of the electoral system but also reinforces the seriousness of the claims being made
- vii) Among the essential requirements for valid attestation of the verification are the following: (i) it must explicitly state the date and place of its making, ensuring that the context of its execution is clear²; (ii) it must clearly indicate the presence of the election petitioner before the Oath Commissioner, affirming that the deponent was physically present during the attestation process³; and (iii) the identification of the election petitioner must be accurately referenced, in particular by using their Computerized National Identity Card, providing a reliable means of confirming their identity. These requirements are not mere formalities; rather, they are mandatory in nature, as non-compliance entails penal consequences including rejection of the election petition, reflecting the binding legislative intent that a statutory act must be performed strictly in the prescribed manner.

Conclusion: i) Article 225 requires that election disputes be initiated solely through an election petition before the designated Tribunal.

- ii) The Elections Act, 2017 provides a comprehensive legal framework covering all stages of the election process, including dispute resolution.
- iii) The right to contest an election is a statutory right and is subject to the limitations prescribed by law.
- iv) Verification of an election petition in accordance with Section 144(4) of the Elections Act, 2017 and Order VI Rule 15 of the CPC is mandatory and carries penal consequences.
- v) Administering an oath in verification is essential to ensure accountability, deter false claims, and uphold the integrity and efficiency of the electoral and judicial process.
- vi) The verification must be formally attested by a competent authority under Section 139 CPC to maintain the validity and integrity of the election petition.
- vii) The essential requirements for attestation are not mere formalities; they are mandatory, and non-compliance renders the election petition liable to rejection with statutory penal consequences.

10. Supreme Court of Pakistan
Ahsin Ali v. The State
Jail petition No.389 and 549 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._389_2023_07032025.pdf

Facts: The petitioners were convicted for the murder of an individual during an attempted robbery at a poultry farm, caught red-handed at the scene by prosecution witnesses. The trial court awarded death sentence and life imprisonment respectively, which was upheld by the High Court. Hence, instant Jail Petitions have been filed.

Issues:

- i) Whether a conviction for murder can be sustained where the accused's only role was allegedly catching hold ('Jappah') of the deceased, while fatal blows were inflicted by another?
- ii) Whether the failure to specify in the post-mortem report that the fatal injuries were caused by a hatchet or danda, and which side of the hatchet was used, creates a material contradiction in the prosecution's case?
- iii) Whether the absence of a proven motive affects the awarding of death sentence and convictions under sections 393 and 449 PPC?
- iv) Whether international human rights obligations and constitutional guarantees support the reduction of death sentence to life imprisonment where motive is not proved?

Analysis: i) We were able to lay on hands on the judgments rendered by this Court in the cases of Muhammad Anwar vs. The State (1981 SCMR 850) and Ahmad Ali vs. The State (2021 SCMR 470). In these cases, 'Jappah' was attributed to the petitioners/accused of the said cases while fatal blows were attributed to another

co-accused. This Court found force in the submission of the petitioners of the said cases that their case is distinguishable from that of co-accused acquitted them of the charges while accepting their appeals. In *Zarin Shah and 2 others vs. The State* (1974 SCMR 376) it was held that. (...) Hence, on these grounds, we are of the view that the prosecution has failed to prove its case beyond reasonable doubt against the accused Muhammad Ramzan alias Jani.

ii) The contradiction pointed out by learned counsel for the petitioners that in the post-mortem report, which, although attributes the cause of death to severe head injuries however does not specify the nature of the weapon used — whether it was a hatchet, a Danda, or any other incriminating object is not significant because the prosecution witnesses have not stated that (...) petitioner used the right side of the hatchet. The lacerated wounds mentioned in the postmortem report of the deceased can be caused with the wrong side of the hatchet and as such there is no material contradiction between the ocular account and medical evidence of the prosecution.

iii) It is a settled principle of law that while awarding death sentence and convicting an accused motive has to be given prime importance since without there being an unshattered motive proven by the prosecution, death sentence cannot be awarded, rather in such cases death sentences are usually converted into sentences for life imprisonment (...) Likewise, if the motive of robbery punishable under section 393 PPC is not proved then offence of trespass punishable under section 449 PPC in order to loot any article from the poultry shed of the deceased is also not proved.

iv) In the case of *Muhammad Yasin and another vs. The State and other* (2024 SCMR 128), while elaborating on the issue of motive (...) Moreover, the state of Pakistan is signatory to the International Covenant on Civil and Political Rights (the "ICCPR") and the same is ratified by the Federal Government in 2010 (...) Interestingly, the Federal Government had reservations on certain articles of the ICCPR, including the aforementioned Article 6. However, the said reservations were subsequently withdrawn by the Federal Government except for the Articles 3 and 25. Hence, the withdrawal of said reservations give full force to said Articles. This also shows that the state of Pakistan is fully committed to fulfil its international obligations and commitments so as to achieve the highest level of civil and political rights of its citizens and non-citizens' (...) The phrase 'most serious crimes' is elucidated in the ICCPR's General Comment No. 6 of 1982 (...) Similarly, the phrase 'inherent right to life'-is explained in General Comment No. 6 of 1982 (...) The Resolution No. 1984/50 by the United Nations Economic and Social Council (the "ECOSOC"), titled as the 'Safeguards Guaranteeing Protection of Rights of those Facing Death Penalty' state as (...) The aforementioned settled proposition of law, recently reiterated by this Court, states the quantum of sentence may be reduced from the death penalty to the life imprisonment if the prosecution fails to establish motive. This principle is in conformity with the Article: 6 of the ICCPR, which stipulates that the death penalty may be only imposed for the 'most serious crimes (...) Similar to Article 2(1) of the ICCPR, the fundamental 'right to life' is also rooted in Article 9 of the

Constitution of Pakistan, 1973 (the "Constitution") as established by this Court in *Shehla Zia and others v. WAPDA* (PLD 1994 Supreme Court 693). Article 4 of the Constitution grants protection from any action which is 'detrimental to the life, liberty, body, reputation or property of any person' except taken in accordance with law. The 'right of dignity' under Article 14 of the Constitution is inviolable.

- Conclusion:**
- i) Conviction for murder cannot be sustained where the accused's role was limited to holding the deceased and fatal blows were inflicted by another.
 - ii) Failure to specify the weapon or side of the hatchet used does not create a material contradiction in light of consistent ocular and medical evidence.
 - iii) Unproven motive warrants reduction of death sentence to life imprisonment and failure to prove motive of robbery nullifies charges under sections 393 and 449 PPC.
 - iv) Where motive is not proven, international covenants and constitutional guarantees support reducing the death sentence to life imprisonment.

11. Supreme Court of Pakistan
Qurban Ali v. The State
Jail Petition No.403 of 2022
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 403 2022.pdf

Facts FIR was registered against the petitioner/ appellant under section 302/34 of the Pakistan Penal Code for allegedly killing his wife and children. Trial court convicted and sentenced him to death which was upheld by the High Court. Through Jail Petition, the petitioner assailed his conviction before Supreme Court of Pakistan.

Issues: i) Who is entitled to benefit for contradiction and doubts in prosecution evidence?

Analysis: i) The depositions of various prosecution witnesses, complainant etc., as noted above, do reflect contradictions and doubts. It is a settled proposition of law that in case of contradictions and doubts the benefit of the same must be extended to the accused. Reference in this regard may be made to the case reported as *Abdul Jabbar and another versus The State* (2019 SCMR 129) wherein it was observed that: "it is the settled principle of law that once a single loophole is observed in a case presented by the prosecution much less glaring conflict in the ocular account and medical evidence or for that matter where presence of eye-witnesses is not free from doubt, the benefit of such loophole/lacuna in the prosecution case automatically goes in favour of an accused."

Conclusion: i) In case of contradictions and doubts in prosecution evidence the benefit must be extended to the accused.

12. **Supreme Court of Pakistan**
Khair Muhammad & Zahoor Ahmed v. The State
Criminal Petitions No. 132 of 2018 & Jail Petition No. 120 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan & Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.p.132.2018.pdf

Facts: The petitioners were convicted by the trial court and sentenced to life imprisonment under the charge of murder of complainant's son. The conviction was maintained from the Hon'ble High Court. Hence petitions were filed before the Honorable Supreme Court.

Issues:

- i) Whether identification of the accused becomes doubtful if the source of light is not given in the site map?
- ii) Whether reliance can be placed upon the result of FSL report where the crime empties are sent for FSL report after the recovery of the weapon of offence?
- iii) How the CDR (call data record) can be proved with regard to the respective mobile phones?
- iv) Whether a document i.e CDR etc., without the signatures of the concerned officer or the company's seal or a letter of authentication, can be relied upon?
- v) Whether an accused is entitled to the benefit of a reasonable doubt as a right?

Analysis:

- i) Furthermore, no recovery has been made in regards a supposed alternate source of light and the site map again does not mention any source of light or place from where such source may have been recovered. The identification of the petitioners is thus not free from doubt.
- ii) The law in this regard is well settled that no reliance can be placed upon the result of an FSL report where the crime empties were sent for FSL report after the recovery of the weapon of offence.
- iii) Admittedly, it has not been proved whether the mobile phones allegedly recovered from the deceased and the petitioners were in their personal use, nor has it been proved which SIMs were recovered from the mobile phones and to whom they were issued. Again, the names of the deceased and petitioners were absent from purported CDR except in the form of handwriting subsequently interpolated into the document.
- iv) Thus, it is also of foremost importance that the Call Data Record (CDR) must bear the endorsement/authentication of the cellular/telecom company which has issued it. A bare document such as the CDR without any signature of the concerned officer of the cellular / telecom company issuing the CDR cannot be considered for the purposes of trial and relied upon until and unless it bears the company's seal or a letter of its authentication.
- v) Since reasonable doubts abound and these would accrue as of right to the petitioners, we are sanguine that the petitioners are entitled to the benefit of the same.

- Conclusion:**
- i) In absence of source of light the identification of the accused become doubtful.
 - ii) No reliance can be placed upon the result of an FSL report where the crime empties were sent for FSL report after the recovery of weapon.
 - iii) See above analysis No.iii
 - iv) See above analysis No. iv.
 - v) An accused is entitled to the benefit of a reasonable doubt as a right.

13. Supreme Court of Pakistan
Muhammad Kamran v. The State and another
Criminal Appeal No. 91/2024
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin
Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 91_2024.pdf

Facts: The appellant allegedly committed the murder by firing inside the house of the deceased and her father. Based on these allegations, the appellant was booked in an FIR. After a regular trial, the Trial Court convicted the appellant for an offence under section 302(b) of the Pakistan Penal Code (PPC) and sentenced him to death, along with a directive to pay compensation. This conviction and sentence were subsequently upheld and confirmed by the High Court. Hence, the present appeal is filed by leave of this Court.

Issues: i) Whether a single fatal shot constitutes a mitigating factor?

Analysis: i) The defense's argument that a single shot constitutes a mitigating factor is untenable. Targeting the chest with a firearm is a deliberate act aimed at causing death, not an act done in the heat of passion or without intent to kill. Furthermore, it is no mitigating circumstance to shoot a woman in the chest and then plead for leniency on the basis that only one shot was fired. A single fatal shot to the chest is sufficient to demonstrate lethal intent. The absence of a second shot does not dilute the severity of the crime.

Conclusion: i) No, a single fatal shot does not constitute a mitigating factor, especially when the act is not done in the heat of passion or without the intent to kill.

14. Supreme Court of Pakistan
Bashir-ud-Din and Sharif-ud-Din v. The State
Criminal Appeal Nos.26, 27 & 28 of 2021
Mr. Justice Muhammad Hashim Khan Kakar,
Mr. Justice SalahuddinPanhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 26_2021.pdf

Facts: Appellants were convicted by trial court and sentenced to death, life imprisonment and payment of fine for commission of offences under section 302,396 and 460 PPC. Their appeals were dismissed from High Court. Supreme

Court of Pakistan, while deciding appeals, upheld conviction, however, modified death sentence to life imprisonment.

- Issues:**
- i) What is confession and what is its evidentiary value?
 - ii) What standard of evidence is required for proof of fact?
 - iii) Can confession of an accused be considered as evidence against co-accused?
 - iv) Can conviction be sustained, if confession is retracted?
 - v) If the motive is shrouded in mystery, what would be its effect on quantum of punishment?
 - vi) Whether firing a single shot from firearm can be considered a mitigating factor?

- Analysis:**
- i) The Black's Law Dictionary defines confession, as a criminal suspect's oral or written acknowledgment of guilt, often including details about the crime. Apart from the dictionary meaning, writers like John H. Wigmore defined confession as "an acknowledgment in express words, by the accused in a criminal case, of the truth of the main fact charged or of some essential part of it. To make it more simple it is the admission of the accused regarding the commission of the offence. Coming to the evidentiary value of the confession, as per the law of confession in Pakistan, it recognizes two types of confessions; one being the extra-judicial confession and the second being the judicial confession. It is pertinent to mention that both confessions have a distinct evidentiary value, the former constitutes a weak piece of evidence unless corroborated with strong piece of evidence as held in Imran Case, that the extra-judicial confession was not sufficient for recording conviction on a capital charge unless it was strongly corroborated by tangible evidence coming from unimpeachable source, for the very reason that it may be deposed in front of any person, of any locality, any profession, and even any character, but it is upon the Judge, whether he believes in the existence of the occurrence and veracity of the version as deposed in the extra-judicial confession. The latter, which is in the instant case is the judicial confession, that is attributed with a high degree of confidence Ipso Facto, as it is recorded by a Judicial officer in a court in consonance with Section 164 and 364 of the Cr.P.C. and it is commonly relied upon for maintaining conviction by the superior courts of Pakistan. Reference in this regard can be plethora of judgments in Pakistan.
 - ii) Conceptual analysis of Article 2(4), Qanun-e-Shahadat, 1984 shows that in order to prove a fact asserted by a party, it does not require a perfect proof of facts, as it is very rare to have an absolute certainty on facts. This provision sets the standard of a prudent man for determining the probative effect of evidence under the circumstances of the particular case. The judicial consensus that has evolved over time is that the standard of 'preponderance of probability' is applicable in civil cases, the standard of 'proof beyond reasonable doubt' in criminal cases, and the in-between standard of clear and convincing proof in civil cases involving allegations of a criminal nature. All these three standards are, in fact, three different degrees of probability, which cannot be expressed in mathematical terms, and are to be evaluated under the circumstances of particular

case, as provided in clause (4) of Article 2 of the Qanun-e-Shahadat, 1984, and observed in Salamat Case.

iii) The Judicial confessional statement... is recognized by law as against the other coaccused as circumstantial evidence, under Article 43. the law of the land itself allows the consideration of such statement as circumstantial evidence against the other co-accused, in addition to that the sub-continental precedent of India has reasoned the jurisprudence behind this provision, Article 43 of the Qanun-e-shahadat Order 1984 is *PariMateria* to the Section 30 of the Indian Evidence Act 1872. The confessional statement of the coaccused, wherein he has implicated both himself and the other accused, may also be considered a relevant circumstance against the convict in terms of Article 43 of the Qanun-e-Shahadat, 1984. This provision lays down that when two or more persons are jointly tried for the same offence, and a confession made by one of them is duly proved, the court may take such confession into consideration as circumstantial evidence against the others. It is to be noted that a different view also exists in criminal law, that as far as confessional statement of one accused is concerned, it may be taken into consideration against the other accused persons if the confession substantially implicates the maker himself, to the same extent as the other accused persons against whom it is sought to be taken into consideration. However, this cannot be considered as a prevailing view in our opinion and it would be sufficient when the accused attributes to himself even a minor role, which is different from other coaccused, it will still be acceptable if by confessing to that minor role, it leads to the maker's incrimination in the case. The position, however, would be different and confession would not be acceptable, where while making the alleged confession, an attempt is made by the maker of it to throw the blame on the other accused persons, making himself a mere unwilling spectator, in this regard reliance is placed on numerous judgments of India.

iv) Even though the confession was subsequently retracted, a conviction can still be sustained if there exists other corroborative and incriminating evidence against the appellants. It is pertinent to note that once a confessional statement is found to be true and voluntary, it can form the basis for conviction. In this regard, reference may be made to the case of Muhammad Amin.

v) As far as the motive is concerned, it is important to highlight that the prosecution's case reveals two conflicting narratives regarding the motive: one asserts that the murder occurred during a robbery/dacoity, while the other proposes the possibility of a targeted killing. Consequently, the true motive remains shrouded in mystery. Both versions have surfaced in the evidence, yet neither diminishes the culpability of the appellants, nor any of the version was supported by cogent evidence. It was held in Muhammad Yaqoob Case and Ali Asghar alias Aksar case that, where the motive for the offence is shrouded in mystery then the extreme penalty of death is not warranted. In addition to that, it has been held in numerous cases that when motive is neither proved, nor satisfactorily established, in that circumstance the extreme penalty of death is usually avoided.

vi) There are precedents of this Court recognizing that the act of firing a single shot from a firearm may constitute a mitigating factor warranting the imposition of an alternate sentence. In support of this principle, reliance is placed on the authoritative judgment of this Court in Shameem Khan Case.

- Conclusion:**
- i) See above analysis (i)
 - ii) See above analysis (ii)
 - iii) Yes. Confession of an accused is circumstantial evidence against co-accused.
 - iv) Yes. conviction can still be sustained if there exists other corroborative and incriminating evidence.
 - v) Where the motive for the offence is shrouded in mystery then the extreme penalty of death is not warranted.
 - vi) Yes. Firing a single shot from a firearm may constitute a mitigating factor.

15. Supreme Court of Pakistan
Gul Tiaz Khan Marwat v. The Registrar Peshawar High Court, Peshawar & others
C.R.P.557 of 2020 in C.A.353 of 2010
Justice Amin-Ud-Din Khan, Senior Judge, Justice Jamal Khan Mandokhail, Justice Shahid Bilal Hassan, Justice Shakeel Ahmad, Justice Ali Baqar Najafi
https://www.supremecourt.gov.pk/downloads_judgements/c.r.p._557_2020.pdf

Facts: Through this petition filed under Article 188 of the Constitution of Islamic Republic of Pakistan, 1973, read with order XXVI Rule 1 of the Supreme Court Rules 1980, review has been sought of the judgment dated passed by this Court whereby Civil Appeal arising out of Constitution Petition, filed by the petitioner challenging the validity of the judgment/order, passed by the Peshawar High Court in Writ Petition, was dismissed

Issues

- i) What is the forum of appeal under Rule 12 of the Peshawar High Court Ministerial Establishment (Appointment and Conditions of Service) Rules 1989, read with the provisions of the [Khyber Pakhtunkhwa] Civil Servants (Appeal) Rules, 1986?
- ii) What are essential grounds of review?

Analysis: i) However, after consulting the said provisions of the rules, they agreed that under Rule 12 of the 1989 Rules read with Rule 3 of the 1986 Rules, the right of appeal had been provided to the petitioner, and such rules would mutatis mutandis apply to the petitioner's case, which was to be heard by a Bench of two judges to be nominated by the Chief Justice, as per the statement showing delegation of powers of the Gazetted and non-Gazetted establishment under the Rules of 1960. However, in exercise of powers conferred under Article 208 of the Constitution, the Peshawar High Court with the approval of the Governor Khyber Pakhtunkhwa, has made the Rules of 2020, and in terms of Rule 16, if any order affecting the terms and conditions of service of a member of the establishment is

passed or any penalty is imposed by legislation, an appeal shall lie to the Chief Justice. Where any such order is passed or penalty imposed by the Chief Justice, other than an appeal from an order of the Registrar, an appeal shall lie to a Bench of three senior most judges of the Court. Furthermore, while the 1989 rules stand repealed, under Rule 22 of the 2020 Rules such repeal shall not affect anything duly done or suffered before these rules.

ii) It is by now settled that a reviewable ground would essentially be one where the decision was per incuriam or where error is so evident that it is floating on the surface of the record, having substantial impact on the final outcome of the case as happened in the instant case, thereby constituting a valid ground for review.

Conclusion: i) See above analysis No. i
ii) See above analysis No. ii

16. Supreme Court of Pakistan
Muhammad Naseer Butt v. Additional District Judge, Lahore, etc.
C.P.L.A. No.3519 of 2021
Mr. Justice Yahya Afridi (Chief Justice), Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3519_2021.pdf

Facts: The daughters of the petitioner instituted a suit for the recovery of maintenance, which was decreed by the family court. The decree was subsequently enhanced by the appellate court. The High Court dismissed the petitioner's challenge to the appellate court's judgment. The matter remained pending before being referred to mediation, where the parties reached a settlement submitted to the Court.

Issues: i) What is the role and importance of mediation in the judicial process, particularly in familial disputes, and how should courts integrate mediation into the litigation process?
 ii) What legal frameworks and judicial measures establish and support mediation as a mainstream dispute resolution tool in Pakistan?

Analysis: i) Mediation is not merely an alternative to litigation; it is a paradigm shift in dispute resolution, built on the principles of collaboration, confidentiality, and party autonomy. It offers a non-adversarial framework that empowers parties to shape the outcome of their own disputes, guided by a neutral facilitator rather than a judicial determination. (...) Courts must embrace a pro-mediation ethos, particularly at the initial stages of litigation. Judges and lawyers must be sensitized to identify cases fit for mediation and facilitate their referral in a timely manner. Litigants, likewise, should be encouraged to consider mediation and other methods of alternative dispute resolution as a first resort, rather than a last recourse.
 ii) The statutory recognition and legislative frameworks provided by the Alternative Dispute Resolution Act, 2017, and subsequent provincial legislations underline mediation's established legal validity. Recent judicial directions and

rules, such as the ADR Mediation Accreditation (Eligibility) Rules, 2023 and Mediation Practice Direction (Civil) Rules, 2023, further consolidate mediation as a mainstream dispute resolution tool within Pakistan's judicial ecosystem.

Conclusion: i) Mediation should be embraced early as an effective, collaborative alternative to litigation.
ii) See analysis No. ii.

17. Supreme Court of Pakistan
Muhammad Amjad Naeem vs. The State, through PG Punjab and another
Criminal Petition No.170 of 2023
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/crl.p.170_1_2025_23042025.pdf

Facts: This petition for leave is arising out of FIR registered under section 406 PPC, therein the complainant, who runs an automobile showroom alleged that the petitioner purchased four vehicles between October 2021 and January 2022 through partial payments and written agreements, promising to pay the remaining amounts later. However, after taking possession of the vehicles, the petitioner failed to pay the outstanding dues and became untraceable, allegedly misappropriating all the vehicles.

Issues:

- i) What are the essential elements required to establish the offence of criminal breach of trust under Section 406 of the Pakistan Penal Code?
- ii) What does the term "*entrustment*" mean under Section 405 of the Pakistan Penal Code?
- iii) How does "*entrustment*" differ from "*investment*" in a business venture under the context of criminal breach of trust?
- iv) Whether a transaction involving money or property given under a sale agreement amounts to entrustment?
- v) Whether the relationship between a seller and purchaser amounts to entrustment under Section 405 PPC for criminal breach of trust?
- vi) Whether failure to pay profits or breach of contract amounts to criminal breach of trust without clear entrustment of property?
- vii) What is the general principle regarding the grant of bail in cases involving non-bailable offences under Section 497(1) Cr.P.C.?
- viii) Whether bail can be denied solely on the basis of an unsubstantiated apprehension that the accused may abscond?
- ix) Whether the mere use of terms like "*trust*" or "*amanat*" in business transactions constitutes entrustment for criminal breach of trust?
- x) Whether mere nomination of an accused in multiple FIRs is sufficient ground to refuse bail?

Analysis:

- i) A plain reading of aforesaid section reveals that, there are two requisite elements which are necessary to establish a case of criminal breach of trust. Firstly, the accused must have been entrusted with a property as trust (amanat), or must have dominion over it as trust (amanat). Secondly, after such entrustment or dominion is created, the accused must have breached that trust by either dishonestly misappropriating or converting the property to his own use, or dishonestly using or disposing of it in violation of any direction of law, an express or implied legal contract related to the discharge of the trust, or willfully allowing another person to do any of these acts.
- ii) The term ‘entrustment’, as used in section 405 P.P.C, means that a property is given to a person as a trust (amanat), whereby, a confidence is reposed in the recipient person and he is obligated to return the same to person making the entrustment. The attachment of this obligation in the entrustment implies that the ownership of the property in question remains with the person who has given the property and has not been transferred, in any manner, to the person receiving the property, who is only temporarily given possession/custody of the entrusted property for a specific purpose and the same property is to be returned by the said person.
- iii) In a situation where property or money is invested in a business venture it is utilized for some business purpose, whereas, in a situation of entrustment, the property in question is given for a specific purpose — namely, to be returned—and cannot be used for any other purpose by the recipient.
- iv) It is also trite law that where money or property is given as part of an agreement to sell or in the due course of a transaction of sale, the same does not amount to an entrustment.
- v) In the case of a sale, the ownership of the concerned property does not remain with the person giving the property, but rather, it stands transferred to the recipient. Consequently, the concerned property is not to be returned to the owner so there is no concept of entrustment or trust (amanat), as required for criminal breach of trust, in a transaction of sale. Therefore, as there can be no entrustment between a seller and a purchaser, relations between a shop-keeper and customer, vendor and vendee, or seller and purchaser does not come within the ambit of criminal breach of trust as defined in section 405 P.P.C.
- vi) It is also well recognized that mere failure to pay profits, or a breach of promise, agreement or contract in the absence of clear entrustment of property, do not attract criminal breach of trust.
- vii) The principle that bail should be granted as a rule and withheld only in exceptional circumstances, particularly in cases involving non-bailable offences, not falling within the prohibitory clause of section 497(1) Cr.P.C., has been developed and applied in numerous judgments of this Court.
- viii) Bail should not be withheld simply on the basis of an unsubstantiated apprehension that the concerned accused will abscond, unless such apprehension is based on some solid material available on the record, such as past behavior of accused.

- ix) The mere use of expressions such as "trust" or "amanat" within the context of business transactions does not, by itself, amount to an act of entrustment so as to attract the offence of criminal breach of trust.
- x) The view taken by the Learned High Court in the impugned judgment that the petitioner cannot be granted bail because he is nominated in three other FIRs is misplaced, because as discussed above, only previous conviction can furnish a ground for refusal of bail.

Conclusion:

- i) See above analysis No.i
- ii) Entrustment under Section 405 PPC means temporary possession with duty to return property.
- iii) Investment in business differs from entrustment, which requires property to be returned and not used otherwise.
- iv) Money or property given in a sale transaction does not constitute entrustment.
- v) Ownership transfer in sales excludes entrustment; thus, seller-purchaser relations do not fall under criminal breach of trust.
- vi) Failure to pay profits or breach of contract without clear entrustment does not constitute criminal breach of trust.
- vii) The principle mandates granting bail as a norm, withholding it only in exceptional cases not covered by Section 497(1) Cr.P.C.
- viii) Bail cannot be denied on mere suspicion of absconding without solid evidence like the accused's past conduct.
- ix) Use of terms like "trust" or "amanat" in business does not alone constitute entrustment for criminal breach of trust.
- x) Mere nomination in multiple FIRs is not sufficient to refuse bail; only a prior conviction can justify denial.

18. Lahore High Court
Shiraz Ahmad v. The State, etc.
Crl. Rev. No.39709 of 2024
Justice Miss Aalia Neelam (Chief Justice).
<https://sys.lhc.gov.pk/appjudgments/2025LHC3190.pdf>

Facts: The petitioner, along with others, is facing trial for alleged offences under Sections 295-A, 295-B, and 298-C of the Pakistan Penal Code (PPC), read with Section 11 of the Prevention of Electronic Crimes Act, 2016 (PECA), and Section 196 of the Code of Criminal Procedure (Cr.P.C.), 1898. During the trial, the petitioner filed an application seeking sanction from the authority under Section 196 Cr.P.C. for the court to take cognizance of the offence under Section 295-A PPC. After hearing arguments from both sides, the trial court dismissed the application. The petitioner has now filed this criminal revision against that dismissal.

Issues:

- i) What is the primary purpose of the Prevention of Electronic Crimes Act, 2016?
- ii) Which court has jurisdiction over offences under PECA 2016 and Sections 295-A to 298-C of the PPC?

iii) Whether Section 196 Cr.P.C. applies to proceedings before a court constituted under a special statute?

Analysis:

- i) The Prevention of Electronic Crimes Act 2016 has been promulgated to prevent unauthorized acts concerning information systems and to provide mechanisms for related offences as well as procedures for investigation, prosecution, trial, and international cooperation with respect thereto and for matters connected therewith or ancillary thereto.
- ii) The offences under Section 11 of the Prevention of Electronic Crimes Act, 2016, and Sections 295-A, 295-B, 295-C, and 298-C of the Pakistan Penal Code, 1860, are interlinked and to be tried by a court established under Section 44(1) of the Prevention of Electronic Crimes Act, 2016.
- iii) Section 196 of the Cr.P.C. would not apply to proceedings before a court constituted under a special statute that is inconsistent with the provisions of the Special Act.

Conclusion:

- i) The Prevention of Electronic Crimes Act 2016 aims to prevent cyber offences and establish procedures for their investigation, prosecution, and trial.
- ii) Offences under Section 11 of PECA 2016 and Sections 295-A to 298-C PPC are interlinked and triable by the court under Section 44(1) of PECA.
- iii) Section 196 Cr.P.C. does not apply to proceedings before a court constituted under a special statute.

19. Lahore High Court
Master Riaz Ahmad, etc. v. The State, etc.
Crl. Appeal No.14068 of 2019
Yaseen Farooq v. Master Riaz Ahmad, etc.
Crl. Revision No.16319 of 2019
Yaseen Farooq v. Muhammad Shahbaz alias Gogi, etc.
P.S.L.A No.16318 of 2019
Ms. Justice Aalia Neelum, (Chief Justice)
<https://sys.lhc.gov.pk/appjudgments/2025LHC3235.pdf>

Facts: The appellants have challenged the impugned judgment passed by the learned Additional Sessions Judge in a private complaint filed under sections 302, 109, 148, and 149 of the Pakistan Penal Code (PPC), along with the State case under the same provisions, whereby the trial court convicted and sentenced them. It is pertinent to mention that the complainant also filed a Criminal Revision for the enhancement of the sentence awarded to the appellants and a Petition for Special Leave to Appeal (P.S.L.A.) against the acquittal of respondents No. 1 to 6. Since all these matters arise from the same judgment of the trial court, they are being disposed of through a consolidated judgment.

Issues:

- i) What should a court do if there is even the slightest doubt about the involvement of the accused in a criminal case?
- ii) What are the dual roles of enmity in the context of criminal occurrences?

iii) Under what circumstances can a court's judgment be considered perverse or illegal?

Analysis:

- i) The courts, while appreciating the evidence in criminal cases, must recognize the higher degree of proof required in a criminal case compared to a civil case. The evidence presented by the prosecution should be legally admissible. If there is the slightest doubt regarding the involvement of the accused, the court should not convict the accused.
- ii) Enmity, as is well known, is a double-edged weapon that cuts both ways. On one hand, it provides a motive for the accused to commit the occurrence in question; on the other hand, it equally provides an opportunity for the first informant to implicate their enemy. Proof of motive by itself may not be grounds to hold the accused guilty. The accused's motive to commit the crime, based on their actions, cannot, by itself, lead to a judgment of conviction.
- iii) This court has also taken note of the settled principle of criminal jurisprudence that unless it can be shown that the lower court's judgment is perverse or that it is completely illegal. No other conclusion can be drawn except the guilt of the accused, or misreading or non-reading of evidence, resulting in a miscarriage of justice. Even otherwise, when a court of competent jurisdiction acquits the accused, the double presumption of innocence is attached to his case.

Conclusion:

- i) If there is any doubt regarding the accused's involvement, the court should not convict the accused.
- ii) It can act as a motive for the accused to commit a crime and also serve as a basis for the complainant to falsely implicate the accused.
- iii) If there is gross misreading or non-reading of evidence that leads to a miscarriage of justice.

20. Lahore High Court
Shiraz Ahmad v. The State, etc.
Crl. Revision No.37104 of 2024
Ms. Justice Aalia Neelum (The Chief Justice)
<https://sys.lhc.gov.pk/appjudgments/2025LHC3197.pdf>

Facts: Petitioner preferred criminal revision against order passed by trial court, whereby written request for adjournment due to absence of counsel for the accused/petitioner was declined and examination-in-chief of seven prosecution witnesses was recorded in presence of accused.

Issues: i) Whether the recording of prosecution evidence in the absence of the petitioner's counsel violates the right to a fair trial?

Analysis i) Recording of evidence is not a ritual; it is a solemn duty to be performed by the trial court. The entire edifice of the case depends on the recording of the examination-in-chief of the witnesses in presence of the accused. Considering the importance of recording evidence, both the Criminal Procedure Code, 1898, and

the Qanun-e-Shahadat Order, 1984, address this aspect of the trial. Section 353 Cr.P.C. is as under:-

Evidence to be taken in presence of accused: Except as otherwise expressly provided, all evidence taken under Chapters XX, XXI, XXII, and XXII-A shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

The section allows the trial court to record the evidence if the accused is present or to do so in the presence of their counsel if the court dispenses with the accused's attendance. The learned counsel for the petitioner argues that the petitioner was denied the right to counsel under Article 10(1) of the Constitution of the Islamic Republic of Pakistan, 1973, which is misconceived as the petitioner was represented by his counsel after his arrest.(...) The petitioner is not denied the right to a fair trial.

Conclusion: i) Section 353 Cr.P.C mandates that evidence must be recorded in the presence of the accused or their counsel if the former's attendance is dispensed with..

21. Lahore High Court
Shiraz Ahmad v. The State
Crl. Revision No. 39743 of 2024
Ms. Chief Justice Aalia Neelum
<https://sys.lhc.gov.pk/appjudgments/2025LHC3194.pdf>

Facts: This criminal revision under section 435 Cr.P.C. read with section 439 Cr.P.C. is directed against the order passed by the learned Additional Sessions Judge, whereby charge under sections 295-A, 295-B, 295-C and section 11 PECA was framed against the petitioner and the application filed by the petitioner for framing the charge against the accused was disposed of.

Issues i) Whether at time of framing of charge, the court has to focus on the material/evidence collected during the investigation?
 ii) Whether at the time of framing of charge, the probative value of the material/evidence on record can be assessed?

Analysis: i) At the stage of framing charges, the court must focus only on materials collected during the investigation that can be legally translated into evidence, rather than on any additional evidence the prosecution may present during the trial, which begins only after the charges are framed and the accused denies them. The trial judge is not merely a post office to frame the charge at the instance of the prosecution. The judge must sift through the evidence to determine whether sufficient grounds exist for proceeding. Evidence includes the statements recorded by the police or the documents submitted before the court.
 ii) At the time of framing the charges, the probative value of the material on record cannot be assessed, and the material presented by the prosecution must be accepted as true. The purpose of framing a charge is to inform the accused of the clear, unambiguous, and precise nature of the accusation they will confront

during the trial. At this stage, the court is concerned not with proving the allegation but rather with evaluating the material and forming an opinion as to whether there is a strong suspicion that the accused has committed an offence, which, if put to trial, could prove their guilt. The framing of the charge is not a stage at which the final test of guilt is applied.

Conclusion: i) The court must focus only on materials collected during the investigation
ii) At the time of framing the charges, the probative value of the material on record cannot be assessed, and the material presented by the prosecution must be accepted as true.

22. Lahore High Court
Gujranwala Electric Power Company etc. v. Ahsan etc.
Writ Petition No. 2296 of 2020.
Mr. Justice Shujaat Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3379.pdf>

Facts: The private respondents, after serving requisite Grievance Notices, approached Labour Court by filing Grievance Petitions with the prayers for their reinstatement and regularization in service on the ground that after satisfactory completion of nine months' service, they attained the status of permanent workmen, which were accepted with order of their reinstatement and direction to petitioner-GEPCO to treat them as permanent workmen. Being aggrieved, the petitioner-GEPCO filed independent appeals, which were dismissed by the Punjab Labour Appellate Tribunal (PLAT). Being dissatisfied with decisions of the fora below, the petitioner-GEPCO has filed these petitions.

Issues:

- i) Whether the Grievance Petition is maintainable before the Labour Court?
- ii) Whether the scope and application of any enactment determines the area of its operation?
- iii) What is effect of indemnity clause in an enactment?
- iv) Whether section 17 of State-owned Enterprises (Governance and Operations) Act, 2023 ensures independence of the Board of Directors (BODs)?
- v) Whether the GEPCO falls within the definition of commercial establishment as defined under section 2(b) of the Industrial and Commercial Employment (Standing Orders) Ordinance 1968?
- vi) Whether GEPCO qualifies as an industry and its employees fall under the Industrial and Commercial Employment (Standing Orders) Ordinance 1968?
- vii) Whether the Industrial and Commercial Employment (Standing Orders) Ordinance 1968 applies to employees governed by statutory rules notified in the official Gazette?
- viii) Where can an employee governed by the master and servant principle seek remedy for service related grievance?
- ix) Does inclusion of a subject in the Legislative List limit the jurisdiction of Labour Court established under relevant law?

x) Whether proceedings can be initiated under the repealed Ordinance 2000 after the enactment of the Act, 2010?

ix) Whether article 25 of the Constitution 1972 provides shield against any kind of discrimination?

x) What is effect of concealment of any fact at time of getting a job?

Analysis:

i) There is no cavil with the fact that electricity falls within the category of federal subject but said fact cannot be used to deprive the Labour Court of its jurisdiction to try an issue between the employer and employee in relation to terms & conditions of the latter.

ii) I am of the view that the scope and application of any enactment determines the area of its operation. Section 3 of the Act, 2023, deals with scope and application of said enactment....it is more than clear that the Act, 2023 has been enforced for the smooth working of the state-owned companies with specific reference to the appointment of its Chief Executive and the Directors of the Board but nowhere in the entire Act, 2023 not a single reference has been made to the terms & conditions of the employees of state-owned companies.

iii) There is no cavil with the fact as per section 23 *ibid* indemnity has been given against filing of suit, prosecution or other legal proceedings in respect of their duties but the said indemnity is not applicable to proceedings filed by the private respondents for the reason that they sought declaration from the Labour Court regarding their permanent status after completion of nine months of satisfactory service. Even otherwise, the sought for indemnity does not absolve the management of petitioner-GEPCO to discharge its duties with specific reference to the provisions of the Ordinance, 1968, especially when the same has been made applicable to the employees of Generation Companies (GENCOs) and DISCOs etc.

iv) I have gone through section 17 of the Act, 202, a cursory glance over the above quoted provision shows that though independence of the BoDs has been ensured but the said independence has been confined to the policies relating to the functioning of the state-owned companies in particular appointment of the Chief Executives of the state-owned companies, in a transparent manner.

v) The above provision entertains no ambiguity to the effect that the provisions of the Ordinance, 1968, are not confined to the commercial establishment rather the industrial establishment is also covered under the said enactment in respect of terms & conditions of its employees.

vi) We have to go through section 2(bb) of the Ordinance, 1968...The above quoted provision clarifies that any entity which is involved in electrical undertakings falls within the definition of an industry. Insofar as the status of the petitioner-GEPCO is concerned, since its main role is distribution, service and sale of electric power, in my humble estimation, the same falls within the definition of an industry, thus, the provisions of the Ordinance, 1968, are applicable to its employees. The said observation of this Court also finds support from Office Memorandum, dated 29.01.2011, issued by the erstwhile PEPCO, whereby it was clarified that the Rules, 1978, are not applicable to its employees

rather they are governed under the provisions of the Ordinance, 1968 and it was advised that all the proceedings initiated under the Rules, 1978, would be dealt with under the provisions of the Ordinance, 1968.

vii) According to the second proviso to section 2 of the Ordinance, 1968, the provisions of the said enactment are not applicable to employees of the provincial or federal government departments whose terms & conditions of service are governed under the statutory rules which were duly notified in the Official Gazette.

viii) It is well entrenched by now that when an employee is governed under the principle of master-and-servant and in case of any grievance in relation to his terms & conditions of service he can only approach the forums established under the Labour Laws.

ix) From the above, it is vividly clear that mere mentioning of a subject in the Legislative List in the Constitution does not determine the power of legislation rather the same shows that which government would deal with the said matter. Moreover, according to Article 175 of the Constitution, the government has the jurisdiction to establish courts for various subjects and since the Labour Courts have been established under the provisions of the Labour Laws enacted by the relevant government, the same cannot be denuded of their powers to deal with a matter covered under the provisions of the Ordinance, 1968.

x) Moreover, through Office Memorandum bearing No.3/10/2010-R-II, dated 17.03.2010, issued by the Secretary to Government of Pakistan, Cabinet Secretariat, Establishment Division, Islamabad, it was clarified that the Ordinance, 2000 having been repealed, no proceedings could be initiated against government employees under the said enactment but GEPCO authorities, in utter violation of the Act, 2010 and the subsequent clarification, applied the provisions of the Ordinance, 2000 to the private respondents.

xi) Article 25 of the Constitution provides shield against any kind of discrimination and if any act of the executives is found tainted with mala-fide or discrimination, same cannot be allowed to continue.

xii) It is well established by now that a person who is found involved in concealment of a fact, at the time of getting job against a particular post, is not entitled to any leniency... It is well settled by now that eligibility criteria for appointment against a particular post is to be determined on the basis of public advertisement.

- Conclusion:**
- i) See the above Para No.i
 - ii) The scope and application of an enactment defines its operational limits, it cannot apply beyond what is expressly covered.
 - iii) An indemnity clause protects official acts but does not bar private claims for statutory rights unless expressly included.
 - iv) Section 17 ensures independence of BODs only in policy matters, particularly in appointing Chief Executives, not in all aspects of governance.
 - v) See the above Para No.v

- vi) GEPCO qualifies as an industry and its employees are governed by the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968, not the rules of The Pakistan Wapda Employees (Efficiency and Discipline) Rules, 1978.
- vii) No, the Ordinance does not apply to employees of governments governed by duly notified statutory rules.
- viii) Such an employee can only approach forum established under the labour laws.
- ix) The Legislative list only indicates legislative competence; labour courts validly exercise jurisdiction under laws enacted by the competent government.
- x) Once the Ordinance 2000 was repealed, initially proceedings is unlawful.
- xi) Article 25 of the Constitution of Pakistan provides shield against discrimination.
- xii) See the above Para No.viii

23. Lahore High Court
The State v. Muhammad Arshad etc.
Murder Reference No.88 of 2024
Muhammad Arshad etc. v. The State etc.
Criminal Appeal No.923 of 2024
Jahanzeb @ Jana Sheedi v. The State etc.
Criminal Appeal No.1087 of 2024
Mr. Justice Sadagat Ali Khan, Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC3447.pdf>

Facts: The appellants have challenged their conviction and award of death sentence in a murder case registered against them.

Issues:

- i) What is effect of minor and general discrepancies occurring due to delayed cross-examination?
- ii) Whether any presumption is attached to the plea of alibi of the accused or to be proved through independent evidence?
- iii) What is the purpose behind the infliction of sentence?
- iv) What adverse effects would be caused by taking lenient view in heinous offences?

Analysis:

- i) The discrepancies in the statements of the PWs pointed out by learned counsel for the appellants (Muhammad Arshad and Farhat Ullah) are minor and general in nature, occur in every case when witnesses (who are human beings) are cross-examined at later stage as in present case, are not fatal to the prosecution case.
- ii) Mere presumption cannot be equated with proof in order to qualify or to substantiate the plea of alibi, Muhammad Arshad (appellant) was required to discharge the onus cast upon him to substantiate the plea of alibi.
- iii) The purpose behind the infliction of sentence is twofold. Firstly, it would create such atmosphere which could become a deterrence for the people who have inclination towards crime and; secondly, to work as a medium in reforming the

offence. Deterrent punishment is not only to maintain balance with gravity of wrong done by a person but also to make an example for others as a preventive measure for reformation of the society.

iv) If in any proved case lenient view is taken, then peace, tranquillity and harmony of society would be jeopardized and vandalism would prevail in the society. Now-a-days the crime in the society has reached an alarming situation and in the mental propensity towards the commission of crime with impunity is increasing. Sense of fear in the mind of a criminal before embarking upon its commission could only be inculcated when he is certain of its punishment provided by law and it is only then that the purpose and object of punishment could be assiduously achieved. If a Court of law at any stage relaxes its grip, the hardened criminal would take the society on the same page, allowing the habitual recidivist to run away scot-free.

- Conclusion:**
- i) Minor and general discrepancies occurring due to delayed cross-examination are not fatal to the prosecution case.
 - ii) No presumption is attached to accused's plea of alibi, rather to discharge the onus cast upon him to substantiate the plea of alibi.
 - iii) Infliction of sentence serves twofold purpose; firstly, deterrence for the people who have inclination towards crimes. Secondly, to work as a medium in reforming the offence.
 - iv) If in any proved case lenient view is taken, then peace, tranquillity and harmony of society would be jeopardized and vandalism would prevail in the society.

24. Lahore High Court

Mst. Nasreen Fatima v. Muhammad Abbas Khan etc.

Civil Revision No. 280 of 2025

Mr. Justice Masud Abid Naqvi

<https://sys.lhc.gov.pk/appjudgments/2025LHC3167.pdf>

- Facts:** The plaintiff/petitioner filed a suit for specific performance of an oral agreement to sell & cancellation of mutation. Learned trial court partially decreed the suit. Feeling aggrieved, the plaintiff/petitioner filed an appeal and learned Additional District Judge, dismissed the appeal. Being dissatisfied, the plaintiff/petitioner has filed the instant Revision Petition.
- Issue:** What is the effect of a plaintiff's failure to appear as a witness in a suit for specific performance of an oral agreement?
- Analysis:** The plaintiff herself opted not to appear before the learned trial court and to make her statement on oath as required by law for appearance of a witness to take oath before the court for a correct statement (...) The plaintiff has not exhibited any medical report/documentary evidence to prove her health conditions, restricting her not to appear in the witness box. The plaintiff's bad health is not proved and only grounds left for her non-appearance are not valid legal grounds. (...) The facts & circumstances of the case reflects that she did not appear before the court

to depose in person just to avoid the test of cross-examination or with the intention to suppress some material facts from the court and it can safely be presumed adversely against the plaintiff/petitioner as provided in Article 129(g) of Qanun-e-Shahadat Order 1984.

Conclusion: The plaintiff's failure to appear as a witness without substantiated medical or legal justification warrants an adverse inference under Article 129(g) QSO, 1984.

25. Lahore High Court
Rahil Butt and 21 others v. The Federation of Pakistan through Secretary Establishment Division, Islamabad and 114 others
Writ Petition No.1180 of 2022
Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC3087.pdf>

Facts: The petitioners were appointed as lecturers through the recruitment process conducted by the Federal Public Service Commission, Islamabad. In this writ petition, they have challenged the status of respondents No.5 to 115 on the ground that they were appointed without due process of law.

Issues:

- i) What is the etymology of the word *quo warranto*?
- ii) From which system did the writ of *quo warranto* originate?
- iii) Being the special form of legal action, what can the Court require the public office holder in the writ of *quo warranto*?
- iv) What is the primary object and purpose of writ of *quo warranto*?
- v) What is the nature of *quo warranto* proceedings?
- vi) Who can move for the issuance of a writ of *quo warranto*?
- vii) On which factor is the very issuance of writ of *quo warranto* dependent?
- viii) What does the Court have to ensure with respect to the person holding the public office?
- ix) Is there any limitation period provided for filing a constitutional petition?
- x) On what principles is the delay in filing a constitutional petition to be analysed?
- xi) Can a right accrued by the expiry of the limitation period be disregarded in a mechanical manner?
- xii) Can the delay in filing a constitutional petition abridge the court's power to examine the validity of an appointment?
- xiii) What is the sole constitutional concern emanating from Article 199(1)(b)(ii) of the Constitution?
- xiv) What does the term "Locus poenitentiae" denote?
- xv) Whether an order, once passed, becomes irrevocable and past and closed transaction?
- xvi) Can the rights gained on the basis of an illegal order be sustained?
- xvii) What can be inferred from Section 21 of the General Clauses Act, 1897?
- xviii) What is purpose of promulgation of the Civil Servants Act (LXXI of 1973)?
- xix) What does section 5 of the Civil Servants Act, 1973 postulate?

- xx) On whom does Section 25 of the Civil Servants Act, 1973 bestow power to make such rules as appear necessary for carrying out its the purposes?
- xxi) For what purpose were the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 (hereinafter referred to as “Rules, 1973”) framed under Section 25 of the Act, 1973?
- xxii) What are the underlying principles of the Rules 10, 11 and 12 the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973?
- xxiii) What sort of powers does Article 242 of the Constitution confer upon Majlis-e-Shoora (Parliament) and the Provincial Assembly?
- xxiv) What is the primary object of Article 242 of the Constitution?
- xxv) What is the legal basis for the establishment of Commission?
- xxvi) What is the underlying authority for framing the Federal Public Service Commission (Functions) Rules, 1978?
- xxvii) What is the prescribed procedure for the Commission to test the persons who may have been appointed to a civil post?

Analysis:

- i) Quo warranto is a latin word. In the literal sense it means by what authority or warrant (...) In simple words quo warranto is used to test a person’s legal right to hold an office and not to evaluate the person’s performance in the office. In legal parlance quo warranto refers to a prerogative writ issued by a court to inquire into the authority of a person holding a public office or exercising a public franchise. It essentially asks by what warrant and compels the person to demonstrate his/her right to hold the position or exercise the power.
- ii) The writ of quo warranto originates from English common law way back in 12th century. It was initially used by the crown to determine if someone was rightfully exercising a privilege or office granted by the crown, or if they were intruding on royal prerogatives.
- iii) Quo warranto is a special form of legal action issued to resolve a dispute over whether a specific person has the legal right to hold the public office that he or she occupies (...) While dealing with laches, particularly in case of petition of quo warranto in terms of Article 199(1)(b)(ii) of the Constitution, requiring or calling a person holding public office to show under what authority of law he/she claims to hold the office.
- iv) The prime object and purpose of quo warranto is to challenge the legitimacy of a person’s claim to a public office or franchise, for determining if the appointment or grant of the right was made in accordance with law so as to ensure that public offices are occupied by individuals with proper authority and that public franchises are exercised legally.
- v) The proceedings in terms of writ of quo warranto are in the nature of inquisitorial and not adversarial.
- vi) It is not necessary that the person invoking writ of quo warranto should be aggrieved as is required in the case of writ of mandamus, certiorari or prohibition. Anybody can move for issuance of writ of quo warranto as a whistleblower but blowing of whistle must be for the benefit of public in general and not for the personal vengeance and gains with malafide intent.

- vii) The very issuance of writ of quo warranto is dependent upon the judicial conscious of the court and it cannot be claimed as a matter of right by the person, approaching the court.
- viii) The principle of equity and consciousness are the guiding factors for issuance of writ of quo warranto on the one hand and simultaneously court has to ensure that person holding the public office is legally entitled to hold such office and his status is not tainted with any nasty.
- ix) There is no cavil to the legal proposition that though no limitation is provided for filing a constitutional petition but it is to be brought within reasonable time, which ordinarily is reckoned as ninety days.
- x) The effect of delay in filing the constitutional petition is to be analyzed on the basis of facts and circumstances of each case.
- xi) There can be no second opinion that expiry of period of limitation creates a substantial right in favour of one party which cannot be swayed away in a mechanical manner unless strong valid reason for delay beyond the control of delinquent party have been put forth.
- xii) Mere delay would not operate as a bar, for the reason that authority of the court to examine the validity of an appointment to a public office, on constitutional and legal grounds, cannot be abridged on technicalities.
- xiii) The sole constitutional concern emanating from Article 199(1)(b)(ii) of the Constitution is to protect the “public office” and more importantly the public institution behind it.
- xiv) “Locus poenitentiae” is a latin term used primarily in legal contexts, meaning "a place of repentance" or "an opportunity to withdraw." Locus poenitentiae is the power of receding till a decisive step is taken.
- xv) It is not a principle of law that order once passed becomes irrevocable and past and closed transaction.
- xvi) If the order is illegal then perpetual rights cannot be gained on the basis of such an illegal order.
- xvii) In terms of Section 21 of General Clauses Act, 1897 it can safely be inferred that the authority which can pass an order, is entitled to vary, amend, add to or to rescind that order, as locus poenitentiae is the power of receding till a decisive step is taken, but it is not a principle of law that order once passed becomes irrevocable and past and closed transaction.
- xviii) In order to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of Pakistan, and to provide for matters connected therewith or ancillary thereto the Civil Servants Act (LXXI of 1973), (hereinafter referred to as “Act, 1973”) was promulgated.
- xix) Section 5 of the Act, 1973 postulates that appointments to an All-Pakistan Service or to a civil service of the Federation or to a civil post in connection with the affairs of the Federation including any civil post connected with defence, shall be made in the prescribed manner by the President or by a person authorized by the President in that behalf.

xx) Section 25 of the Act, 1973 bestows power upon the President or any person authorized by the President in this behalf to make such rules as appear to him to be necessary or expedient for carrying out the purposes of the Act, 1973.

xxi) In furtherance thereof, the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 (hereinafter referred to as “Rules, 1973”) were framed so as to regulate the method of appointment and promotion etc. of the civil servants

xxii) Rule 10 being component of Part III unequivocally and explicitly dictates that initial appointment in BS-16 and above are equivalent, except those which under the Federal Service Commission (Function) Rules, 1978 does not fall within the purview of Commission, shall be made on the basis of tests and examinations conducted by the Commission. Rule 11 on the other hand deals with the initial appointment to a post in basic pay scales 1 to 15 and equivalent, other than those mentioned in Rule 10 and mandates that it shall be made on the recommendation of the departmental selection committee after the wide publication of the vacancies in the newspaper. Rule 12 ordains that a candidate for initial appointment to a post must possess the prescribed educational qualifications and experience and that he or she must be within the prescribed age limit, except it otherwise provided in the rules framed for the purpose of relaxation thereof.

xxiii) Article 242 of the Constitution commands and mandates that Majlis-e-Shoora (Parliament) in relation to the affairs of the Federation, and the Provincial Assembly of a Province in relation to the affairs of the Province, by law provide for the establishment and constitution of a Public Service Commission.

xxiv) The prime object and purpose of Article 242 of the Constitution is to ensure the transparency in the process of civil service.

xxv) In furtherance of the mandate under Article 242 of the Constitution, Ordinance was promulgated and Commission was established. Section 7 of the Ordinance outlines the functions of the Commission to carry out the purpose and object of the Ordinance.

xxvi) In terms of the powers conferred upon the Federal Government by Section 10 of the Ordinance the Federal Public Service Commission (Functions) Rules, 1978 were framed.

xxvii) In terms of Rule 5, the Commission is empowered, on a reference made by the appointing authority, to test persons who may have been appointed to a civil post without observing the prescribed procedure or without fulfilling the prescribed qualifications, experience and age limits, and advise whether they are fit to hold the post to which they were appointed, and, if not, whether they are fit to hold any other civil post in the same or lower Basic Scale compatible with their qualifications and experience.

- Conclusion:**
- i) See above analysis No.i
 - ii) The writ of quo warranto originated from English common law.
 - iii) The Court, in terms of Article 199(1)(b)(ii) of the Constitution, can require public office holder to show under what authority of law he/she claims to hold the office.

- iv) The primary object and purpose of quo warranto is to challenge the legitimacy of a person's claim to a public office or franchise.
- v) The nature of *quo warranto* proceedings is inquisitorial.
- vi) Anybody can move for issuance of writ of quo warranto.
- vii) Quo warranto is dependent upon the judicial conscious of the court.
- viii) The principle of equity and consciousness are the guiding factors and the court has also to ensure that person holding the public office is legally entitled to hold such office.
- ix) There is no limitation for filing a constitutional, however, reasonable time is provided, which is reckoned as ninety days.
- x) Delay in filing the constitutional petition is to be analysed on the basis of facts and circumstances of each case.
- xi) No. Expiry of limitation period creates a substantial right in favour of one party which cannot be disregarded in a mechanical manner.
- xii) No. Delay in filling a constitutional petition cannot abridge the court's power to examine the validity of an appointment.
- xiii) The sole constitutional concern is to protect the public office.
- xiv) See above analysis No. xiv.
- xv) No. It is not a principle of law.
- xvi) No. rights gained on the basis of illegal order cannot be sustained.
- xvii) See above analysis No. xvii
- xviii) The purpose of promulgation of the Civil Servants Act, 1973 was to regulate the appointment of persons and the terms and conditions of service of persons in, the service of Pakistan.
- xix) See above analysis No. xix
- xx) On President or any other person authorized by the President.
- xxi) The Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 were framed to regulate the method of appointment and promotion etc. of the civil servants.
- xxii) See above analysis No. xxii
- xxiii) See above analysis No. xxiii
- xxiv) To ensure the transparency in the process of civil service.
- xxv) Under Article 242 of the Constitution, Ordinance was promulgated and Commission was established.
- xxvi) Federal Government
- xxvii) See above analysis No. xxvii

26. Lahore High Court
Mr. Amir Sajjad v. Commissioner Inland Revenue, Jhelum Zone and others
I.T.R. NO.40 of 2025
Mr. Justice Mirza Viqas Rauf, Mr. Justice Rasaal Hasan Syed
<https://sys.lhc.gov.pk/appjudgments/2025LHC3156.pdf>

Facts: This reference application, made under Section 133 of the Income Tax Ordinance, 2001, originates from the order of the Appellate Tribunal, Inland Revenue,

whereby the Tribunal remanded the matter to the Assessing Officer for de novo proceedings concerning the applicant's appeal.

Issues: i) Whether the Tribunal is vested with the powers to remand the case to the Commissioner?

Analysis: i) Section 132 of the Ordinance deals with decision of appeals by the Tribunal and Sub-Section (4) ordains as under:-

(4) Where the appeal relates to an assessment order, the Appellate Tribunal may, without prejudice to the powers specified in sub-section (3), make an order to-

(a) affirm, modify or annul the assessment order;

(b) remand the case to the Commissioner for making such enquiry or taking such action as the Tribunal may direct; or

(c) make such order as the Appellate Tribunal may deem fit.

[Underlining is supplied for emphasis]

From the bare perusal of the above referred provision of law it is manifestly clear that the Tribunal is vested with the powers to remand the case to the Commissioner for making such enquiry or taking such action as the Tribunal may direct or make such order as it deems fit.

Conclusion: i) Yes, the Tribunal is vested with the powers to remand the case to the Commissioner for making such enquiry or taking such action as the Tribunal may direct or make such order as it deems fit.

27.

Lahore High Court

Salamat Ali v. Sabohi Naz

R.F.A. No.27359/2024

Mr. Justice Ch. Muhammad Iqbal

<https://sys.lhc.gov.pk/appjudgments/2025LHC3273.pdf>

Facts: The respondent filed a suit for recovery of a loan amount allegedly advanced to the appellant, who issued a cheque in return. Upon presentation, the cheque was returned by the bank due to it being linked to a photo account requiring the drawer's presence. The trial court decreed the suit. Hence; this appeal.

Issues

- i) Whether the withholding of key witnesses attracts a presumption against the plaintiff under Article 129(g) of the Qanun-e-Shahadat Order, (QSO) 1984?
- ii) What constitutes the legal definition of 'dishonour' of a negotiable instrument?
- iii) What procedure has the State Bank of Pakistan prescribed for opening a 'photo account' for an illiterate individual?
- iv) What are the operational requirements for a 'photo account' as per the terms and conditions of commercial banks?
- v) Does a cheque made payable to 'cash' create a legal obligation in favour of a specific individual?

- Analysis:**
- i) The respondent/plaintiff neither produced her real brother to prove her claim of his friendship with the appellant/defendant nor produced Muhammad Ahtisham and Muhammad Sagheer which flaw amounts to withholding of the best evidence. Thus it would be legally presumed that had the said witnesses produced in the evidence, they would have deposed against the respondent/plaintiff, as such, presumption under Article 129 (g) of Qanun-e-Shahadat Order, 1984 clearly operates against her.
 - ii) The word dishonour means “to refuse to accept or pay a draft or to pay promissory note when duly presented. An instrument is dishonoured when necessary or optional presentment is duly made and due acceptance or payment is refused, or cannot be obtained then the prescribed time, or in the case of bank collection, the instrument is reasonably returned by midnight deadline; or presentment is excused and instrument is not duly accepted or paid”.
 - iii) Further, the State Bank of Pakistan in its Circular No.10 dated 29.03.2003 has prescribed following procedure for opening of a ‘photo account’ in case of an illiterate individual: “(iv) In case of illiterate person, a passport size photograph of the new account holder besides taking his right and left thumb impression on the specimen signature card.”
 - iv) In compliance of the aforesaid direction of the State Bank of Pakistan, all the commercial banks issued Terms & Conditions for opening of ‘photo accounts’ and in this regard, for reference, the relevant portion of Terms & Conditions Governing the Account issued by the commercial bank [Bank Alfalah] is reproduced as under: “1.5 Opening of photo accounts is subject to provision of proper identification duly supported by two attested passport size photographs besides taking customer’s thumb impression on the SS card. Photo account cannot be operated unless the customer comes to the Bank and puts his/her thumb impression on the cheque in the presence of Bank Officer.”
 - v) Another aspect of the matter is that the cheque in question was not issued in favour of the respondent/plaintiff rather it bears the word “cash” which, as per the stance of the bank authorities, means that any person holding the cheque can receive the amount of the cheque.

- Conclusion:**
- i) Failure to produce key witnesses raises a legal presumption against the plaintiff under Article 129(g) QSO, 1984 due to withholding of best evidence.
 - ii) A negotiable instrument is only considered dishonored if it is duly presented and payment or acceptance is refused or cannot be obtained.
 - iii) For illiterate individuals, opening a photo account requires photographs and thumb impressions as per the State Bank’s directive.
 - iv) Operation of a photo account is conditional upon the account holder's personal appearance and thumb impression before the bank officer.
 - v) A cheque marked ‘cash’ is payable to the bearer and does not confer any specific legal entitlement to a named individual.
-

28. **Lahore High Court**
Sarja etc. v. Syed Zahid Hussain Shah etc.
W.P.No.18521/2024
Mr. Justice Ch. Muhammad Iqbal
<https://sys.lhc.gov.pk/appjudgments/2025LHC3281.pdf>

Facts: Through this constitutional petition, the petitioners/successors of Noor Muhammad have challenged the validity of order dated passed by the Full Board-II, Board of Revenue, Punjab whereby the request of the petitioners to purchase the evacuee land was turned down.

Issue:

- i) Whether subsequent purchasers can claim better title than their vendors?
- ii) What are the guidelines issued by superior courts for disposal of the evacuee property?
- iii) Whether the Notified Officer has the jurisdiction to sell the evacuee land through private treaty?
- iv) What is the duty of learned Presiding Officers when they deal with matters relating to public property and public interest?
- v) What is meant by public purpose?
- vi) What is the law which commands that all the evacuee properties stood transferred to the government for its utilization for public purpose and the same went out from the jurisdiction of Notified Officer?

Analysis:

- i) Subsequent vendees have to soar and sink with their vendors and they are debarred to claim any better title.
- ii) The superior Courts of this country have settled this issue that the evacuee property, either urban or agricultural can only be disposed of by the authorities through unrestricted open public auction (...) the state assets must be disposed of in fair transparent, universally recognized modus operandi of public auction, thus all the organs of the state are placed under mandatory obligation to comply with the orders of the Hon'ble Supreme Court of Pakistan as enshrined in Article 189 of the Constitution of the Islamic Republic of Pakistan and any deviation whereof that would indeed be nullity void ab initio in the eyes of law.
- iii) Admittedly the jurisdiction of the Notified Officer has been restricted to the pending proceedings as envisaged under Section 2 of the Act, 1975 and he has no unlimited power rather he had to exercise its jurisdiction with the precincts prescribed under the law regulations, rules, policies and instructions on the subject (...) the Notified Officer / Chief Settlement Commissioner has no jurisdiction to sell the evacuee land through private treaty and the only mode for disposal of the state assets is to put the same to unrestricted transparent open public auction but the Chief Settlement Commissioner while deciding the application in violation of above consistent law allowed the appellant to purchase the land on market price which in itself is a kind of private treaty, thus these findings being contrary to law are liable to be set aside.
- iv) The learned Presiding Officers are also required to exercise caution when they are dealing with matters relating to public property and public interest of which

the Courts of law are the final custodians. It is true that we have never leaned in favour of giving of preferential treatment to the Government departments or agencies but then we are equally obliged, while granting relief, to ensure that public interest is not permitted to be jeopardized and public property is not allowed to be squandered through mere collusion of some representative of a Government agency.

v) The term '**Public Purpose**' has been defined in Black's Law Dictionary (5th Edition) as under:-

“A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of all the inhabitants or residents within a given political division, as, for example, a State, the sovereign powers of which are exercised to promote such public purpose or public business.”

vi) Whereas the Evacuee Property and Displaced Persons Laws (Repeal) (Amendment) Act, 2022 (XXI of 2022) has been promulgated and Section 3 whereof deals with the transfer of the evacuee properties. For ready reference, Section 3 of the Act *ibid* is reproduced as under:

“3. Transfer of property.— All properties, both urban and rural, including agricultural land, other than such properties attached to charitable, religious or educational trusts or institutions, whether occupied or unoccupied, which may be available for disposal immediately before the repeal of the aforesaid Acts and Regulations or which may become available for disposal after such repeal as a result of cancellation of any fraudulent allotment shall stand transferred to the Government for utilization for public purposes.”

Conclusion: i) See above analysis No. i
 ii) See above analysis No. ii.
 iii) See above analysis No. iii.
 iv) See above analysis No. iv
 v) See above analysis No.v
 vi) See above analysis No.vi

29. Lahore High Court
Adamjee Insurance Company Limited V. Muhammad Ramzan and another
Insurance Appeal No.29992/2022
Mr. Justice Ch. Muhammad Iqbal
<https://sys.lhc.gov.pk/appjudgments/2025LHC3373.pdf>

Facts: Appellant preferred appeal against the judgment passed by the Insurance Tribunal, whereby recovery claim of respondent regarding loss of crops and livestock was accepted.

Issues: i) Whether a borrower is entitled to recover insured claim or loss of crops and livestock, along-with liquidated damages under compulsory insurance policy linked to an agriculture loan in a calamity effected area?

ii) Whether casual departmental appeals causing waste of public resources are justified?

Analysis

i) The respondent No.1 availed loan facility from respondent No.2/bank by mortgaging his land. The loan was compulsorily insured with the appellant. The area where the land of the respondent No.1 was situated, badly affected by flood upon which it was declared calamity hit area vide notification dated 25.09.2014. The meager amount of insurance claim Rs.1,31,000/- of the insured / respondent No.1 is pending against the appellant and it is legal right of the respondent No.1 to recover the same.

ii) The Hon'ble Supreme Court of Pakistan in a case titled as Pakistan through Chairman FBR and others Vs. Hazrat Hussain and others (2018 SCMR 939) has held that the departments should not file appeals/ revisions as a matter of routine resulting into wastage of public time and money.

Conclusion:

i) See Analysis No.i
ii) See Analysis No.ii

30. Lahore High Court
Abdul Haq v. Province of the Punjab through District Revenue Officer / Collector, Gujrat & others
Writ Petition No.41936 of 2019
Mr. Justice Muhammad Sajid Mehmood Sethi
<https://sys.lhc.gov.pk/appjudgments/2025LHC3200.pdf>

Facts: Through instant petition, petitioner has sought direction from this Court for the respondents to restrain from recovering the decretal amount of maintenance allowance or from attaching his immovable property being Special Attorney of the principal against whom recovery proceedings are pending before the Revenue hierarchy for attachment of immovable property.

Issues:

i) Whether an attorney can be held personally liable for obligations not expressly conferred under the power of attorney?
 ii) Whether the recovery of a maintenance decree can be lawfully effected under section 13(3) of the West Pakistan Family Courts Act, 1964, when the judgment-debtor is avoiding execution?

Analysis:

i) It is a well-settled principle of law that a power of attorney must be construed strictly, and only those acts, duties, and obligations that are expressly conferred upon the attorney may be lawfully performed by him. This principle ensures that no implied or assumed obligation can be fastened upon an agent beyond what has been clearly and expressly delegated.

ii) If the judgment-debtor is residing abroad or is otherwise avoiding execution, the proper legal recourse lies under section 13(3) of the West Pakistan Family Courts Act, 1964, which permits the recovery of the decretal amount as arrears of land revenue.

- Conclusion:** i) No implied or assumed obligation can be fastened upon an agent beyond what has been clearly and expressly delegated under the power of attorney.
ii) See analysis No.2.

31. Lahore High Court
Younas Masih v. The State
Criminal Appeal No.28362 of 2022
Mr. Justice Asjad Javaid Ghural and Mr. Justice Muhammad Waheed Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3078.pdf>

Facts: The appellant was tried by the learned Additional Sessions Judge/ Gender Based Violence Court, in respect of offences under sections 376(iii) P.P.C. for committing rape with a victim aged about 10/11 years old. The learned trial court convicted and sentenced the appellant. Feeling aggrieved, the appellant lodged this Criminal appeal assailing his conviction and sentences. The learned trial court submitted Murder Reference under section 18(2) of the Anti Rape (Investigation and Trial) Act, 2021. seeking confirmation of the sentence of death awarded to the appellant.

Issues

- i) Whether the delay in setting the law into motion is fatal to prosecution in Rape cases?
- ii) Whether the conviction is possible on the sole testimony of victim in Rape Cases?
- iii) Whether non-detection of semen is fatal to prosecution case?

Analysis: i) No doubt general principle, evolved in our criminal jurisprudence is that delay in setting the law into motion was normally considered as an indication of deliberation, consultation and premeditation but in cases of rape involving honour and dignity of a rape survivor and family, such stringent principle cannot be applied. In such like cases, there are multifarious factors including societal stigma, fear of disbelief, cultural norms, victim blaming, fear of retaliation, concern about privacy and lack of support, which plays crucial role and often prevents the victim from reporting the horrible incident with much promptitude...In a society, where a highly educated working woman avoided to report the incident of rape happened in her school, apparently in order to save the repute of the school, it cannot be expected from a household lady, who was dependent upon other male members of her family to set the law into motion with promptitude. Moreso, reporting the cases of rape in our country are comparatively low due to fear of stigmatization and lack of trust in the legal system...In a society where 3/4th of the incidents of sexual abuse went unreported due to internalized shame, fear of judgment, perception of credibility, exposure and vulnerability and impact on identity, reporting of an incident of rape is an exception and not the delay in reporting such matter. Many victims or their family members may need time to process their experience before coming forward and their choices should be respected

ii) A rape is often a crime that occurs in secrecy, making it challenging to obtain direct evidence or witnesses. The sole testimony of the victim in such like cases is vital and unless there are compelling reasons which necessitate corroboration of her statement, Court should find no difficulty to rely upon the personal account of a victim of sexual assault to convict an accused, where her testimony was credible and consistent.

iii) This submission is also not helpful for the defence for more than one reasons. Firstly, as has been observed supra the medico legal examination of the victim was conducted two days after the occurrence, as such after such a long time there seems no possibility of availability of semen at the time of examination. Secondly, detection of seminal material in the vaginal swabs of the victim is just a corroboratory piece of evidence and merely due to its non-detection the other overwhelming ocular and medical evidence cannot be discarded.

- Conclusion:**
- i) The delay in setting the law into motion is not fatal to prosecution case in rape cases.
 - ii) In rape cases, the sole testimony of victim is vial.
 - iii) non-detection of semen is not fatal to prosecution in rape cases

32. Lahore High Court
Munir Ahmad Chishti v. Federation of Pakistan
Writ Petition No. 236915/2018
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC3070.pdf>

Facts: The petitioner, a retired civil servant, filed a writ petition seeking proforma promotion, claiming that he had unblemished career and was eligible for promotion to BS 22 but remained deprived because of administrative delays. He sought proforma promotion through a writ petition after his representation was declined by the competent authority.

Issues:

- i) What is proforma promotion and what are its legal consequences for a civil servant?
- ii) What is the scope of jurisdiction conferred on service tribunals under Article 212 of the Constitution, and what is its effect on the jurisdiction of other courts?
- iii) What is the extent of authority of the Service Tribunal to grant proforma promotion, and what are limitations on its jurisdiction in such matters?
- iv) What is the constitutional bar on the High Court's jurisdiction under Article 212 of the Constitution in service matters, and what would be effect of its violation?

Analysis: i) Proforma promotion is a notional advancement granted retrospectively to a civil servant who was eligible for promotion during service but was denied the opportunity due to no fault of their own and circumstances beyond their control. It confers only financial and symbolic benefits without reinstating the officer in service and does not affect the seniority of any serving official. Common

justifications include delays caused by pending inquiries, policy embargoes, or administrative inaction. The Supreme Court has endorsed the principle underlying proforma promotion in *Secretary Ministry of Finance and others v. Muhammad Anwar* (2025 SCMR 153).

ii) Article 212(1)(a) of the Constitution stipulates that the appropriate Legislature may, by Act, establish tribunals with exclusive jurisdiction over matters relating to the terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary issues. Article 212(2) states that where such a tribunal is established, no other court shall entertain proceedings in respect of matters within the tribunal's jurisdiction.

iii) In *Government of Pakistan and others v. Hameed Akhtar Niazi and others* [PLD 2003 SC 110 : 2003 PLC (CS) 212], the Service Tribunal directed that the appellant be granted proforma promotion from the dates his juniors were promoted and ordered re-fixation of his pay and pension. The Supreme Court set aside that order, holding that promotion is not a right and falls exclusively within the discretion of the competent authority. Seniority is only one factor among others, such as competence, antecedents, and availability of posts, which must be considered in each case. The Service Tribunal had no jurisdiction to grant retrospective promotion or to assume the functions of the appointing authority, particularly where the competent forum had not made any evaluation... The power to grant proforma promotion lies exclusively with the appointing authority, who must be affirmatively satisfied that the civil servant was, through no fault of their own, wrongfully prevented from serving in the higher post. This Court lacks jurisdiction not only because no such determination has been made but also for the reason that it cannot assume the functions of the appointing authority.

iv) The High Court, as a constitutional court, should always be mindful of the jurisdictional exclusion contained under Article 212 of the Constitution. Any transgression of this constitutional limitation will render its order void and illegal. Therefore, unless the jurisdiction of the Service Tribunal is ousted under section 4(1)(b) of the STA, as described above, the assumption of jurisdiction by the High Court in respect of matters of terms and conditions of a civil servant is unconstitutional and impermissible.

Conclusion: i) see above analysis (i).
 ii) see above analysis (ii)
 iii) see above analysis (iii)
 iv) see above analysis (iv)

33. Lahore High Court
Qamar-ul-Islam v. Province of Punjab, etc.
C.R. No.654 of 2013
Mr. Justice Jawad Hassan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3173.pdf>

Facts: The plaintiffs, claiming to be legal heirs of a previous purchaser, filed a suit for declaration and permanent injunction regarding certain land, asserting ownership

based on a registered sale deed. The defendants, representing government authorities, denied the claim, asserting that the property had been lawfully mutated in their favour decades earlier and contested the suit on grounds including limitation and lack of possession. The trial court decreed the suit in favour of the plaintiffs. The Appellate Court reversed the judgment and decree of the Trial Court. Hence; this Civil Revision.

- Issues**
- i) Whether possession follows title and what is the legal presumption in the absence of evidence to the contrary?
 - ii) What is the legal presumption attached to entries in the revenue record?
 - iii) Whether it is mandatory for a court to decide miscellaneous applications pending before it prior to the final adjudication of the main lis?
 - iv) Does taking possession under a revenue entry constitute actual denial to start limitation?
 - v) Should greater weight be given to the findings of the appellate court?

- Analysis:**
- i) In this regard reliance is placed on the judgment of the Hon'ble Supreme Court of Pakistan reported as "Haji MUHAMMAD YUNIS (DECEASED) through legal heirs and another Versus Mst. FARUKH SULTAN and others" (2022 SCMR 1282), wherein it has been held that: 15. Possession follows the title. This is a well settled principle. Therefore, unless contrary is proved by cogent evidence, an owner is presumed to be in possession of his property.
 - ii) As per the provision contained in section 52 of the West Pakistan Land Revenue Act, 1967, the presumption of truth is attached to the entries in the record of rights and periodical records.
 - iii) it is a well-established principle of law that miscellaneous applications pending before a court must ordinarily be decided prior to final adjudication of the main lis,
 - iv) The Hon'ble Supreme Court of Pakistan in the judgment reported as Mst. RABIA GULA and others Versus MUHAMMAD JANAN and others (2022 SCMR 1009) has affirmed that where the beneficiary of an entry in the revenue record also takes over the possession of the land on the basis of sale or gift transaction, as the case may be, recorded in that entry. His action of taking over possession of the land in pursuance of the purported sale or gift is certainly an "actual denial" of the proprietary rights of the purported seller or donor. Therefore, in such a case, if the purported seller or donor does not challenge that action of "actual denial" of his right, within the prescribed limitation period, despite having knowledge thereof, then his right to do so becomes barred by law of limitation.
 - v) Even otherwise, it has been held by the Hon'ble Supreme Court of Pakistan, that the findings of the learned appellate court should be given weightage.

- Conclusion:**
- i) Ownership implies possession unless proven otherwise.
 - ii) Revenue entries are presumed to be correct under law unless rebutted with strong evidence.

- iii) Pending miscellaneous applications should generally be resolved before the court decides the main case.
- iv) Taking possession under a revenue entry amounts to actual denial of the previous owner's rights, triggering the limitation period to challenge it.
- v) Appellate court findings are given weightage.

34. Lahore High Court
M/s Ejaz Brothers v. Federation of Pakistan, National Tariff Commission etc.
Writ Petition No.1695 of 2024
Mr. Justice Jawad Hassan.
<https://sys.lhc.gov.pk/appjudgments/2025LHC3058.pdf>

Facts: The petitioners through these constitutional petitions have challenged notices issued by the National Tariff Commission (NTC) for initiating anti-circumvention investigations under Section 63(4) of the Anti-Dumping Duties Act, 2015, based on a complaint alleging that foreign exporters were bypassing anti-dumping duties through product modification. Petitioners claim they import a Two Side Coated Bleach Board, already verified by Customs. The original anti-dumping duties were imposed in 2018 on One Side Coated Board and extended after a sunset review. The current notices arise from a fresh complaint filed in 2025.

Issues:

- i) Whether anti-dumping investigations and anti-circumvention proceedings address different aspects of unfair trade practices?
- ii) What is the focus of anti-dumping investigations?
- iii) What is the focus of anti-circumvention proceedings?
- iv) What is the key difference between Anti-dumping investigations and anti-circumvention proceedings?
- v) Whether Section 63 of the Anti-Dumping Duties Act effectively empowers the NTC to investigate and prevent attempts to circumvent imposed anti-dumping duties?
- vi) Whether disputed questions of fact can be adjudicated within the scope of constitutional jurisdiction?
- vii) Whether the resolution of factual disputes falls within the exclusive domain of the NTC as the proper forum under the law?
- viii) Which remedy is available to aggrieved parties against the NTC's determination?
- ix) Whether a writ petition is maintainable against the mere issuance of a show cause notice?

Analysis:

- i) Anti-dumping investigations and anti-circumvention proceedings are both trade remedies, but they address different issues related to unfair trade practices.
- ii) Anti-dumping investigations focus on whether a foreign exporter is selling goods in a foreign market at prices below their cost of production or below a comparable price in the exporter's home market, potentially harming domestic industries.

- iii) Anti-circumvention proceedings, on the other hand, investigate whether measures against dumping or subsidies are being circumvented, meaning thereby the product is being imported in a way that evades the original anti-dumping or countervailing duty.
- iv) In essence, the anti-dumping investigations are about preventing unfair pricing practices, while anti-circumvention proceedings are about ensuring that existing anti-dumping measures are not bypassed through various methods.
- v) Anti-circumvention measures have been defined under Section 63 of the “Act” which deals with the mechanism for final review of anti-dumping duties and outlines the procedure for handling the termination of anti-dumping duties; object whereof is to empower the “NTC” to investigate and address practices where exporters or importers attempt to evade imposed anti- dumping duties and includes actions such as change in pattern of trade, process or work for which there is insufficient due cause or economic justification e.g. slight modifications of products, misclassification or routing goods through third countries to avoid imposed duties.
- vi) Arguments and pleadings of the parties have raised disputed question of facts and factual controversy which cannot be decided in the constitutional jurisdiction as this Court cannot enter into factual realm or embark upon an exercise to determine the controverted questions of facts.
- vii) The resolution of such like issues is left to be decided by the proper forum prescribed by a law i.e. “NTC” which has only invited all interested parties to submit their reply/comments or evidence.
- viii) Once the “NTC” passes the determination, the aggrieved parties will have the remedy to file an appeal before the Tribunal under Section 70 of the “Act” read with Rule 30 (7) of the “Rules”.
- ix) Mere issuance of show cause notice is not an adverse order and writ petition against it is not maintainable

- Conclusion:**
- i) Anti-dumping and anti-circumvention proceedings are trade remedies addressing different unfair trade issues.
 - ii) Anti-dumping investigations assess if foreign goods are sold below cost or home market prices, harming domestic industries.
 - iii) Anti-circumvention proceedings investigate if imports evade existing anti-dumping or countervailing duties through altered practices.
 - iv) See above analysis No.iv
 - v) See above analysis No.v
 - vii) Disputed facts cannot be resolved in constitutional jurisdiction as the Court cannot determine factual controversies.
 - viii) Aggrieved parties may appeal the NTC’s determination before the Tribunal under Section 70 of the Act.
 - ix) Issuance of a show cause notice is not an adverse order; hence, a writ petition against it is not maintainable.
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35. Lahore High Court
Sher Muhammad v. Karam Hussain
Civil Revision No. 883 of 2016
Mr. Justice Jawad Hassan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3050.pdf>

Facts: In suit for permanent injunction filed by the Respondent/plaintiff against the Petitioner/defendant, the Petitioner/defendant got recorded his statement. Pursuant to aforesaid statement, the suit was dismissed being infructuous but said judgment and decree was assailed by the Respondent/plaintiff before the learned Additional District Judge that was set aside with direction to the Petitioner/defendant to abide by his statement recorded before the trial court. Feeling aggrieved, the Petitioner/defendant filed Civil Revision before this Court which was disposed of. After passing aforesaid order by this Court, the trial Court proceeded to dismiss the suit of the Respondent/plaintiff. The said judgment and decree was then assailed by the Respondent/plaintiff by filing appeal before the learned Additional District Judge which was accepted, hence this revision.

Issue: Whether a party's undertaking recorded before a court carries the same binding legal effect as a formal decree or injunction?

Analysis: The enforceability of an undertaking given by a party before a Court is well-established in law, and such undertakings can be executed by the Executing Court as if they were formal decrees. Once a party submits to an undertaking, the Executing Court is empowered to enforce compliance, even in the absence of a formal decree. This ensures that solemn commitments made before judicial forums are honored, upholding the sanctity of court proceedings and preventing abuse of process.

Conclusion: A party's undertaking recorded before a court carries the same binding legal effect as a formal decree or injunction.

36. Lahore High Court
Afzaal alias Phali v. The State, etc.
Criminal Appeal No.15845/2022
The State v. Afzaal alias Phali
Murder Reference No.66/2022
Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC3040.pdf>

Facts: The appellant stood convicted with death sentence in a murder case.

Issues:

- i) How the speed of bullet affect the witness's sight to locale of injury to deceased?
- ii) Whether a witness can retreat with accuracy the seat of injury when live shots are being fired?
- iii) How the acquittal of co-accused would affect the case of convict?

iv) How the presence of neutral court witnesses at the place of occurrence, would be taken?

- Analysis:**
- i) It is relevant to mention here that speed of bullet fired from firearm weapon is more than the speed of sound, therefore, shot fired from firearm weapon hits first to the victim whereas its sound is subsequently heard by the person due to difference of their speed as mentioned above; hence, when after hearing report/sound of shot fired from firearm weapon, person looks towards the victim, till then, fire shot already hits the victim and in such circumstances, a person witnessing the occurrence while seeing oozing of the blood makes estimation regarding locale of injury caused by such shot and if shot fired by the firearm weapon has hit at the body which is covered by wearing clothes of the victim, then after hitting of fire shot, blood oozes and spreads on the wearing clothes at and adjacent area of the wound where shot has hit and in such circumstances minor variation regarding estimation by the human being about exact locale of receiving of firearm shot does occur naturally.
 - ii) During turmoil when live shots are being fired, witnesses in a momentary glimpse/glance make only tentative assessment of points where such fire shots appeared to have landed and it becomes highly improbable to mention their location with exactitude.
 - iii) Though co-accused have been acquitted in this case yet while applying principle of sifting grain from chaff if ocular account produced by the prosecution through statements of complainant Abid Mehmood (PW-1) and Ghulam Mustafa (PW-2) is corroborated by other evidence, then same can be used and relied against the appellant.
 - iv) The said Court witnesses were not belonging to any party, their presence at the place of occurrence, at the time of occurrence was quite natural and established beyond shadow of doubt.

- Conclusion:**
- i) The fired bullet travels at speed more than sound, it hits first to target before its sound strikes the ears of witness. Therefore, due to this speed difference exact locale of injury could be mistaken by the observer because blood would have been spread over the wearing cloths of victim making a chance of mistake for the witness.
 - ii) When live shots are being fired, witnesses in a momentary glimpse/glance make only tentative assessment of points where such fire shots appeared to have landed and it becomes highly improbable to mention their location with exactitude.
 - iii) In case of acquittal of co-accused, the principle of sifting grain from the chaff would apply.
 - iv) Presence of neutral court witnesses would be natural and established, when they have no connection to any party.
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37. Lahore High Court
Muhammad Adnan alias Chanda v. The State
Murder Reference No.86/2022 & Criminal Appeal No.27397-J of 2022
Mr. Justice Farooq Haider & Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC3207.pdf>

Facts: The Sessions Court convicted and sentenced the appellant under section 302 PPC, on the charge of murder of complainant's brother. One co-accused was acquitted by the learned trial court. Hence the appeal was filed by the convict; a separate appeal was filed by the complainant against the acquittal of co-accused. Murder reference was also sent to the Hon'ble Lahore High Court.

Issues:

- i) What is the effect of delayed FIR on the case of prosecution?
- ii) What would be the effects if prosecution fails to explain the delay in FIR?
- iii) Whether the chance witnesses are bound to prove valid reason to show their presence at the place of occurrence?
- iv) Whether the evidence of witnesses the reason of whose presence at the place of occurrence is not established can be seen as "suspect" and it can be accepted?
- v) Whether the evidence of a witness, who introduces dishonest improvement or omission, can be relied upon?
- vi) What is the value and status of medical evidence in criminal cases?
- vii) What is the effect of empty shells if it is not mentioned in column No.22&23 of the inquest report?
- viii) What is the effect of PFSA report if safe custody of pistol is not proved?
- ix) Whether warrants of arrest and proclamation issued with blank columns have any value against the accused?
- x) Whether the abscondence can be viewed as proof for the crime?
- xi) Whether single dent\circumstance is sufficient for acquittal of the accused?
- xii) What kind of presumption is attached to the acquittal of the accused, whether the court should straightaway disturb such acquittal?

Analysis:

- i) By now it is well settled that First Information Report (Crime report) is the corner stone and foundational element of the case of prosecution and if same has not been recorded promptly after the occurrence, then superstructure raised on the basis of said FIR in the form of case of prosecution is bound to fall.
- ii) It is well settled that when there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay and failure to do that will badly reflect upon the credibility of prosecution version and same is fatal for the case of prosecution.
- iii) Both the aforementioned witnesses are chance witnesses and they were bound to bring on record and prove valid, cogent and acceptable reason to show/establish their presence at the time and place of occurrence.(---) Therefore, both cited eye witnesses i.e. Mobashir Hussain (complainant/PW-6) and Altaf Hussain (PW-7) could not bring any material to establish convincing and acceptable reason to show their presence at the time and scene/place of occurrence.

- iv) In above scenario, evidence of both aforementioned cited witnesses, who could not explain/establish any valid reason/cause regarding their stated presence at the stated time, at the place of occurrence, is “suspect” evidence and cannot be accepted without pinch of salt.
- v) By now it is well settled that witnesses who introduce dishonest improvement or omission for strengthening the case, cannot be relied.
- vi) So far as medical evidence is concerned, it is trite law that medical evidence is mere supportive/confirmatory type of evidence; it can tell about locale, nature, magnitude of injury and kind of weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury; therefore, same is also of no help to the prosecution in peculiar facts and circumstances of the case.
- vii) Suffice it to say that Inquest Report of the deceased (Exh.PP) was prepared at the place of occurrence and availability of any empty shells was not mentioned in column No.22 & 33 of the inquest report which makes availability of empty shells at the place of occurrence as doubtful and in this regard.
- viii) parcel which was having pistol and three live bullets was not sent to the PFSA, Lahore for comparison/examination rather parcel received over there was simply having pistol and test fires in it, therefore, safe custody of said parcel of the pistol and bullets has been compromised and not established which ultimately makes report of Punjab Forensic Science Agency, Lahore (Exh.PT) as inconclusive, inconsequential and of no helpful to the case of prosecution. Therefore, aforementioned recovery is of no avail to the case of the prosecution.
- ix) Suffice it to say that perusal of warrant of the arrest (Exh.PB) reveals that as per contents of said warrant neither any police official nor any other public servant/person was asked through said warrant to arrest the appellant rather said column is blank. Similarly, perusal of proclamation (Exh.PD) also reflects that it has not been mentioned therein that under which period/how many days and on which date, the appellant had to surrender rather said columns are blank. Therefore, warrant Exh.PB and Proclamation Exh.PD are defective.
- x) Abscondence is not the substantive piece of evidence, it can neither be viewed as proof for the crime nor can cure defects of the case of prosecution and in this case, when ocular account has been discarded then absconsion is of no help to the case of prosecution at all.
- xi) It is well established principle of law that single dent/circumstance in case of prosecution is sufficient for acquittal.
- xii) Even otherwise, after acquittal, accused person has attained double presumption of innocence and courts are always slow to disturb the same.

- Conclusion:**
- i) In case of delayed FIR the superstructure raised on the basis of said FIR would fall.
 - ii) It will badly reflect upon the credibility of prosecution version and same is fatal for the case of prosecution.
 - iii) See above analysis No.iii.
 - iv) See above analysis No.iv

- v) Evidence of a witness, who introduces dishonest improvement or omission, cannot be relied.
- vi) See above analysis No.vi
- vii) See above analysis No. vii
- viii) See above analysis No. viii
- ix) See above analysis No. ix
- x) See above analysis No. x
- xi) See above analysis No. xi
- xii) After acquittal, accused person has attained double presumption of innocence and courts are always slow to disturb the same.

38. Lahore High Court
Sheroz Yousaf v. The State
Criminal Appeal No.9929-J/2022
The State v. Sheroz Yousaf
Murder Reference No.13/2022
Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC3308.pdf>

Facts: The appellant challenged his conviction and death sentence awarded in a case FIR registered against him for murder.

Issues:

- i) What is the scope of substitution of real culprits in murder cases?
- ii) What is the effect of minor inconsistencies and discrepancies in statements of witnesses with the passage of time?
- iii) What would be effect of when a crime empty is not found suitable for comparison by Punjab Forensic Science Agency?
- iv) What is effect of bald denial by defence to the accusations, without producing any defence evidence?

Analysis: i) Substitution of the real culprit is rare phenomenon in our society; in this regard, case of “IRSHAD AHMAD and others versus The STATE and others” (PLD 1996 Supreme Court 138) can be advantageously referred, relevant portion from page No.143 of the same is as under:-

“Undoubtedly, the substitution is a phenomenon of rare occurrence, because even the interested witnesses would not normally allow the real murderers of their relation to escape by involving innocent persons.”

- ii) Minor inconsistencies and discrepancies do occur/appear in the statements of witnesses with the passage of time, since it is natural that memory of any person with the afflux of time may fade, therefore, such inconsistencies/discrepancies cannot destroy the case of prosecution when same are not hitting vital aspects of the case. Ocular account has been found as confidence inspiring and trustworthy.
- iii) As per report of Punjab Forensic Science Agency (Exh.PU), pistol (P-1) recovered from the appellant was found in mechanical operation condition, three cartridge cases, out of four mentioned above were identified as having been fired from the pistol (P-1) recovered from the appellant, however, 4th empty cartridge

case due to lack of sufficient suitable corresponding microscopic markings was not found as fit for comparison to identify or eliminate that it was fired from pistol (P-1) or not; projectile bullet was identified as having been fired from the pistol recovered from the appellant, however, bullet core was found as not suitable for comparison, therefore, said recovery has provided corroboration to the ocular account.

iv) Version of the appellant is a bald denial, neither he opted to appear under Section 340(2) Cr.P.C. as his own witnesses in support of his defence version as well as in disproof of allegation levelled against him nor he opted to produce defence evidence in support of his version. Furthermore, nothing could be found from the record in support of version of the accused.

- Conclusion:**
- i) Substitution of the real culprit is rare phenomenon in our society.
 - ii) It is natural that memory of any person with the afflux of time may fade, therefore, such inconsistencies/discrepancies cannot destroy the case of prosecution when same are not hitting vital aspects of the case.
 - iii) Empty cartridge which is found not suitable for comparison due to lack of sufficient suitable corresponding microscopic markings, to identify or eliminate that it was fired from pistol or not; would not adversely effect prosecution case.
 - iv) A bald denial by accused without adducing any defence evidence would not serve a useful purpose to him, when prosecution case stands proved.

39. Lahore High Court
Mst. Marayam v. The State, etc.
Crl. Misc. No.9980-B/2025
Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2025LHC3484.pdf>

Facts: The petitioners seek their post-arrest bail in a case registered against them for the offence u/s 302 PPC.

- Issues:**
- i) What is effect of identification parade at bail stage, when facial feature of the accused were not disclosed?
 - ii) What is effect of post mortem, at bail stage, with uncertain cause of death and no time between the death & post mortem?
 - iii) What is the nature of relief of bail?
 - iv) What effect an error would cause in grant or refusal of bail to the accused?

Analysis:

- i) Though other features of the accused were disclosed yet facial features of any accused were not disclosed by Mohtaj-ur-Rehman and Muhammad Iqbal witnesses, therefore, evidentiary value of the identification of Imtiaz Hussain (petitioner) through identification parade would be seen during trial of the case.
- ii) Time between injuries and death was not given by the Medical Officer as per post-mortem examination report and furthermore after receipt of reports from the experts, it has been finally opined by the Medical Officer that cause of death in this case is uncertain and manner of death is undetermined. When all

aforementioned circumstances are taken into consideration in totality, then case of the prosecution against both the petitioners i.e. Mst. Mariyam and Imtiaz Hussain, at present, requires further probe/inquiry and falls within the purview of sub-section 2 of Section 497 Cr.P.C..

iii) Bail is a procedural relief i.e. mere change of custody from State to surety and has no bearing on ultimate fate of the case.

iv) Liberty of a person is a precious right which has been guaranteed by the Constitution of Islamic Republic of Pakistan, 1973. By now it is also well settled that it is better to err in granting bail than to err in refusal because ultimate conviction and sentence can repair the wrong resulted by a mistaken relief of bail.

- Conclusion:**
- i) When facial features of the accused are not disclosed, the evidentiary value of such identification parade would be seen during trial of the case.
 - ii) When cause of death is not certain and time since death is not given, the case of accused persons would become one of further inquiry.
 - iii) See above analysis no. (iii).
 - iv) Error in granting bail is better than error in refusal. Error in granting bail is rectified by the ultimate conviction of the accused.

40. Lahore High Court
Muhammad Jehan Zeb Noon v. The State, etc.
Writ Petition No.52318 of 2024
Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2025LHC3481.pdf>

Facts: Petitioner through constitutional petition has challenged the order of Magistrate Section-30, whereby application for constituting District Standing Medical Board with regard to alleged injuries was dismissed.

Issues: i) Whether omission to seek Medical Specialist opinion for a serious injury warrants constitution of District Standing Medical Board?

Analysis i) it was clearly mentioned regarding injury No.1 that there was crushed cricoid cartilage with exposed hypopharynx of Muhammad Anas (injured mentioned above), therefore, final evaluation of the same after obtaining opinion from Ear, Nose, Throat (ENT) Specialist (as apprised by learned Assistant Advocate General Punjab under instructions of Medical Officer) was necessary, however, same has not been done during his medical examination and such omission necessitates constitution of the Medical Board for doing the needful in this regard.

Conclusion: i) Opinion of Medical Specialist is necessary for final declaration of injury.

41. Lahore High Court
Sohail v. Station House Officer, etc.
Writ Petition No.13839 of 2025
Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2025LHC3151.pdf>

- Facts:** Petitioner through constitutional petition has sought quashment of FIR registered under allegations of criminal breach of trust on the grounds that allegations made basis to register FIR reveal business transaction, therefore, no offence is made out, hence FIR is liable to be quashed.
- Issues:**
- i) Whether offence of criminal breach of trust is made out, if a carrier misappropriates any entrusted property?
 - ii) Whether FIR can be quashed solely on the grounds that it is false, mala fide, or suffers jurisdictional defect?
 - iii) Whether mala fide intent can be determined without trial in writ jurisdiction?
- Analysis**
- i) It is relevant to mention here that offence of criminal breach of trust has been defined under Section: 405 PPC and same is punishable under Section: 406 PPC (...) perusal of aforementioned illustration (f) clearly reveals that if a carrier is entrusted with property to be carried by land or water and he misappropriated property then he has committed criminal breach of trust.
 - ii) It is now well settled that quashing of F.I.R. is an extraordinary relief which can only be granted if the F.I.R. does not disclose the commission of any offence or there is any jurisdictional defect in the registration of the case; this Court always avoids to quash the F.I.R. merely by appreciation of oral or documentary versions of the parties without providing chance to cross-examine or confronting the same. By now it is also well settled that First Information Report (F.I.R.) cannot be quashed merely on the plea that same is false and concocted.
 - iii) It goes without saying that same is a question of fact, which requires proof by producing evidence without which the same cannot be resolved and admittedly said exercise cannot be done under constitutional jurisdiction of this Court.
- Conclusion:**
- i) A carrier entrusted with goods who dishonestly misappropriates the property commits criminal breach of trust.
 - ii) Quashing of FIR is an extraordinary relief, which relief can be granted only when it does not disclose an offence or suffers from jurisdictional defects.
 - iii) Mala fide is question of fact, which can only be determined after recording of evidence.

42.

Lahore High Court**Muhammad Ali alias Ali Hassan v. The State****Crl. Appeal No.20548-J/ 2022****Murder Reference No.17/ 2022****Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa**<https://sys.lhc.gov.pk/appjudgments/2025LHC3468.pdf>

- Facts:** FIR was registered against the appellant and others for intentionally murdering son of the complainant by firing multiple shots with pistol. The trial court convicted the appellant under Section 302(b), 337A(i), 337F(i) PPC and sentenced him to death along with payment of Daman while acquitted the co-

accused. The High Court found prosecution evidence unreliable due to contradictions and lack of corroboration, leading to acquittal of the appellant.

Issues:

- i) What is responsibility of prosecution when there is delay in reporting the occurrence to police?
- ii) How the “opinion of expert” should be evaluated by court?
- iii) What is rigor mortis and how it develops in a dead body?
- iv) In how much time rigor mortis starts appearing and fully develops and for how long it persists.?
- v) Whether conviction of an accused is possible on the basis of an evidence when co-accused have been acquitted on the basis of same evidence?
- vi) What is evidentiary value of medical evidence?
- vii) Whether recovery of weapon of offence serves any purpose if crime empties are not sent to Punjab Forensic Science Agency for comparison?

Analysis:

- i) It is well settled that when there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay and failure to do that will badly reflect upon the credibility of prosecution version. In this regard, guidance has been sought from the case of “Mst. ASIA BIBI versus The STATE and others” (PLD 2019 Supreme Court 64); relevant portion from paragraph No.29 of said case law is hereby reproduced: - “There is no cavil to the proposition, however, it is to be noted that in absence of any plausible explanation, this Court has always considered the delay in lodging of FIR to be fatal and casts a suspicion on the prosecution story, extending the benefit of doubt to the accused. It has been held by this Court that a FIR is always treated as a cornerstone of the prosecution case to establish guilt against those involved in a crime; thus, it has a significant role to play. If there is any delay in lodging of a FIR and commencement of investigation, it gives rise to a doubt, which, of course, cannot be extended to anyone else except to the accused...”
- ii) It goes without saying that as far as “opinion of expert” is concerned, it should be based upon the settled principles on the subject and relevant treatises but if it is otherwise then same has to be examined carefully on touchstone of relevant principles on the subject and treatises and if it has been found contrary to those, then it shall be taken as ipse dixit and Court shall make its opinion while preferring settled principles on the subject found in relevant treatises;
- iii) , rigor mortis means rigidity of death, it is a condition characterised by stiffening, shortening and opacity of the muscles which follow the period of primary relaxation. It is due to chemical changes involving the proteins of the muscle fibres and it marks the end of the muscle’s cellular or molecular life. The contractile element of the muscle consists of protein filaments of two types, viz, myosin and actin. They lie in interdigitating manner. In the relaxed state, the actin filaments interdigitate with the myosin filaments only to a small extent but when the muscle contracts, they interdigitate to a great extent. The principal factor concerned in the process of contraction and relaxation of the muscle is the presence of the enzyme ATP which is in high concentration in a resting muscle.

Its production and utilisation are constantly balanced in life. After death, ATP is resynthesised for a short time depending upon the glycogen available locally, but after this glycogen is used up, ATP cannot be resynthesised. This leads to the fusion of myosin and actin filaments into a dehydrated stiff gel resulting in the condition known as rigor mortis. During rigor mortis, the reaction of the muscle changes from slightly alkaline to distinctly acid owing probably to the formation of lactic acid. Rigor mortis persists until autolysis of myosin and actin filaments occurs as a part of putrefaction. Every muscle in the body, voluntary and involuntary, takes part in the process, including the musculature of the heart and blood vessels, the iris of the eye, the platysma of the skin, and the dartos of the scrotum..

iv) According to Parikh's Textbook of Medical Jurisprudence and Toxicology, rigor mortis first appears in involuntary muscles and then in voluntary muscles. It is not dependent on the nerve supply as it develops in paralysed limbs also. It is tested by gently bending the various joints of the body. In the involuntary muscles, rigor mortis appears in the heart within a hour after death. In the voluntary muscles, the sequence is as follows: Rigor mortis first appears as a rule in the muscles of the eyelids (3-4 hours), and then in the muscles of the face (4- 5 hours), neck and trunk (5-7 hours), followed by muscles of the upper extremities (7-9 hours) and then the legs (9-11 hours). The last to be affected are the small muscles of the fingers and toes (11-12 hours). When rigor mortis is thus established, the jaw, neck, and extremities become fixed in position with the arms bent at the elbows and the legs at the knees and hips, and movements at the joint are possible only within a very limited range. The rigidity generally passes off, in the same order in which it occurred, due to autolysis of muscle proteins. In Indian subcontinent i.e. Pakistan, Bangladesh and India, rigor mortis commences in 2-3 hours after death, takes about 12 hours to develop from head to foot, persists for another 12 hour, and takes about 12 hours to pass off. Thus, the presence and extent, or absence of rigor mortis helps to provide a rough estimate of the time since death. As for example, if rigor mortis has not set in, the time since death would be within 2 hours and if it has developed, the time since death would be within about 12-24 hours. The factors which influence rigor mortis include age, health and mode of the death also and according to Parikh's Textbook of Medical Jurisprudence and Toxicology, the onset of rigor is later and the duration longer in the strong muscular person and similarly in cases of sudden death, in healthy adults, a late onset and a long duration is usual. In Modi's Medical Jurisprudence & Toxicology, it has been categorically mentioned that in general, rigor mortis sets in one to two hours after death, is developed in about twelve hour.

v) .. equally effective role of causing firearm injuries to Kamran (deceased of the case) was attributed to Muhammad Ali (present appellant) as well as Muhammad Zubair (co-accused), however, Muhammad Zubair and Muhammad Asad Ullah have been acquitted on the basis of same evidence and on the same facts, which acquittal is still holding the field and the same has even not been challenged uptill now as confirmed by learned Deputy Prosecutor General, therefore, said evidence

now can only be relied and used against present appellant if same is strongly corroborated by the independent evidence..

vi) As far as medical evidence is concerned, it is trite law that medical evidence is mere supportive/confirmatory type of evidence; it can tell about locale, nature, magnitude of injury, duration of the injury and kind of weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury; therefore, same neither can provide any corroboration nor is of any help to the prosecution in peculiar facts and circumstances of the case..

vii) So far as recovery of pistol .30-bore from the appellant through recovery memo (Ex.PC) is concerned, suffice it to say that any empty cartridge was not sent for comparison and as per report of Punjab Forensic Science Agency, Lahore (Ex.PL), said pistol was only found in working condition, hence said report is inconsequential and recovery of the pistol is of no help to the case of prosecution; in this regard, guidance has been sought from the case of “LIAQAT ALI and another versus The STATE and others” (2021 SCMR 780).

- Conclusion:**
- i) When there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay.
 - ii) See above analysis(ii)
 - iii) See above analysis(iii)
 - iv) See above analysis(iv)
 - v) Said evidence can only be relied and used against co-accused if same is strongly corroborated by the independent evidence.
 - vi) Medical evidence is mere supportive/confirmatory type of evidence.
 - vii) If crime empties are not sent to Punjab Forensic Science Agency for comparison then its report is inconsequential and recovery of the pistol is of no help to the case of prosecution.

43. Lahore High Court
Irfan Ali v. The Station House Officer etc.
Writ Petition No.10470/2025
Mr. Justice Muhammad Waheed Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3102.pdf>

Facts: The petitioner sought recovery of his cousin from the unlawful custody of police officials. Pursuant to the court's order, a bailiff discovered the alleged detainee confined in police lock-up. The detainee had been arrested based on data from the "Travel Eye App" and was wanted in a criminal case registered at another police station in Karachi. Despite repeated communication from the arresting officers, the relevant police station did not take custody or initiate transfer of the detainee. The detainee was held for more than 24 hours without being presented before a magistrate, violating legal requirements.

- Issues:**
- i) Whether the detention of the accused for more than 24 hours without being produced before a magistrate is lawful?
 - ii) Different Apps used by Punjab Police and their significance.

- iii) Different laws to deal with accused arrested under Section 54 of Code of Criminal Procedure.
- iv) Whether Article 10(2) bars detention beyond 24 hours without magisterial approval?
- v) Provision of Transfer of accused in Police Order, 1934.
- vi) Whether a police officer can lawfully pursue and arrest a person without warrant anywhere in Pakistan?

Analysis:

- i) According to Section 61 of Code of Criminal Procedure 1898 (Cr.P.C), the police cannot detain any person for more than 24 hours and the police is bound to produce him before the learned Area Magistrate... According to Sections 60 and 61 of Cr.P.C, the Police Officer making arrest of accused was bound down to produce him before the Magistrate without any unnecessary delay... And thereafter, Magistrate deals with the accused and regulates the custody of such accused in the manner provided under Section 167 of the Cr.P.C.
- ii) Different Apps used by Punjab Police are “Travel Eye App”, “Hotel Eye App” and “E-Gadget App” which operate in the following manner:-
 “E-Police App: It is used by the Police to detect the criminals by entering CNIC”.
 “Travel Eye App: It is used at the bus stands/terminals to detect criminals by police. The cashiers of bus terminals enter CNIC of the passengers while issuing the ticket”.
 “Hotel Eye App: It is used by the police in hotels to make surveillance of the hotel visitors”.
 “E-gadget App: It is used by the police at mobile shops and markets to detect the stolen mobiles. The shopkeepers enter IEMI number of the mobile phones”
these “apps” introduced by the Punjab Police are serving the purpose and the Police is effectively arresting the accused/absconders and others involved in different criminal cases all over Pakistan, hence, have great significance and a direct impact on the expeditious and prompt flow of the administration of justice.
- iii) On going through the relevant provisions of different laws i.e, the Constitution of Islamic Republic of Pakistan, 1973, Criminal Procedure Code 1898 (Cr.P.C), High Court Rules and Orders Volume III, Chapter 11, Part-B (Remands to Police custody), Police Rules 1934, Chapter 26, Rule 20 (Transfer of arrested persons) it is clear that they provide different guidelines and mechanism to deal with the accused arrested by the Police in terms of Section 54 Cr.P.C or otherwise...
- iv) Article 10(2) of the Constitution of Islamic Republic of Pakistan, 1973, provides as under:- 10 (2): Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.
- v) Whereas, in CHAPTER XXVI of Police Order, 1934 (Arrest, escape and custody, is enshrined in the following manner:- “26.20. Transfer of arrested persons. (1) If a police Officer lawfully arrested a person, without a warrant, in a district in which the investigation, enquiry and trial cannot be held, and the

offence is nonbailable or such person cannot give bail, he shall take or send such person before the District Magistrate of 1st class or Magistrate having jurisdiction over the area and obtain an order for the transfer of the prisoner to the district in which the offence was committed”

vi) According to Section 58 of the Cr.P.C, the Police Officer had been authorized to pursue and arrest such persons from any place in Pakistan, which is reproduced as under:- 58. Pursuit of offenders into other jurisdiction: A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter pursue such person into anyplace in Pakistan. [Explanation: In this section, "police-officer" includes a police-officer acting under this Code as in Azad Jammu and Kashmir].

Explanation added by Code of Criminal Procedure (Amendment) Act, VIII of 1993.

- Conclusion:**
- i) Detention beyond 24 hours without judicial remand is unlawful.
 - ii) See above analysis No ii.
 - iii) See above analysis No iii.
 - iv) Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest.
 - v) See above analysis No v.
 - vi) According to Section 58 of the Cr.P.C, the Police Officer had been authorized to pursue and arrest such persons from any place in Pakistan.

44.

Lahore High Court

Mst. Khadija Bibi, etc. v. Judge Banking Court, etc.

C.M. No.7334 of 2018 in W.P. No.3876 of 2006

Mr. Justice Ahmad Nadeem Arshad

<https://sys.lhc.gov.pk/appjudgments/2025LHC3264.pdf>

Facts: The predecessor of the applicants mortgaged his property to obtain a loan from a bank but defaulted on repayment. The bank auctioned the property under Section 15 of the Financial Institution (Recovery of Finances) Ordinance, 2001. The auction purchaser paid the full bid amount, and the predecessor withdrew the balance. The auction was not challenged by him during his lifetime. However, the Banking Court did not confirm the statement of accounts as it was filed beyond the statutory 30-day period. The auction purchaser's application for possession was dismissed, leading to a writ petition, which was allowed. The applicants, as legal heirs, filed a Section 12(2) CPC application alleging fraud and misrepresentation in the prior High Court proceedings.

Issues: i) Can Section 12(2) C.P.C. be invoked without establishing fraud, misrepresentation, or lack of jurisdiction during judicial proceedings?

Analysis: i) The provisions of Section 12(2) C.P.C. can only be pressed into service when fraud has been practiced upon the Court during the proceedings of case and order, judgment & decree was obtained on the basis of such fraud and misrepresentation

or want of jurisdiction. The scope of said provision is restricted and the applicants are obliged to prove that fraud or misrepresentation was committed by the adversary in connection with the proceedings of the Court and to prove the following aspects: i. The fraud and mis presentation was practiced during the proceedings in the Court; ii. Alleged fraud included untrue statements by respondents who did not believe to be true and has committed active concealment of facts; iii. Judgment was obtained on the basis of forged documents; iv. The order, judgment/decree was collusively obtained. v. The order/judgment/decree suffered with want of jurisdiction.

Conclusion: i) See above analysis No i.

45. Lahore High Court
Anjuman Dukandaran Samdani Market
W.P No. 3438 / 2024
Ms. Justice Abid Hussain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC3290.pdf>

Facts: The petitioner, Anjuman Dukandaran Samdani Grain Market, filed this constitutional petition challenging the order passed by the Additional Deputy Commissioner (Revenue). The impugned order upheld the Market Committee, decision to reassess and enhance the rent of shops asserting that due process was followed.

Issues:

- i) Is a Market Committee legally competent to fix rent of immoveable properties under its management?
- ii) Does the fixation of rent by a Market Committee require compliance with any procedural or statutory framework?
- iii) Does the Punjab Rented Premises Act, 2009 limit the authority of a Market Committee in rent enhancement?
- iv) Is the remedy of appeal under Rule 21 of the 1979 Rules maintainable after the enactment of Section 24 of the Punjab Agricultural Marketing Regulatory Authority Act, 2018?

Analysis: i) A Market Committee under the overall regulatory umbrella of PAMRA is an independent and separate body corporate fully competent to deal with its moveable and immoveable properties subject to the conditions attached by the provisions of the Act itself which includes the power to fix rent qua its leased properties located in a public market regulated by it and rented out to its registered members or licensees... A Market Committee is under an obligation to fix market based rents with respect to its leased properties to fetch maximum revenue to ensure that the Market Committee may function as a financially solvent and economically viable entity fully capable to perform its functions under the Act to ensure best services to all stakeholders in the business of marketing of agricultural produce...a Market Committee is not only competent to fix and collect rents with respect to its immoveable properties in the manner

stated above but also empowered to cancel registration of market functionaries in case of default in payment of dues and can also initiate civil and criminal proceedings by invoking Sections 25 & 27 of the Act...

ii) "It is imperative to note that after passing of the rent fixation order... by the Chairman MC, TTS, PAMRA as apex regulatory body issued instruction... , constituting a Committee at District level for renting out shops by a Market Committee with terms of reference including the settlement of terms and conditions of rented properties after obtaining assessment from Excise and Taxation Department as reserve price, directing auction upon proper advertisement and ensuring incorporation of necessary details in the lease agreements... Currently, latest instructions dated 13.03.2025 are in field with the same mandate but with a reconstituted Committee. Needless to state that a Market Committee under the Act is obliged to comply with the orders of PAMRA... It, therefore, follows that due process has been adopted by MC, TTS during assessment of rent of shops which is liable to be paid by the members of the Anjuman and in case of non-payment, the defaulting members of the Anjuman are liable to be dealt with in accordance with law.

iii) It is also noted that there is no substance in the contention of the Petitioner that the rent could not be increased by more than 10% per annum or 25% after 3 years as there is no such stipulation in the Rented Premises Act... Section 6 thereof unequivocally provides that the rent between the landlord and the tenant shall be determined through a tenancy agreement including the rate of rent, rate of enhancement, due date and mode of payment of rent... There is no prohibition in the Rented Premises Act that the existing rents could not be enhanced or rationalized subject to existing tenancy agreements to conform to market realities...

iv) Section 24 thereof specifically provides for appeal against the order of Market Committee to the Director of Agriculture (E&M), Punjab and thereafter, to the Special Secretary, Agriculture Marketing... Rule 21 of the Rules of 1979 providing remedy of appeal before Respondent No. 3 became inapplicable being inconsistent to the express provisions of Section 24 of the Act and the applicable regulations made under the Act... Notwithstanding the fact that the remedies of two appeals provided under Section 24 of the Act were not availed by the Petitioner and as such, this Petition is not maintainable yet the same has been merely entertained to give a conclusive finding in this behalf considering that the case is of first instance.

- Conclusion:**
- i) A Market Committee is legally empowered to fix the rent of its immoveable properties.
 - ii) Fixation of rent must comply with applicable departmental instructions and ensure procedural fairness.
 - iii) The Punjab Rented Premises Act, 2009 does not restrict the Market Committee's authority to revise rent.
 - iv) The remedy under Rule 21 is inapplicable; appeals must be filed under Section 24 of the 2018 Act.

- 46. Lahore High Court**
The Bank of Punjab v. M/s Hira Textile Mills Limited and 08 others
C.O.S. No. 55735 / 2022 & P.L.A. Nos. 67952, 66029, 75802 & 68570 of 2022
Mr. Justice Abid Hussain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC3488.pdf>

Facts: A Bank instituted a suit for recovery of Rs. 276,196,889/- under Section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 against a corporate borrower and its directors who had furnished personal guarantees. The borrower had been availing finance facilities since 2007, which were restructured through mutual agreement. The restructuring included creation of Demand Finance (DF-I and DF-II) with agreed markup terms. Despite acknowledging the liability and restructuring terms in its Annual Report 2020, the borrower defaulted. The defendants sought leave to defend, raising objections to markup calculation, maintainability of the suit, and authenticity of documents.

Issues:

- i) Whether a restructuring arrangement qualifies as "finance" under the Financial Institutions (Recovery of Finances) Ordinance, 2001?
- ii) Whether restructuring or extension of repayment constitutes an "obligation" under the Ordinance?
- iii) Whether cost of funds or markup can be lawfully imposed on a restructured amount by mutual agreement under the Ordinance?

Analysis:

- i) Restructuring is also a “finance” in terms of Section 2(d)(iii) of the Ordinance which explicitly provides that “finance” includes... “any other financial engagement which a financial institution may give, issue or undertake on behalf of a customer, with a corresponding obligation by the customer to the financial institution”. Similarly, Section 2(d)(ix) of the Ordinance also stipulates that “finance” includes „any other facility availed by a customer from a financial institution”...It follows that restructuring is infact a mutually beneficial financial transaction based on convenience and expediency by which a financial institution postpones the recovery of amount due under the defaulted facilities to a future date and the customer accepts such postponement to avoid default and clear the liability based on its future cash flows.
- ii) Correspondingly, Section 2(e)(i) ordains that ‘obligation’ includes ‘any agreement for the repayment or extension of time in repayment of a finance or for its restructuring or renewal or for payment or extension of time in payment of any other amounts relating to a finance’
- iii) There is no prohibition under the Ordinance to impose cost of funds in the nature of markup with mutual consent of the parties on the restructured amount for the reason that upon restructuring, the due amount which ought to have come in the coffer of the financial institution before restructuring, is allowed to remain with the customer for a future date to which a cost may be applied. Hence, by mutual agreement, the parties could validly agree qua such costs at a particular rate which could be levied and recovered in the manner as stipulated in the

Restructuring Contract. In other words, Restructuring Agreement is nothing but a financial accommodation for all intents and purposes and cost of funds and / or markup, by whatever nomenclature it may be described, can validly be agreed and recovered upon default for the simple reason that a financial institution has agreed for deferment or postponement of the amount due at an early date with the consent of the borrower as a defaulting party to a future date.

Conclusion: i) See above analysis No i.
 ii) See above analysis No ii.
 iii) There is no prohibition under the Ordinance to impose cost of funds in the nature of markup with mutual consent of the parties on the restructured amount.

47. Lahore High Court
Kaumedex v. Managing Director, Punjab Public Procurement Regulatory Authority etc.
W.P No.14049/2025
Mr Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC3356.pdf>

Facts: The petitioner along with respondent No.6 participated in the tendering process floated by respondent No.5 (“Procuring Agency”). The petitioner submitted its tender and the Technical Evaluation Committee (“TEC”) held the petitioner successful. The proposal of respondent No.6 was declined and he approached the Grievances Redressal Committee (“GRC”), which rejected the grievance. Thereafter, he approached respondent No.1. Decisions of the TEC, as also the GRC, were set aside. Hence, this constitutional petition

Issues: i) Which bidder has been declared non-responsive?
 ii) Is there a distinction between “changing the substance of a bid” and “supplying missing declarations of eligibility”?
 iii) How may the deficiencies in requirements be addressed through post-bid clarifications?
 iv) Which principles must be balanced by the procurement regime?
 v) What does Rule 33(2) of the PPRA Rules stipulate?
 vi) What does the Court expect from the procuring agencies?

Analysis: i) Any bidder who fails to meet compulsory parameters/requirements was liable to be declared as non-responsive.
 ii) There is a marked distinction between changing the substance of a bid (such as price or type/brand of the product) and supplying missing declarations of eligibility.
 iii) Deficiencies in those requirements may be addressed through post-bid clarifications, which is permissible under Rule 33(2) of the PPRA Rules, provided such clarifications do not change the essence of the bid.
 iv) It is imperative to state that the procurement regime must balance the principles of fairness and transparency with procedural practicality.

v) Rule 33(2) of the PPRA Rules permits flexibility to cure such procedural deficiencies, provided the core integrity and competitive standing of the bid remain unaffected.

vi) It is expected that procuring agencies shall revisit their bidding documents so as to distinguish between procedural compliance and substantive eligibility.

- Conclusion:**
- i) Who fails to meet compulsory requirements.
 - ii) Yes. There is a distinction between changing the substance of a bid and supplying missing declarations of eligibility.
 - iii) Through post-bid clarifications in light of Rule 33(2) of the PPRA Rules.
 - iv) Principles of fairness and transparency with procedural practicality.
 - v) See above analysis No. v
 - vi) Procuring agencies shall revisit their bidding documents so as to distinguish between procedural compliance and substantive eligibility.

48. Lahore High Court
Tariq Mehmood Aamir v. Government of the Punjab
Writ Petition No.52251 of 2022
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC3368.pdf>

Facts: The petitioners were initially inducted into the prosecution service on a contract basis in 2007. Their services were later terminated, leading to litigation which were adjudicated upon by a Learned Division Bench of the Hon'ble Lahore High Court which held that the petitioners were entitled to the benefit of a notification dated 10.11.2010 which pertains to the regular appointment of contract employees in BS-16 and above. The Supreme Court dismissed Government's appeals in 2019; subsequently, the petitioners were appointed on a regular basis in 2022, but these appointments were treated as fresh. The petitioners applied to the department seeking regularization w.e.f. 10.11.2010. upon denial, they filed the present petitions.

Issues: i) Whether contractual employees are entitled to regularization from the date of their initial contract appointment or only from the date of their actual regularization under the Regularization Policy?

Analysis: i) In case of Dr. Javed Iqbal (2021 SCMR 767), the contours of the notification were analyzed by the Supreme Court, while formulating the following legal question:
 "The question before us is whether the date of regularization of contract employees is the date of their initial appointment on contract basis or the date of their regularization under the Regularization Policy dated 10.11.2010?"
 While addressing the above quoted legal question, the Apex Court held as follows:
 "7. ...It is underlined that contractual employees enjoy no vested right to regularization (see Contract Appointment Policy), much less to be regularized

from any particular date. The benefit of regularization extended to them under the Regularization Policy is prospective in nature and there is no legal justification to give it retrospective application. Any such step would totally negate the purpose and significance of the Contract Appointment Policy and leave no distinction between a contractual and a regular employee. This has been the tenor of the jurisprudence evolved by this Court. Reference can be made to the judgment of a five-member Bench of this Court dated 29.01.2018, passed in Civil Review Petition No. 471/2015, and the unreported judgments dated 13.03.2010 passed in C.Ps. Nos. 318-L to 330-L of 2018 and dated 21.07.2020 passed in C.Ps. Nos. 194-L/2020, etc. It is also important to underline that the consistent governmental policies on regularization have finally manifested in the Punjab Regularization of Service Act, 2018, which specifically provides for regularization with immediate effect.”

The Supreme Court’s interpretation in case of Dr. Javed Iqbal supra reinforces the understanding and the necessity of treating regularization as a fresh appointment to maintain the integrity of the civil service system and protect the rights of the existing civil servants. It is imperative to observe that both regular and contractual employees are governed by two separate and distinct Legal Frameworks—Contractual appointments are governed by specific terms and conditions distinct from those applicable to the regular civil servants. Therefore, allowing the contract employees to claim seniority from the date of notification would infringe upon the rights of existing regular civil servants, disrupting established hierarchies and entitlements.

Conclusion: i) See above analysis No i.

49. Lahore High Court
Malik Muhammad Akram Bhatti v. Nadeem Abbas etc.
Election Petition No.20955/2024
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC3460.pdf>

Facts: The petitioner challenged the declaration of the returned candidate in a general election for a specified electoral constituency. The grievance arose due to the summary rejection of the election petition by the Tribunal on the ground of defective verification and non-compliance with procedural requirements.

Issues

- i) Does the doctrine of *fait accompli* and the act of the Court prevent the Tribunal from rejecting a petition after issuing notice?
- ii) Does the term ‘decision’ under Section 155 include summary rejection of an election petition under Section 145?
- iii) Does the term ‘decision’ include judgment, order, or sentence when not specifically defined in the Constitution?
- iv) Does the Elections Act, 2017 distinguish between the Tribunal’s power to reject a petition under Section 145 and the decisions it may render under Section 154?

- v) Can the heading of Section 154 be used to interpret ‘decision’ as including rejection of a petition before trial?
- vi) Does the term ‘final decision’ under Section 155 include both dismissal and rejection of an election petition for the purpose of appeal?
- vii) Does identification by an Advocate without details meet the mandatory verification requirements under Section 144(4) of the Act and Order VI Rule 15, CPC?

Analysis:

- i) In the first place, a judicial forum vested with the power to decide a lis remains seized of the matter until it decides it conclusively. To impose the doctrine of *fait accompli* upon the issuance of notice by the Tribunal flies in the face of the established principle that no one should be prejudiced by the act of the Court. It is against propriety and public policy to suggest that a forum, once made aware of a procedural oversight, cannot rectify it. (...) Such an interpretation would be antithetical to the well-established judicial characteristic that a forum vested with judicial power must have inherent authority to nip unmeritorious litigation in the bud. The power of the Tribunal to summarily reject the petition cannot be considered extinguished merely upon the issuance of notice.
- ii) The term decision is one of broad connotation and includes the adjudication of a lis. The larger connotation of the term decision as used in Section 155 of the Act cannot be diminished by a narrow interpretation. It is worth noting that Section 145 of the Act empowers the Tribunal to summarily reject the election petition on account of nonconformity.
- iii) The Supreme Court, in the case reported as *Hafiz Abdul Waheed v. Asma Jehangir and another* (PLD 2004 SC 219) when faced with the argument that various terms such as judgment, decision, order, and sentence had been used in Chapter 3-A of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”) but only decision of the Federal Shariat Court was rendered binding, rejected such a narrow construction and observed that the term decision had not been defined in the Constitution and was used generically. The Supreme Court held that the expression decision in Article 203GG includes the judgment, order, or sentence (if any) passed by the Federal Shariat Court.
- iv) Section 145(1) of the Act empowers the Tribunal to summarily reject the election petition for non-conformity and noncompliance with Sections 142, 143 or 144 of the Act, if the election petition is found to be in compliance with said provisions; the Tribunal would proceed with the trial of the petition in accordance with the procedure laid down in the subsequent provisions. Section 154 of the Act spells out various kinds of orders the Tribunal could pass at the conclusion of the trial, however, these orders have also been collectively referred to as decisions, as is evident from the heading of Section 154 of the Act.
- v) Here, it is significant to state that while a heading is not conclusive in interpreting a provision of law, it can nevertheless serve as a guiding tool. The heading of Section 154 of the Act sheds light and aids interpretation, indicating that various orders the Tribunal may pass are encompassed within the term decision and may be used interchangeably therewith. Rejection of the petition is

one such type of order the Tribunal may pass, while taking up the objection of maintainability, prior to conclusion of trial.

vi) The legislature has not framed Section 155 of the Act to state that an appeal may only lie against a decision made under Section 154; rather, it broadly states that an appeal may be filed against any decision. Hence, the phrase final decision must be construed to include all decisions that conclusively determine the rights of the parties—i.e., final as opposed to interim or partial decisions—rather than being limited by distinctions between dismissal and rejection. While no appeal is provided against an interim decision, both dismissal and rejection fall within the fold of final decisions and can be appealed.

vii) Mere mention of identification by an individual, even if an Advocate, without any details of how and on what basis such identification was made, fails to satisfy the mandatory requirements of Section 144(4) of the Act read with Order VI Rule 15, CPC.

- Conclusion:**
- i) The Tribunal retains inherent power to reject a petition even after notice, and such authority is not barred by the doctrine of *fait accompli* or the act of the Court.
 - ii) The term ‘decision’ in Section 155 broadly includes summary rejection under Section 145 for non-conformity.
 - iii) The Supreme Court interprets ‘decision’ generically to include judgment, order, or sentence when not explicitly defined.
 - iv) The Act distinguishes between rejection for non-compliance before trial under Section 145 and final decisions after trial under Section 154.
 - v) The heading of Section 154 supports interpreting ‘decision’ to include pre-trial rejection on maintainability grounds.
 - vi) ‘Final decision’ in Section 155 encompasses both dismissal and rejection, making both appealable.
 - vii) Verification lacking detailed identification by an Advocate fails to meet legal requirements under Section 144(4) and Order VI Rule 15, CPC.

50. Lahore High Court
SYMPL Energy Pvt Ltd. v. Presiding Officer, etc.
W.P. No.28913 of 2025
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC3362.pdf>

Facts: The respondent filed a complaint against the petitioner before the Consumer Court. The petitioner raised the objection of limitation before the learned Consumer Court but his application to dismiss the complaint stood rejected.

Issues:

- i) What is the limitation period for filing a claim under the Punjab Consumer Protection Act, 2005?
- ii) Whether the limitation period provided by the Section 28(4) of the Act is absolute or any discretion vest with the court?
- iii) From what point the limitation period is commuted and whether the same is

stretchable?

iv) What does the expression ‘frivolous or vexatious’ as used in Section 35 of the Act mean?

v) Whether a time barred claim become frivolous due to limitation?

Analysis:

i) There is no cavil to the legal position that the limitation period provided under Section 28 (4) of the Act, for filing a claim, is 30 days from the date of accrual of cause of action.

ii) The said period of limitation is not so absolute as to leaving no room for filing claim beyond the stipulated period of 30 days as evident from the first proviso to Section 28(4), which vests discretion within the Court to allow a claim to be filed within such time as the Court may allow if it is satisfied that there was sufficient cause for not filing the complaint within the specified period. Similarly, the second proviso lays down an upper ceiling of 60 days from the expiry of warranty or guaranty and if no period is specified one year from the date of purchase of the product or providing of services. Thus, the legislature in its wisdom has conferred discretion for extending the limitation for filing of a claim beyond the stipulated period of 30 days.

iii) The August Supreme Court while upholding the view of this Court rendered in case reported as Muhammad Ashraf Vs. Sheikh Muhammad Akram etc. (2022 CLD 638) enunciated that the statutory period of 30 days is to run from the date of accrual of cause of action. However, the said case, by no means denuded the Trial Court from its discretionary power of extension of limitation period vested under the law.

iv) This provision is aimed at curbing baseless or malicious complaints. The terms “frivolous” and “vexatious”, as used in Section 35 of the Act, carry distinct legal connotations. According to Black’s Law Dictionary (Tenth Edition by Bryan A. Garner) a “frivolous” action is one that lacks any legal basis or merit and often brought to harass or embarrass the opposing party and a “vexatious” proceeding, similarly, refers to one instituted without probable cause, primarily intended to cause inconvenience or expense to the defendant. This Court is of the opinion that such terms do not encompass matters where there exists a genuine legal issue, even if that issue pertains to limitation.

v) A complaint that is barred by time may ultimately fail on legal grounds, but it does not, on that count becomes frivolous or vexatious when relationship of customer-service provider is admitted. Claims that are hit by limitation must be addressed under the scheme provided in Section 28 of the Act. A complaint that may be time barred is not per se frivolous. Rather, it must be tested on the touchstone of whether there is sufficient cause for condonation under the first or second proviso to Section 28(4) of the Act.

Conclusion:

i) As per Section 28(4) of the Punjab Consumer Protection Act, 2005 limitation period to file a claim is 30 days.

ii) Such period of limitation is not so absolute as to leaving no room for filing claim beyond the stipulated period of 30 days. The court in its discretion can

allow a claim beyond such period, if it is satisfied that there was sufficient cause.

iii) The statutory period of 30 days is to run from the date of accrual of cause of action.

iv) A “frivolous” action is one that lacks any legal basis or merit and often brought to harass or embarrass the opposing party and a “vexatious” proceeding, similarly, refers to one instituted without probable cause, primarily intended to cause inconvenience or expense to the defendant.

v) A complaint that is barred by time may ultimately fail on legal grounds, but it does not, on that count becomes frivolous or vexatious.

51. Lahore High Court
Munir Ahmad Bhatti v. Mehmood Ahmad Tahir Bhatti and another
Review Petition No. 25308 of 2025
Mr. Justice Sultan Tanvir Ahmad & Mr. Justice Hassan Nawaz Makhdoom
<https://sys.lhc.gov.pk/appjudgments/2025LHC3300.pdf>

Facts: The petitioner filed the Review Petition before the High Court in which he challenged the judgment passed by the High Court with the concurrence of the parties. The version taken by the petitioner was that he never accorded the consent for the judgment under review.

Issues:

- i) Whether an affidavit of an advocate is persuasive against the sanctity of a judicial order?
- ii) Whether review jurisdiction can be exercised to disturb an order passed with consent of the parties?
- iii) Whether factual allegation against the court should be accepted lightly?
- iv) Whether correctness of an order of trial court can be seen in the review petition by the High Court?
- v) What is the purpose of cross-examination?
- vi) Whether correctness of a conclusion arrived by the court can be reviewed?

Analysis:

- i) The law, with respect to credence of any statement of a Judge, is well settled. In “Fayyaz Hussain” case¹, the Supreme Court of Pakistan refused to accept affidavit of a learned Advocate to persuade against the sanctity of judicial order.
- ii) In “Syed Ali Ahmed Shah” case the Supreme Court of Pakistan has dealt with situation where, in review jurisdiction, the applicant sought to disturb an order passed with consent of the parties. The Honourable Supreme Court ruled that review jurisdiction can only be exercised in exceptional cases, where error is apparent on the face of record that can be rectified without reappraisal or re-examination of evidence and merits
- iii) This aspect is also examined by this Court in several cases and with observation that orders, judgments, decree and proceedings can no doubt be judiciously and legally examined by Courts of appeal, revision, or superintendence, however, factual allegations of such nature should not lightly be accepted to label the proceedings of the Court as wrongly recorded.

iv) To seek review of the judgment, next are the grounds of error by the learned trial Court in comprehending the concept of cross-examination or other alleged errors in the proceeding of the learned trial Court. We are afraid that we are not hearing appeal or a petition against any order of the learned trial Court. The grounds as to the incorrectness in the view adopted by learned trial Court, therefore, are not tenable.

v) There are several precedents, including “Muhammad Shafi” case, whereby, it has been settled that purpose of cross-examination is to assist the Courts in bringing the truth to light by disclosing or clarifying the matters, which witnesses may wish to conceal or confuse from motive of partisanship.

vi) Besides verity of statement of a learned Judge, the applicant wants to disturb correctness of a conclusion arrived after a conscious perusal of record and in depth examination of the relevant area, which was a subject matter in the constitution petition.

- Conclusion:**
- i) An affidavit of an advocate is not persuasive against the sanctity of judicial order.
 - ii) Review jurisdiction cannot be exercised to disturb an order passed with consent of the parties
 - iii) Factual allegation against the court should not be accepted lightly.
 - iv) See above analysis No. iv
 - v) See above analysis No. v
 - vi) See above analysis No. vi

52. Lahore High Court
Ahmed Raza v. Judge Family Court etc.
Writ Petition No. 23252/2021
Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3423.pdf>

Facts: Through this constitutional petition, petitioner has challenged the validity of order whereby the Family Court decided the controversy regarding decision of the suits on special oath while holding that petitioner cannot back out of his offer/proposal (made during his cross-examination) for decision of the suits on special oath on Holy Quran.

Issues:

- i) Whether a unilateral offer, without mutual acceptance, can create a binding obligation in judicial proceedings?
- ii) Whether an unaccepted offer becomes ineffective when the parties proceed with subsequent stages of litigation, indicating implied refusal?

Analysis:

- i) To my mind, offer/proposal made by the petitioner was not for all times to come and there was no mutuality of promise between the parties. When an offer/proposal was made by the petitioner and it was not accepted by the adversary at the same stage of trial, it would be deemed that agreement between the parties could not mature.

ii) It is a well-established jurisprudence that refusal can be either expressed or implied. An express refusal is a clear and direct statement rejecting an offer/proposal. An implied refusal, on the other hand, is established through actions, behaviour or silence that indicates the party's unwillingness to accept the same. When the parties had chosen to next stages of trial while letting behind the offer/proposal without acceptance, the offer/proposal would deem to be ineffective.

Conclusion: i) See analysis No i.
ii) The offer/proposal would deem to be ineffective if the parties had chosen to next stages of trial while letting behind the offer/proposal without acceptance.

53. Lahore High Court
Habib Metropolitan Bank Pakistan Limited v. Presiding Officer District Consumer Court Sialkot etc.
FAO No. 7458/2024
Mr. Justice Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3436.pdf>

Facts: The Consumer Court awarded various amounts to the complainant, including lawyers' fees incurred in proceedings before this Court and the Supreme Court. The Bank challenged only the award of lawyers' fees through the instant appeal.

Issues: i) Whether the Consumer Court can award lawyers' fees incurred in proceedings before the High Court and the Supreme Court under Section 31(g) of the Punjab Consumer Protection Act, 2005?
ii) Whether the Consumer Court can determine "actual costs" of litigation incurred in proceedings before other courts under Section 31(g) of the Punjab Consumer Protection Act, 2005?

Analysis: i) To my mind, awarding lawyers' fee by the Consumer Court to respondent No.2 incurred by him to plead his case before this Court as well as the Supreme Court of Pakistan amounts to exceeding its jurisdiction and stepping into the jurisdiction of Superior Courts as it is an admitted fact that the Supreme Court of Pakistan has not allowed Civil Petition filed by respondent No.2 with costs. Awarding fee of lawyers who pleaded the case of respondent No.2 before this Court as well as the Supreme Court of Pakistan amounts to altering and modifying the judgment of the Supreme Court of Pakistan which is not covered under Section 31(g) of the Act. The Consumer Court can exercise jurisdiction only to its own extent qua complaints filed before it.
ii) It would be significant to elaborate the term "actual costs" mentioned in Section 31(g) of the Act. I am of the considered view that the Consumer Court, being a subordinate court, can only determine the actual costs of litigation incurred by a litigant in relation to the proceedings pending before it and not the costs incurred to the proceedings before another court, such as this Court or the Supreme Court of Pakistan.

- Conclusion:** i) The Consumer Court cannot award lawyers' fees for proceedings before the High Court and Supreme Court under Section 31(g) of the Act.
 ii) The Consumer Court cannot determine "actual costs" for proceedings before other courts.

54. Lahore High Court
Muhammad Sarwar (deceased) through legal heirs etc.v. Mst. Anwar Kishwar Mirza etc.
Civil Revision No. 4542/2016
Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3427.pdf>

Facts: Through this Civil Revision, the petitioners have challenged the validity of the judgments rendered by the learned Civil Judge and the learned Additional District Judge, respectively. The former judgment dismissed the application for the restoration of the suit filed by the predecessor-in-interest of the petitioners, while the latter judgment upheld this dismissal, resulting in the appeal preferred by the petitioners also being dismissed.

Issues: i) How does Section 5 of the Act apply to civil revisions following the amendment mentioned in Article 162-A?
 ii) What is the nature of the law of limitation according to the settled law?
 iii) Can limitation run against void orders affecting the rights of any person?

Analysis: i) Pursuant to a legislative amendment to the First Schedule of the Act (Article 162-A) dealing with limitation period for filing a civil revision under Section 115 CPC, now Section 5 of the Act extends to civil revisions as well, enabling Courts to condone delays but subject to sufficient cause shown by the party seeking condonation. It is incumbent upon the party seeking such indulgence to establish justifiable grounds warranting the exercise of discretion under Section 5 of the Act.
 ii) Now it is settled law that law of limitation cannot be considered merely a formality and required to be observed being mandatory in nature as the purpose of introduction of law of limitation was to help vigilant and not indolent and helping hand might not be extended to a litigant who remained in deep slumber.
 iii) It is well-settled principle of law that question of limitation being not a mere technicality cannot be taken lightly and rights accrued to other party due to limitation cannot be snatched away without sufficient cause and lawful justification which is missing in the case in hand. By now, it is settled law that limitation would run even against void orders affecting rights of any person.

Conclusion: i) Section 5 of the Act allows Courts to condone delays in filing civil revisions, but subject to sufficient cause for the delay.
 ii) The law of limitation is considered mandatory in nature.
 iii) Yes, limitation can run against void orders affecting the rights of any person.

55. Lahore High Court
Muhammad Anjum Sharif v. Nisar Ahmad
C.R. No.746-D of 2024
Mr Justice Malik Muhammad Awais Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC3253.pdf>

Facts: The respondent (“plaintiff”) instituted a suit against the petitioner (“defendant”), alleging that he had borrowed a certain amount from him. After a full-fledge trial, the suit was decreed. The petitioner preferred an appeal, which was dismissed by the learned appellate court; hence this civil revision.

Issues:

- i) Whether Article 79 of Qanun-e-Shahadat Order, 1984 (‘The QSO’) is directory or mandatory?
- ii) What is the nature of the presumption attached under Article 129 of ‘The QSO’?
- iii) What will be the legal consequences of non-attestation of an instrument in compliance with Article 17(2)(a) of ‘The QSO’?
- iv) Upon whom does burden of prove lie under Article 117 of ‘The QSO’?
- v) What is the underlying rule on which Article 117 of ‘The QSO’ is based?
- vi) What is the proper sequence involved in the proving and disproving of a fact?

Analysis:

- i) The provision of this Article is mandatory and non-compliance will render the document inadmissible in evidence.
- ii) An adverse presumption is attached under Article 129 of ‘The QSO’ when a person withholds the best evidence.
- iii) The instrument shall be invalid in case it is not attested by the required number of witnesses and its enforceability under the law shall have no effect if it is not admitted by the executant, as prescribed in Article 17(2)(a) of ‘The QSO’.
- iv) When a person is bound to prove the existence of any fact, the burden of proof lies on that person.
- v) The said Article is based on the rule of incumbit probatio qui dicit, non qui negat, which means that the burden of proving a fact rests on the party who substantially asserts the affirmative of the issue and not upon the party who denies it.
- vi) Under Article 119 of ‘The QSO’, the party would be bound to prove positively specific plea or fact by producing convincing and cogent evidence, where after opposite party could be required to disprove the same.

Conclusion:

- i) Article 79 of ‘The QSO’ is mandatory.
- ii) An adverse presumption
- iii) The instrument shall be invalid and unenforceable.
- iv) Who asserts the existence of any fact.
- v) See above analysis No. v
- vi) See above analysis No. vi.

56. **Lahore High Court**
Shakeel Ahmad v. The State
Criminal Appeal No.22031 of 2022
The State v. Shakeel Ahmad
Murder Reference No.35 of 2022
Mr. Justice Muhammad Tariq Nadeem, Mr. Justice Raja Ghazanfar Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3222.pdf>

Facts: The appellant challenged the vires of judgment of learned trial court; wherein, the trial court awarded death sentence to the appellant in a murder case.

Issues:

- i) What is the effect of delay in lodging of FIR?
- ii) What is the effect of giving up a PW when examination-in-chief recorded?
- iii) Whether an injured witness is always truthful, due to the stamp of injuries on his person?
- iv) What benefit is to be given to accused in a case of multiple assailants?
- v) What is effect of confession/guilty plea u/s 265E CrPC, when the trial court proceeded with the trial to record evidence?

Analysis:

- i) There is an unexplained delay of about twenty two hours and thirty five minutes in lodging of the FIR. The aforementioned delay in the registration of F.I.R. gives reasonable clue that either the incident remained un-witnessed or narrator of ocular account had no previous acquaintance with the actual assassin..
- ii) It is pertinent to mention here that though Allah Mafi alias Mafia Bibi (PW.2) got recorded her examination-in-chief but later on she was given up by Liaqat Ali (complainant) being won over. By withholding the cross-examination of such an important witness, an adverse inference in terms of Article 129 Illustration (g) of Qanun-e-Shahadat Order, 1984 is drawn that had she appeared for cross-examination, she would not have supported the case of prosecution.
- iii) Though the remaining two witnesses namely Liaqat Ali (PW.1) and Mst.Ameena Bibi (PW.3) were having stamp of injuries on their persons yet they cannot be considered to be the truthful witnesses solely on the ground of their being injured.
- iv) A careful review of the testimony of Ameena Bibi (PW.3) reveals that although she claimed that the appellant hit her with a sota blow but it does not inspire the confidence, required for conviction of the appellant in this case, in the absence of independent corroboration, especially considering the overall inconsistencies that led to the acquittal of principal accused Musa. Moreover, the injury allegedly attributed to the appellant on the head of Ameena Bibi (PW3) was simple in nature, and the possibility of misidentification or exaggeration during a chaotic incident involving multiple assailants cannot be ruled out. In the interest of justice benefit of doubt must also be extended to the appellant regarding the charge of hurt.
- v) A trial court has the discretion to convict on a guilty plea under Section 265-E Cr.P.C., if it chooses to record prosecution evidence under Section 265-F Cr.P.C.,

this discretion must be exercised with utmost care, and ordinarily, awarding a capital sentence solely on such an admission should be avoided, with the prosecution's evidence being recorded in the interest of justice. Furthermore, a learned Division Bench of this Court in "Khalid Mehmood vs. The State" (2024 P.Cr.LJ 1212) unequivocally held that if a trial court proceeds with the trial after a guilty plea under Section 265-E Cr.P.C., that confession cannot subsequently be used to the accused's detriment... The underlying rationale is that once a trial court opts to record the entire prosecution evidence, its decision must be grounded in the evidence produced during the trial, and not solely on the initial confession. In the present case, the learned trial court appears to have acted contrary to these established legal principles and the evidence on record by convicting the appellant Shakeel Ahmad based on his initial plea of guilt after having conducted a full trial.

- Conclusion:**
- i) Delay in registration of FIR is considered as the occurrence is unwitnessed or narrator has no previous acquittance.
 - ii) By withholding the cross-examination of such an important witness, an adverse inference in terms of Article 129 Illustration (g) of Qanun-e-Shahadat Order, 1984 is drawn.
 - iii) Witnesses having stamp of injuries on their persons yet cannot be considered to be the truthful, solely on the ground of their being injured.
 - iv) The possibility of misidentification or exaggeration during a chaotic incident involving multiple assailants cannot be ruled out.
 - v) A trial court has the discretion to convict on a guilty plea under Section 265-E Cr.P.C., if it chooses to record prosecution evidence under Section 265-F Cr.P.C., that confession cannot subsequently be used to the accused's detriment. Once a trial court opts to record the entire prosecution evidence, its decision must be grounded in the evidence produced during the trial, and not solely on the initial confession.

57.

Lahore High Court

The State v. Muhammad Ijaz Mithu Shah And Connected Matters
Murder Reference No.146 of 2021

Ms. Justice Aalia Neelum (The Chief Justice), Ms. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3133.pdf>

Facts:

The case arose from a homicide incident wherein two accused persons were convicted and sentenced to death and life imprisonment, respectively. Both convicts filed separate criminal appeals challenging their convictions, while the complainant filed a criminal revision for enhancement of sentence and an appeal against acquittal of two co-accused. The Trial Court's reference for confirmation of the death sentence was also placed before the Lahore High Court for adjudication.

Issues:

- i) Whether the unexplained delay in FIR registration renders the prosecution's case doubtful?

- ii) Can an FIR be treated as substantive evidence if the complainant is not examined?
- iii) Whether the testimony of chance witnesses without plausible explanation is reliable?
- iv) Does making dishonest improvements render a witness's statement untrustworthy?
- v) What is the effect of withholding an injured eyewitness?
- vi) Does contradiction in time of death and time of occurrence affect the prosecution's case?
- vii) What is the effect of unproved motive on the prosecution case?
- viii) What is the evidentiary value of a weapon recovery not matched by forensic evidence?
- ix) Can medical evidence alone establish the culpability of an accused?
- x) Is a criminal appeal maintainable if filed after the expiry of limitation?

Analysis:

- i) The intervening duration of about 8-hours between the time of incident and autopsy since remained unexplained, thus gives an indication that the FIR was not registered at the time mentioned in the relevant column.
- ii) Admittedly complainant Syed Muhammad Sibtain Shah died prior to recoding of his evidence before the Court, though, in such circumstances, FIR could be brought on record through secondary evidence, yet it could not be termed as a corroboratory piece of evidence keeping in view the non-appearance of the complainant, who did not appear in the witness box and was not subjected to cross-examination.
- iii) The presence of both the PWs at the spot, in the manner they claimed, makes them chance witnesses and their depositions suspect evidence.
- iv) It is settled principle laid down for the appraisal of evidence that a witness who pollutes his evidence through dishonest improvements indeed compromises his own integrity which renders him unworthy of any credence.
- v) However, we have observed that afore-said Zia-ur-Rehman did not appear before the trial court in support of the injury received by him and to explain delay in conducting his medical examination despite receiving firearm injury. No attempt on part of the prosecution to call him as court witness is oozing from the perusal of record. The legitimate inference which can be drawn from the withholding of such important piece of evidence is in accordance with Article 129 Illustration (g) of Qanun-e-Shahadat Order, 1984 which is to the effect that had Zia-ur-Rehman appeared in the witness box, he would not have supported case of prosecution.
- vi) It is also worth mentioning here that according to complaint (Ex.PM), the occurrence took place at 02:15 p.m., but in the postmortem report (Exh.PD) the time of death of the deceased has been mentioned as 01:30 p.m. on 28.12.2019 i.e. 45 minutes before happening of the alleged occurrence. These lacunas on part of the prosecution also create serious doubts in the veracity of the prosecution case.
- vii) It is well settled that once the motive is set up by the prosecution and the same is not proved, the prosecution shall suffer.

viii) The PFSA report reveals that the pistols recovered from the appellants were examined and found to be in mechanical operating condition, however it was opined by the expert of PFSA that “Because of differences in individual characteristics the items C1 to C4 cartridge cases could not have been fired in the items P.1 to P3 pistols”. In view of above, the recovery of pistols at the instance of appellants is inconsequential and is of no use to the prosecution for considering it a corroborative piece of evidence.

ix) Suffice it to say in this regard that the medical evidence leads this court to tell the cause of death but does not provide the detail about the actual culprit.

x) The appellant has not explained the sufficient cause for the delay in filing the appeal. The Criminal Procedure Code 1898 provides the time limit for filing an appeal against acquittal as 30 days under Section 417 (2-A) Cr.P.C. Therefore, an application for condonation of delay under Section 5 of the Limitation Act 1908 was not maintainable due to the bar contained in Section 29 (2) (a) and (b) of the Limitation Act 1908. There being the particular limitation of thirty days prescribed by the statute mentioned above, the provision of Section 5 of the Limitation Act, 1908, has lost its applicability in the issue. Needless to observe that lapse of time is, in a criminal matter, sufficient to protect a person who has been acquitted against the other judicial process.

- Conclusion:**
- i) Unexplained delay in FIR registration casts serious doubts on the prosecution’s narrative.
 - ii) FIR cannot serve as substantive evidence without examination of its maker.
 - iii) Testimony of unexplained chance witnesses lacks reliability.
 - iv) Dishonest improvements render witness testimony untrustworthy.
 - v) Withholding of an injured eyewitness raises adverse presumption against the prosecution.
 - vi) Contradiction in timings casts serious doubt on the veracity of the prosecution.
 - vii) Unproved motive undermines the prosecution’s version.
 - viii) Weapon recovery is inconsequential when not forensically linked to the offence.
 - ix) Medical evidence alone does not establish the identity of the assailant.
 - x) Appeal filed beyond limitation is not maintainable in law.

58.

Lahore High Court

Malik Muhammad Imran & 3 others v. The State & another
Criminal Appeal No.63397 of 2019

Tariq & 2 others v. The State & another
Criminal Appeal No.1005 of 2019

(Arshad alias Sohni v. The State & another
Criminal Appeal No.1200 of 2019

Ashraf Ali v. Malik Muhammad Imran & 3 others
Criminal Revision No.64108 of 2019

The State v. Malik Muhammad Imran
Murder Reference No.134 of 2019

Hon’ble Chief Justice Ms. Aalia Neelum, Mrs. Justice Abher Gul Khan

- Facts:** The appellants have challenged their convictions in a case FIR registered with the allegations of murder. However, the complainant filed criminal revision for the enhancement of conviction of the convicts.
- Issues:**
- i) What is the impact of delayed FIR, when a Rapat in Ronznamcha already stood registered immediately after the occurrence?
 - ii) What is the evidentiary value of injured witness in a case having more number of assailants?
 - iii) What evidentiary value would be attached to positive PFSA report, when ocular account stands disbelieved?
 - iv) How omissions/improvements would be looked into, when the investigation officer recorded their statements without any omission?
 - v) What is the impact of non-ascribing an injury to any assailant?
 - vi) What is the impact of non-producing the Radiologist before the trial court?
 - vii) What is effect of not proving the motive, which is set by the prosecution?
- Analysis:**
- i) The incident in this case occurred on 30.05.2017 at about 4:30 p.m. but the matter was reported to the police on 03.06.2017 at about 6:05 p.m. i.e. after the delay of 04- days & 1½ hour but no plausible explanation was offered by the prosecution for such long delay. We have also noticed that immediately after the occurrence Rapat No.18 dated 30.05.2017 was entered at 5:50 p.m. wherein it was specifically mentioned that Akbar Ali, Asrhaf, Muhammad Idrees, Salman, Muhammad Usman, Naeem Abbas in injured condition came at Police Station Kassowal and stated that Imran along with 12 other named and 7/8 unknown accused who were armed with Dands, Sotas and firearm weapons injured them. It is worth mentioning here that when the occurrence had already been reported in the form of Rapat No.18, there was no occasion for the complainant to re-report the matter through written application (Exh.PM) after the delay of more than four days...it can be concluded that in fact Rapat No.18 was the exact information which was conveyed to police immediately after the incident. However, later on the facts were concocted and the FIR was chalked out after deliberation and consultation.
 - ii) For handing down guilty verdict to an accused in such incident, the testimony of an injured eyewitness is still required to be tested on the touchstone of the principles laid down for the appraisal of evidence. To say that an injured witness of murder incident seldom tells lie might be true in a case of single accused but is an overstatement when the number of assailants is more than one. It will wholly be unjust to raise the superstructure of conviction on the deposition of injured witness, without subjecting it to strict test of scrutiny for adjudging his credibility.
 - iii) The positive reports of PFSA further lose legal acceptance as corroboratory piece of evidence when seen in the context that the ocular account stands disbelieved.
 - iv) Ghulam Farid SI (PW.19) during cross-examination stated that he correctly recorded the statements of PWs. In this way, no question arises that any omission

in recording the statements of eyewitnesses remained on part of the Investigating Officer. In this view of the matter, the omissions/improvements made by the afore-mentioned eyewitnesses rendered them unworthy of any credence as their credibility was compromised.

v) The medical evidence contradicts the ocular account whereby the single firearm injury from .30 bore pistol was attributed to Malik Muhammad Imran (appellant). In such scenario, the existence of second shot at the skull of the deceased which is not attributed to anybody casts a colossal doubt to the prosecution case.

vi) It is settled that once Radiologist is not produced in proof of the x-ray report qua the declared injuries, the same cannot be used for maintaining the conviction of the accused.

vii) It is well settled that once the motive is set up by the prosecution and the same is not proved, the prosecution shall suffer.

- Conclusion:**
- i) When a Rapat is recorded immediately after occurrence but a considerable delay in lodging FIR, diminishes its value with the label of concoction and deliberation.
 - ii) The testimony of injured witness is not trustworthy without corroboration, when a large number of assailants. However, an injured witness of murder incident seldom tells lie might be true in a case of single accused.
 - iii) Positive PFSA report loses legal acceptance, when ocular account is disbelieved.
 - iv) When there is no omission on the part of investigation officer while recording statement of witnesses, any omissions/improvements made by the eyewitnesses rendered them unworthy of any credence.
 - v) The existence of second shot which is not attributed to anybody casts a colossal doubt to the prosecution case.
 - vi) When Radiologist is not produced in proof of the x-ray report qua the declared injuries, the same cannot be used for maintaining the conviction.
 - vii) See above analysis (vii)

59. Lahore High Court
The State v. Qalab Abbas
Murder Reference No.67 of 2020
Ms. Justice Aalia Neelum Chief Justice, Ms. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3110.pdf>

Facts: Appellants challenged their conviction and sentence to death and imprisonment for life with compensation under Section 544-A Cr.P.C to legal heirs for causing hurt and murderer of two persons whereas two co-accused were acquitted by extending them the benefit of doubt; a criminal appeal against their acquittal and a murder reference for confirmation of the death sentence have also been clubbed for adjudication.

Issues: i) Whether delayed FIR affects the credibility of prosecution case in a capital offence case?

- ii) Whether material dishonest improvements render a witness's statement unreliable?
- iii) Whether a dying declaration is admissible and reliable for conviction under the required legal conditions?

Analysis:

- i) FIR in this case has been chalked out with a considerable delay and that too after due consultation and deliberation. Thus, a cautious approach ought to be adopted by the Courts for evaluating the evidence especially in a case of capital charge.
- ii) The approach of the Supreme Court of Pakistan qua the material dishonest improvement is consistently against the maker of such statement, whereby the fresh facts introduced during trial are discarded from consideration.
- iii) Dying declaration is admissible under Article 46 of Qanun-e-Shahadat Order, 1984 and if duly proved it can be used for raising superstructure of conviction. However, at the same time we are compelled to observe here that dying declaration only attains acceptability if firstly it is proved to have been made by the deceased; secondly it is free from tutoring; thirdly the maker of such statement was having full control over his faculties so as to make a lucid statement and to exclude all hypothesis that the same was not made by him under whispering of death and fourthly the statement must be attested or endorsed either by a Magistrate or by the medical officer.

Conclusion:

- i) Delayed FIR affects the credibility of prosecution case in a capital offence case
- ii) See above Analysis No.2.
- iii) Dying declaration is admissible and reliable if it is proved to have been made by the deceased; secondly it is free from tutoring; thirdly the maker of such statement was having full control over his faculties and fourthly the statement must be attested or endorsed either by a Magistrate or by the medical officer.

60. Lahore High Court
Khudadad v. The State & another
Criminal Appeal No.62278 of 2020
The State v. Khudadad
Murder Reference No.148 of 2020
Ms. Justice Aalia Neelum The Chief Justice, Mrs Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3318.pdf>

Facts: A murder took place at a rural dwelling where deceased was shot and killed following a brief altercation. The incident was reportedly witnessed by close relatives of the deceased. Medical evidence recorded multiple gunshot wounds with signs of close-range firing. The investigation involved recovery of a pistol from the accused and alleged matching of crime scene bullet casings with the weapon. The Appellant was convicted but he denied involvement, asserting false implication due to personal enmity and weaknesses in the prosecution's account. Appellant filed Criminal Appeal challenging his conviction and sentence whereas

trial court forwarded a murder reference to seek confirmation or rejection of the death sentence imposed on the convict.

- Issues:**
- i) Whether the non-production of the police constable who carried the complaint for FIR registration casts doubt on the prosecution's case?
 - ii) Whether the unexplained delay in submission of police papers for autopsy undermines the credibility of the prosecution's version?
 - iii) Whether dishonest improvements make a witness unreliable?
 - iv) Difference between 30 bore and 9mm pistols.
 - v) Whether blackening around wounds indicates the distance from which the shot was fired?
 - vi) Whether failure to prove a specifically alleged motive weakens the prosecution's case?
 - vii) Whether inconsistency between medical and ocular evidence creates doubt in the prosecution's case?
 - viii) Whether the absence of crime empties in the inquest report casts doubt on the validity of the forensic report?
 - ix) Whether it is preferable in law to acquit a guilty person than to convict an innocent one?

- Analysis:**
- i) While dealing with the issue of non-production of a police constable who brought the complaint to the police station for the registration of FIR, the Supreme Court of Pakistan in case reported as Minhaj Khan v. The State (2019 SCMR 326) held as under:-
 “.....the non-production of Constable Jehanzeb Khan who took the written complaint and was an eye-witness of the occurrence and of the recovery memorandums; and the inexplicable conduct of the Complainant PW-2 in not proceeding to the police station himself to register the FIR are matters of concern and collectively of incredulity. The conclusion therefrom that we draw is that the prosecution had failed to establish its case against the petitioner beyond reasonable doubt, or, at worst, that the petitioner was involved in a false case for ulterior reasons.”
 - ii) The unexplained delay in submission of police papers to the Medical Officer and holding autopsy is always considered fatal for the prosecution case and leads us to conclude that the story of the prosecution was cooked up after procuring the attendance of false eyewitnesses. Reliance in this context may be placed upon the case reported as Muhammad Ilyas v. Muhammad Abid alias Billa (2017 SCMR 54).
 - iii) It is settled principle laid down for the appraisal of evidence that a witness who pollutes his evidence through dishonest improvements indeed compromises his own integrity which renders him unworthy of any credence. Reliance is placed upon the case reported as Sardar Bibi and another v. Munir Ahmed and others (2017 SCMR 344)
 - iv) As regards 30 bore pistol it is typically a term used in India and Pakistan and corresponds roughly to a 30 inch caliber and it denotes a rifled firearm with a bore

diameter of approximately 0.30 inches. It also causes significant cavitation.

On the other hand 9mm pistol denotes a bullet with a diameter of 9mm (0.355 inches) common used in semi-automatic pistols. The term 9mm handgun fires a 9mm diameter bullet and causes less severe cavitation.

The nutshell of afore-said facts is that both the weapons are entirely different in their make and appearance.

v) According to the medical jurisprudence, the blackening occurs when a shot is fired from a distance of 6 to 12 inches and vanishes if the distance is more than three feet... In case reported as *Amin Ali and another v. The State* (2011 SCMR 323) the Supreme Court of Pakistan while citing the Modi's Medical Jurisprudence held as under:-

“Thus from such a distance injury with blackening cannot be caused as it can be caused from a distance of less than 3 feet as per Modi's Medical Jurisprudence.”

In another case reported as *Muhammad Zaman v. The State and others* (2014 SCMR 749) the Supreme Court of Pakistan observed that:- “In Modi's Medical Jurisprudence and Toxicology (21st Edition) at page 354, it has been held that “Blackening is found, if a fire-arm like shot-gun is discharged from a distance of not more than 3 feet”.

vi) It is well settled that once the motive is set up by the prosecution and the same is not proved, the prosecution shall suffer. Reliance in this context may be placed upon the case reported as *Sarfraz and another v. The State* (2023 SCMR 670).

vii) It is now a settled principle of law that variation in the medical and ocular account totally mars the case of the prosecution. Reliance is placed upon the case reported as *Abdul Jabbar and another v. The State* (2019 SCMR 129) wherein the Supreme Court of Pakistan while dilating upon inconsistency between medical ocular evidence observed as under:-

“It is the settled principle of law that once a single loophole is observed in a case presented by the prosecution much less glaring conflict in the ocular account and medical evidence or for that matter where presence of eye-witnesses is not free from doubt, the benefit of such loophole/lacuna in the prosecution case automatically goes in favour of an accused.”

viii) Both the crime empties and recovered pistol were sent to the office of PFSA for comparison and the report therefrom shows that both matched with each other. The afore-mentioned positive report lost its significance when seen in the context of column No.22 & 23 of inquest report according to which no crime empty was recovered from the place of occurrence...The PFSA report can further be denied from consideration on the score that both crime empties and the pistol recovered from the appellant were dispatched to the office of PFSA after the arrest of the appellant... In such circumstances, the blankness of columns No.22 & 23 manifestly makes it clear that no crime empty was secured from the spot and apparently the same were planted by the police so as to knit the evidence for corroborating the statements of eyewitnesses. Reliance in this regard may be placed upon the case reported as *Mansab Ali and another v. The State* (2024 PCrLJ 617)

ix) As per saying of the Holy Prophet (صلی اللہ علیہ وسلم), the mistake in releasing a criminal is better than punishing an innocent person. Same principle was also followed by the Supreme Court of Pakistan in the case reported as Ayub Masih v. The State (PLD 2002 Supreme Court 1048), wherein, it was observed as under:-

“.... It will not be out of place to mention here that this rule occupies a pivotal place in the Islamic Law and is enforced rigorously in view of the saying of the Holy Prophet (p.b.u.h) that the “mistake of Qazi (Judge) in releasing a criminal is better than his mistake in punishing an innocent.”

- Conclusion:**
- i) See above analysis No i.
 - ii) Unexplained delay in submission of police papers to the Medical Officer and holding autopsy is always considered fatal for the prosecution case.
 - iii) Dishonest improvements renders a witness unreliable.
 - iv) See above analysis No iv.
 - v) See above analysis No v.
 - vi) The motive is set up by the prosecution and if the same is not proved, the prosecution shall suffer.
 - vii) Variation in the medical and ocular account totally mars the case of the prosecution.
 - viii) See above analysis No viii.
 - ix) See above analysis No ix.

LATEST LEGISLATION/AMENDMENTS

1. Vide Notification No. SOR-III(S&GAD)1-15/2022 dated 25-04-2025; amendments are made in The Punjab Mines Labour Welfare Organization Service Rules, 1981.
 2. Vide Notification No. SOR-III(S&GAD)1-5/2006 dated 29-04-2025; amendment is made in the schedule of The Punjab Excise, Taxation and Narcotics Control Department Service Rules, 1980.
 3. Vide Notification No.SO(P&P)4-22/2024 dated 19-05-2025; The Punjab Probation and Parole Service Rules, 2025 is promulgated.
 4. Vide Notification No. FD(FR)II-4/2025 dated 21-05-2025; amendments are made in the second schedule of The Punjab Delegation of Financial Powers Rules, 2016.
 5. Vide Notification No. SO(TAX)3-5/2015 dated 27-05-2025; amendments are made in the schedule of The Appellate Tribunal of Punjab Revenue Authority Service Rules, 2017.
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SELECTED ARTICLES

1. HARVARD LAW REVIEW

<https://harvardlawreview.org/print/vol-138/the-forgotten-history-of-prison-law-judicial-oversight-of-detention-facilities-in-the-nations-early-years/>

The Forgotten History of Prison Law: Judicial Oversight of Detention Facilities in the Nation's Early Years by Wynne Muscatine Graham

Prison law is characterized by judicial deference to penal administrators. Despite the well-documented horrors that occur behind prison walls, federal and state courts often decline to intervene, asserting, among other things, that prisoners' rights are limited and that the judicial branch lacks the power and expertise to get involved in the inner workings of detention facilities. Moreover, jurists often assume that the nation's first courts largely stayed out of prisons and jails, and contemporary judicial deference is therefore historically rooted. This Article complicates that historical narrative. It shows that the nation's Founding generation established an expansive system of judicial oversight over prisons and jails that lasted through much of the nineteenth century. During that period, state and local judges across the fledgling republic conducted regular inspections of detention facilities; set prison and jail rules and policies; appointed, removed, and occasionally served as penal administrators; managed the funding and building of jail facilities; and remedied abuses. On occasion, federal courts also interceded on behalf of prisoners. Relying on neglected state statutes, case law, and reports, as well as the writings of prison theorists and observers, this Article explores the oft-ignored history of American prison law. In so doing, this Article shows how far modern courts have diverged from their early predecessors, especially at the state and local levels. For jurists — and particularly originalists — who use history to inform contemporary doctrine, this Article provides a fuller account of the early relationship between courts and prisons. Finally, this Article reveals a model of judicial oversight from which scholars and advocates can learn.

2. MANUPATRA

<https://articles.manupatra.com/article-details/Criminal-Psychology-and-Theories-of-Criminology-Punishments-Understanding-the-Mind-Of-Offenders-In-India>

Criminal Psychology and Theories of Criminology & Punishments: Understanding the Mind of Offenders In India By Pankaj Pandey

In order to understand the complex patterns of crime and its effects on society, criminology— the scientific study of crime and criminality - has become a crucial field of study. In order to lessen the impact of criminality and improve public security, criminologists seek to understand the causes, effects, and control of crime. Given the social, economic, and cultural diversity of India, criminology is especially important there. Indian economic growth, urbanization, and social transformation have created new challenges for the criminal justice system and the law enforcement machinery. In the words of Indian criminologist Dr. R.N. Kaul, "Criminology in India must address the root causes of crime, i.e., poverty, inequality, and social injustice." (Kaul, 1975) Scholars

like Dr. Singh have emphasized that an all-encompassing strategy to avoid control should be adopted based on sociology, psychology, law, and economics. (Singh, 2012) *Indian Journal of Criminology*, a publication of Indian Society of Criminology, is an appropriate venue for scholars to submit research on crime and criminal justice in India. Worldwide, criminology uses inter-disciplinary theories to explain crime and its impact. Criminological theories like classical, positivist, and strain theories provide frameworks to explain crime patterns and design effective interventions. (Siegel, 2020) With the understanding of these theories and their application to the Indian scenario, criminologists can develop context-specific interventions to fight crime and provide justice.

3. HARVARD LAW REVIEW

<https://harvardlawreview.org/print/vol-138/excited-delirium-policing-and-the-law-of-evidence/>

Excited Delirium, Policing, and the Law of Evidence by Osagie K. Obasogie

Police use of force continues to be a significant problem in American law and society. Recent discussions have focused on doctrinal issues such as what type of force is considered “reasonable” under the Fourth Amendment and the propriety of qualified immunity as a defense that can shield law enforcement from civil litigation. However, there has been little commentary on how these and other legal questions might be informed by medicine — specifically, victim diagnoses that might effectively absolve officers from criminal prosecution or civil liability. One prominent example concerns excited delirium, which is thought to be a psychiatric issue characterized by the acute onset of extreme agitation that can become so severe that someone might die spontaneously, on their own, without anyone to blame except the person’s own mental condition. This diagnosis has been used by coroners, medical examiners, forensic pathologists, and law enforcement to suggest that some deaths in police custody occur not because the decedent was subject to unlawful force, but because the mysterious onset of a psychiatric illness led them to die suddenly. But there are significant problems with this claim. Notably, since its inception in the 1980s, researchers have found little evidence that this medical condition exists. This lack of proof leads to a critical question: How did law become so welcoming to excited delirium when medical and scientific communities continue to have serious reservations? This Article provides the first empirical assessment of how excited delirium has been treated as an evidentiary matter within federal courts. In doing so, it explores how federal courts deploy Federal Rule of Evidence 702 to understand the claims made by expert witnesses in cases regarding the admissibility of excited delirium as a medical diagnosis that might explain deaths in police custody. The findings show that excited delirium often enters evidentiary proceedings as a contested medical concept. Yet, through the machinations of the law of evidence, these claims exit courtroom proceedings as legally relevant facts. How this transmutation happens, and the evidentiary moves that make it possible, highlight the extent to which legal doctrine can settle an otherwise unsettled — if not wholly discredited — area of medicine to make deaths in police custody seem natural, blameless,

and unproblematic. Understanding how the law of evidence contributes to concealing what might otherwise be seen as unreasonable uses of force is critical for ongoing discussions concerning police reform..

4. Lawyers Club India

<https://www.lawyersclubindia.com/articles/punishment-for-abusing-a-judge-delhi-high-court-upholds-conviction-of-a-lawyer-17743.asp>

Punishment for Abusing a Judge: Delhi High Court Upholds Conviction of a Lawyer by Adv. Sanjeev Sirohi

It has to be definitely taken most seriously that none other than the Delhi High Court itself has in a most learned, laudable, landmark, logical and latest judgment titled Sanjay Rathore vs State (Govt of NCT of Delhi) & Anr in CRL.REV.P. 128/2024 and cited in Neutral Citation: 2025:DHC:4401 that was pronounced as recently as on 26.05.2025 has minced absolutely just no words to hold in no uncertain terms that the advocate's act of abusing, threatening and outraging the modesty of the woman judge during proceedings was not merely misconduct but a direct assault on the justice system. It is a no-brainer that we thus see that in this leading case, the Delhi High Court refused to reduce the sentence of an advocate who was convicted for his unjustified act holding that such conduct attacked the very foundation of judicial decorum and institutional integrity. No doubt, an advocate has to be most cautious while speaking with any person and here the abuse was made on a Judge and that too female and so no wonder that action had to follow as we see in this leading case!.

5. MANUPATRA

<https://articles.manupatra.com/article-details/ENFORCEABILITY-OF-ARBITRAL-AWARDS-IN-ARBITRATION-HURDLES-TO-THE-IMPLEMENTATION-OF-THE-COVETED-MECHANISM>

Enforceability of Arbitral Awards In Arbitration: Hurdles To The Implementation Of The Coveted Mechanism by Namitha Udayan & Sharen M Sam

While arbitration is heralded as the cost-effective and time-effective alternative to litigation, certain drawbacks are a nip in the bud to implementing this meritorious mechanism. The article aims to analyse the drawbacks and proffer recommendations to resuscitate the mechanism from its apparent state of fallow. The Parliament, prompted by the UNCITRAL, devised the Arbitration & Conciliation Act, 1996, a key enactment which transformed the outlook of arbitration in India. Before 1996, the mechanism was regulated by The Arbitration Act, 1940, The Arbitration (Protocol and Convention) Act, 1937 and The Foreign Awards (Recognition and Enforcement) Act, 1961. The Act sets out two types of arbitration based on its character, i.e., it may be international or domestic. International commercial arbitration has been defined under Section 2(1)(f) of the Act and according to Hon'ble Justice Vijender Jain², "International Commercial Arbitration: has been defined to mean, in short, an arbitration relating to a commercial dispute which has at least one of the parties belonging to a foreign country. Such a party may be an individual, firm or a company," whereas domestic arbitration refers to an

arbitration where the parties belong to India. The arbitral awards are also divided into two categories, namely foreign and domestic based on the same characteristic of differentiation.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*
Volume - VI, Issue - XI
01 - 06 - 2025 to 15 - 06 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(01-06-2025 to 15-06-2025)

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

JUDGMENTS OF INTEREST

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1. **Supreme Court of Pakistan**
Commissioner Inland Revenue, Zone-I, Regional Tax Office, Sialkot v. M/s White Gold Steel Mills, S.I.E. Daska
C.A.2026/2022
Mr. Justice Munib Akhtar, Mrs. Justice Ayesha A. Malik, Mr. Justice Shahid Waheed,
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 2026 20221.pdf

Facts: The instant appeals arise out of a common legal question regarding the scope of jurisdiction of the Commissioner under Section 221(1) of the Income Tax Ordinance, 2001 to rectify mistakes apparent from the record in deemed assessment orders passed under Section 120 of the Ordinance as the respective High Courts rendered judgments holding that the Commissioner lacked jurisdiction to amend deemed assessment orders under the said provision.

Issues:

- i) Whether the jurisdiction under section 221(1) extends to deemed assessment orders created by the deeming provisions of section 120(1)?
- ii) Whether the return is an assessment order deemed to have been issued by the Commissioner to the taxpayer?
- iii) Whether revised returns under Sections 120(1) and 122(3) prospectively amend deemed assessments, constituting Commissioner's orders that are rectifiable under Section 221(1)?

Analysis:

- i) It can be stated without loss of accuracy that the submissions by learned counsel for the Department fall in the first part of the principles formulated in Mehreen Zaibun Nisa. Their case essentially is that one “inevitable corollary” of the “state of affairs” brought about by the deeming required by the two clauses of s. 120(1) is that the deemed assessment order does come within the scope of s. 221(1), and hence of the jurisdiction conferred thereby on the Commissioner. On the other hand, the reasoning and conclusions of the learned High Courts fall within the latter part of the principles formulated. A deeming provision is not without limit. The court is entitled, and indeed bound, to ascertain between whom and what purposes the deeming creates the “state of affairs” which does not, ipso facto, exist. Here, those persons are the taxpayer and the Commissioner. The mistake was “in fact and in truth” made by the taxpayer and could not, at least in the context of the applicability or otherwise of s. 221(1), become that of the Commissioner by virtue of the assessment order that came into existence as a result of the deeming provisions. That limit was not crossed in relation to s. 221(1) and therefore the jurisdiction thereby conferred did not extend to deemed assessment orders. This is the framework in which these matters fall to be decided.
- ii) An “inevitable corollary” of the “state of affairs” brought about by the first deeming, i.e., the making of an assessment of the taxable income and the tax due, is that the Commissioner is to be deemed to have applied his mind to the material before him, which was of course nothing other than the return. To conclude otherwise would be, again to echo Lord Asquith, to impermissibly “cause or

permit your imagination to boggle”. That assessment (and this can be regarded as another inevitable corollary of the “state of affairs” required to be imagined) would be whatever is contained in the return, i.e., mistakes and all. The return having thus passed through the sieve of the first deeming then becomes, in terms of the second deeming, an assessment order deemed to have been issued by the Commissioner to the taxpayer. It follows that the two deeming provisions, when taken together and properly applied, would result in an assessment order “passed” by the Commissioner within the meaning, and for purposes, of s. 221(1). From this it follows that the determination made by the learned High Courts on the question of jurisdiction was, with respect, not correct.

iii) It will be seen that the language of the two clauses of s. 122(3) tracks exactly the language of the clauses of s. 120(1), except that the deeming provisions now make (in clause (a) the assessment an amended assessment of the taxable income and (in clause (b) the revised return to be an amended assessment order issued to the taxpayer on the date on which the said return is filed, “for all purposes of this Ordinance”. It follows that the analysis carried out above, in terms of the interpretative framework provided by Mehreen Zaibun Nisa, in relation to s. 120(1) applies *mutatis mutandis* to the deeming provisions of s. 122(3), with however one crucial difference. The revised return operates only as an amendment of the deemed assessment and the deemed assessment order. In other words, it does not apply *ex post facto*, i.e., retrospectively to replace the return originally furnished. In other words, the “state of affairs” created by the deeming provisions of s. 120(1) remains untouched. The revised return simply takes matters further and, logically moving on from the deemed assessment order, creates a deemed amended assessment order. It follows from this that although the 2001 Ordinance does give some place to a revisiting of the document that “in fact and in truth” was the creation of the taxpayer, i.e., the original return, it does not allow such revisitation (by means of the revised return) to, as it were, reset the clock. It does not cause or permit the “imagination to boggle”. Rather, it takes matters forward from the situation created by the deeming provisions of s. 120(1) and, applying in exactly the same way as those provisions, creates what is logically the next step forward, i.e., a deemed amended assessment (and order). It follows from this that the second part of the interpretative framework provided by Mehreen Zaibun Nisa does not apply at all, even though a revised return can be filed by the taxpayer. Thus, matters relating to the deemed assessment order (and indeed, the deemed amended assessment order) fall only and always within the first part, with all ensuing “inevitable corollaries” applying accordingly. One of these is that the deemed orders of both kinds must be regarded as orders “passed” by the Commissioner within the meaning, and for the purposes of, s. 221(1). The Commissioner therefore has the jurisdiction to amend the orders by rectifying any mistake apparent from the record.

Conclusion: i) The deemed assessment order does come within the scope of s. 221(1), and hence of the jurisdiction conferred thereby on the Commissioner.

- ii) The return having thus passed through the sieve of the first deeming then becomes, in terms of the second deeming, an assessment order deemed to have been issued by the Commissioner to the taxpayer.
- iii) Revised returns under Sections 120(1) and 122(3) prospectively amend deemed assessments, constituting Commissioner's orders that are rectifiable under Section 221(1).

2. Supreme Court of Pakistan
Director, Directorate General, Intelligence & Investigation (Customs) v. Altaf Hussain & another
C.P.L.A.466-K of 2025
Mr. Justice Munib Akhtar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 466 k 2025.pdf

Facts: The petitioner claimed that an extension of time had been granted by the relevant authority. However, no such approval or letter of extension was placed on record before the Appellate Tribunal. The Tribunal noted this omission. Hence; this tax reference.

Issues:

- i) Whether the power to grant an extension of time under the Customs Act, 1969 is comparable to the power under the Sales Tax Act, 1990 as interpreted in the "Super Asia" case?
- ii) Can new factual material be introduced beyond the record of the Appellate Tribunal in a tax reference before the High Court?

Analysis:

- i) As is obvious from a perusal of the said provision the power to grant an extension is circumscribed, and is to be exercised only in "exceptional circumstances". Section 74 of the 1990 Act on the other hand provides that the Board is empowered to grant an extension to the extent found "appropriate". There is an obvious and clear difference between the two provisions and, as here relevant, the power under s. 179(4) is much narrower and circumscribed.
- ii) it is well established that beyond the stage of the Appellate Tribunal (at any rate, in terms of the law as it stood at the relevant time), it is only questions of law that can be taken to the High Court. It is well settled that (again with reference to the law as it stood at the relevant time) the record on the basis of which the questions of law can be decided is in terms of the record as it stood before the Appellate Tribunal. That record cannot be added to and certainly not on a point that requires factual determination.

Conclusion:

- i) Extension under section 179(4) of the Customs Act, 1969 is narrowly limited to exceptional cases, unlike the broader power under section 74 of the Sales Tax Act, 1990.
- ii) Only legal issues on the Tribunal's record can be raised before the High Court; no new factual material may be introduced at that stage.

3. Supreme Court of Pakistan
Muhammad Dawood v. Mst. Sakeena Farooque @ Aziza and others
C.P.L.A.479-K of 2023
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 479 k 2023.pdf

Facts: A dispute arose regarding the transfer of a property in a cooperative housing society, with claims of fraudulent transfer and contesting ownership through alleged oral gift and inheritance.

Issues: i) Whether civil disputes relating to cooperative societies must be adjudicated by the Special Court under the Sindh Cooperative Societies Act, 2020?
 ii) Whether the right of appeal provided under the Rules instead of the Act itself is legally sustainable?
 iii) Whether unregistered oral gifts of immovable property without meeting essential legal conditions are valid under Islamic and statutory law?

Analysis: i) Though the powers and cognizance of cases by the Special Court are confined to the trial of offences, if we look into it contemporaneously or in sync with Rule 53 of the Rules, cataloguing the genre of disputes, it is quite obvious that such disputes are civil in nature and shall also be referred to the Cooperative Court established by the Sindh Government under Section 117 with the concurrence of the Chief Justice of the Sindh High Court by notification.
 ii) Why we have pointed out the niceties and distinguishing features of substantive law and procedural law is that, instead of providing right of appeal to the High Court in the Act, which is a substantive right, it is provided in the Rules. Furthermore, the nature/categories of disputes required to be resolved or decided by the Special Court for Cooperatives are also provided in the Rules rather than being defined in the Act with a specific provision to deal with civil disputes, just as offences are properly described in the Act itself without any ambiguity.
 iii) Under the Muslim law, the constituents and components of a valid gift are tender, acceptance, and possession of property. It is also obligatory that the donor divest and dissociate himself from the dominion and ownership over the property of the gift and put into words his categorical intention to convey the ownership to the donee distinctly and unambiguously with the delivery of possession of the property and ensure that the donee has secured physical ascendancy over the property to constitute the delivery of possession... In the case of Muhammad Ejaz and 2 others Vs. Mst. Khalida Awan and another (2010 SCMR 342), this Court held that a valid gift can be effected orally if the prerequisites are complied with. This Court further held that the onus was on the plaintiff to prove the gift deed in all three facets, i.e., declaration of gift by the donor, acceptance of gift by the donee, and delivery of possession of the corpus of gift. No valid gift of property could be made in the absence of these three essential ingredients.

Conclusion: i) Yes, such disputes must be adjudicated by the Special Court under the Act.

- ii) No, the provision of a substantive right of appeal through Rules instead of the Act is legally unsustainable.
- iii) No, unregistered oral gifts without fulfilling all legal prerequisites are not valid.

4. Supreme Court of Pakistan
Muhammad Bilal v. The State
Criminal Appeal No.172 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. 172 2023.pdf

Facts: The appellant was tried by the Sessions Judge in a criminal case registered under section 302 PPC. He was convicted and sentenced to death. The appellant challenged his conviction and the sentence before the High Court, which maintained the decision of trial court. Then the appellant preferred Jail Petition which was subsequently converted into the instant appeal.

Issues:

- i) What are the consequences of unnatural conduct of the witnesses?
- ii) If a witness responds with “*I do not know*” to indicate his unawareness of a fact, what does it allude?
- iii) What will be the evidentiary value of a blood stained weapon of offence if it is not subject to chemical or serologist examination?
- iv) What is the principle governing the extension of benefit of doubt?

Analysis:

- i) The eyewitnesses' conduct is then manifestly unnatural and this failure to intervene raises serious doubts regarding both the veracity of their account as well as their presence at the scene (...) that the eyewitnesses failed to apprehend the appellant after he had allegedly murdered the deceased again raises serious doubts about their presence at the scene.
- ii) Although this one answer cannot be read in isolation or used to disregard his repeated claim that he was present at the scene, it certainly creates doubt as to why the question was not answered in categorical terms affirming his presence.
- iii) In the absence of such testing, the weapon recovered by the police does not advance the prosecution case.
- iv) It is a settled proposition of law that where even a single doubt exists in the prosecution case, let alone the plethora highlighted above, the benefit of such doubt accrues as of right in the accused's favour and may form the basis for an acquittal.

Conclusion:

- i) Unnatural conduct of witnesses shatters their veracity and makes the presence doubtful.
- ii) It alludes that the presence of witness was doubtful.
- iii) It does not advance the prosecution case.
- iv) Single doubt is sufficient for extension of benefit of doubt.

5. **Supreme Court of Pakistan**
Amir Shahzad v. The State
Criminal Appeal No. 304 OF 2020
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 304 2020.pdf

Facts: The appellant was convicted by the Trial Court and sentenced to death and imprisonment. The High Court upheld the conviction but commuted the death sentence to life imprisonment leading to the instant criminal appeal.

Issues: i) Does the presence of doubt regarding the recovery of the weapon entitle the accused its benefit?
 ii) Is it legally probable for blood stains to remain on a weapon after a prolonged period without disintegration?
 iii) Does a conviction require that the prosecution's case be free of reasonable doubt?

Analysis: i) We were able to lay our hands on the decision given by this Court that in case of doubt in recovery of weapon, the benefit of it has to be given to the accused.
 ii) It is also highly improbable to suggest that the said spade remained blood stained without the blood disintegrating even after the passage of 45-days... Moreover, the case of the prosecution with regard to the blood-stain s on the crime weapon also creates doubt.
 iii) It is well settled that for the purposes of extending the benefit of doubt to an accused, it is not necessary that there be multiple infirmities in the prosecution case or several circumstances creating doubt. A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle the accused to its benefit, not as a matter of grace and concession but as a matter of right.

Conclusion: i) Yes, doubt in the recovery of a weapon mandates the benefit of it be extended to the accused.
 ii) No, it is improbable for blood stains to persist over an extended period, creating reasonable doubt.
 iii. Yes, a conviction must be free of reasonable doubt.

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6. **Supreme Court of Pakistan**
Amjad and Irfan v. The State
Criminal Appeal No. 231 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. 231 2023.pdf

Facts: The petitioners/ accused persons were convicted under sections 302(b) of the Pakistan Penal Code, 1860 and sentenced to death in terms of section 265-H(ii) of the Code of Criminal Procedure, 1898. The matter was referred to the High Court,

under section 374 PPC, for confirmation or otherwise of the death sentence awarded by the Trial Court. Being aggrieved with the said order, the accused preferred Criminal Appeals (corresponding to the Confirmation Case) before the High Court, which after hearing the matter, dismissed both the appeals and upheld the convictions and the sentences of the accused, by answering the reference in "Affirmative". It is against these orders of the Trial Court as well as the High Court that the present Jail Appeal has been filed and, as stated above, leave was granted.

Issues:

- i) Does a significant, unexplained delay in filing an FIR cast doubt on the prosecution's case?
- ii) Does an FIR filed after initial inquiry or consultation with others lose its probative value?

Analysis:

- i) There was a considerable delay of more than 31 ½ hours in lodging of the FIR. It is also a matter of record, rather it is an admitted position on the part of the complainant, that the FIR was registered after due consultation. The word FIR, stands for 'First Information Report', which is to be lodged at the very initial stage of the incident so that the legal process may be put into motion.
- ii) In the instant case, the FIR was registered after the happening of certain events i.e. informing relatives so also the co-villagers, taking them to the spot, taking the deceased's body to the Hospital, getting postmortem and medical checkup done and finally the burial of the deceased. It was only after all these episodes that the FIR was lodged after due consultation and preliminary investigation/enquiry of the Police of the spot.

Conclusion:

- i) A significant, unexplained delay in filing an FIR cast doubt and also puts a major dent on the case of the prosecution.
- ii) An FIR filed after initial inquiry or consultation with others lose its probative value.

7. **Supreme Court of Pakistan.**
Fateh Khan v. The State thr. P.G. Punjab & another
Crl.A.379/2021
Mr. Justice Naeem Akhter Afghan, Mr. Justice Muhammad Hashim Khan
Kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 379 2021.pdf

Facts: The appellant preferred this appeal against the judgment of the Hon'ble High Court; wherein, their conviction stood maintained but sentence altered to life imprisonment from death sentence.

Issues:

- i) What cautionary rules are to be adopted in believing interested witnesses, in cases of previous enmity/ blood feud?
- ii) How belated statements of interested eyewitnesses should be evaluated?

- iii) How the exactitude and accurate details of occurrence in a case of wider net is looked?
- iv) How the evidence of a witness driving vehicle would be treated, who did not bend down his head in an indiscriminate firing on vehicle?
- v) What is effect of non-production of injured and surviving persons of an occurrence?
- vi) What is effect of absconsion of an accused, upon his conviction?

Analysis:

- i) Due to the previous enmity/blood feud between the parties, for safe administration of justice, the statements of the above prosecution witnesses, being relatives inter-se and being relatives of all the deceased, have to be considered with great care and caution.
- ii) In view of the above and keeping in view the previous enmity and blood feud between the parties, possibility of false implication of large number of accused by the complainant after consultation and deliberation with PWs Tanveer Aslam and Muhammad Sajid Akhter, being relatives inter-se and being relatives of all the deceased, cannot be ruled out of consideration.
- iii) The exactitude and accurate details mentioned in the FIR and his statement at the trial by the complainant Khalid Mehmood as well as narrated by PW Tanveer Aslam and PW Muhammad Sajid Akhter about the position of each nominated accused with specific firearms at different locations of the place of occurrence and attribution of specific role of firing to each accused with reference to each deceased is highly improbable and unnatural in such like occurrence.
- iv) According to statement of PW Tanveer Aslam he was driving the Pajero vehicle at the time of occurrence and during the occurrence, despite heavy firing, he did not bend his head downwards to save himself. Non receiving of any firearm injury by PW Tanveer Aslam in the occurrence and his mentioning the whole episode of firing by the nominated accused on the deceased with specific firearms creates serious doubt about his presence in the Pajero vehicle at the time of occurrence. His plantation as an eye witness by the complainant with the connivance of investigating officer as an afterthought to strengthen the prosecution version cannot be ruled out of consideration.
- v) At the trial, the prosecution did not produce the injured driver Muhammad Hanif of Toyota Corolla Car, Noor Muhammad sitting on the front seat of Pajero, Najaf Raza and Gul Jahan sitting on the rear seat of the Pajero, Muhammad Ijaz injured driver of Toyota Pickup, minor Mohsin Masood and Ehtebare Khan sitting in the back of the pickup. An adverse inference is drawn under Article 129(g) of the Qanoon-e-Shahadat Order, 1984 to the effect that had the above witnesses been produced by the prosecution at the trial, they would have not supported the version of the prosecution.
- vi) Abscondence per se is not a proof of the guilt of an accused person but it can be taken as corroborative piece of evidence⁴. In absence of trustworthy and confidence inspiring substantive incriminating evidence, conviction cannot be solely based upon abscondence of an accused.

- Conclusion:**
- i) In cases of previous enmity/ blood feud, the testimony of related witnesses be considered with great care and caution.
 - ii) Possibility of false implication of large number of accused by the complainant after consultation and deliberation cannot be ruled out of consideration.
 - iii) The exactitude and accurate details of occurrence in a case of wider net is highly improbable and unnatural.
 - iv) See above analysis (iv).
 - v) An adverse inference is drawn under Article 129(g) of QSO is to be drawn for non-production of injured and surviving persons.
 - vi) Abscondence per se is not a proof of the guilt of an accused person but it can be taken as corroborative piece of evidence.

8. Supreme Court of Pakistan
MCB Bank Limited v. Uzma Tehreem & others
Civil Appeal No.164 of 2025
Mr. Justice Naeem Akhter Afghan, Mr. Justice Muhammad Shafi Siddiqui,
Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 164 2025.pdf

Facts: The NIB Bank initiated a lawsuit against respondents Nos. 1 to 4 in the Lahore High Court (LHC) under section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001, seeking recovery of dues. Respondents Nos. 1 to 4 submitted a joint application for unconditional leave to defend the suit, which was dismissed by the LHC's Single Bench, leading to a decree in favor of NIB Bank. Dissatisfied, respondents Nos. 1 to 4 appealed to the LHC's Division Bench, which dismissed the appeal for respondents Nos. 2 to 4 but partially accepted it for respondent No. 1. Subsequently, MCB Limited filed the instant appeal against the judgment favoring respondent No. 1, following the merger of NIB Bank into MCB Limited as ordered by the State Bank of Pakistan.

Issues:

- i) Can an appeal still be considered if the limitation period has expired due to the appellant's failure to remove objections?
- ii) How does prior consent from the guarantor affect their liability under the guarantee when changes are made to the loan agreement?

Analysis:

- i) According to the settled principles, if the objections raised by the office are not removed during the period allowed by the office and in the meanwhile the limitation period expires and the conduct of the appellant is considered to be contumacious, the appeal has to be rejected being time barred.
- ii) According to the settled principles, if variation or composition of the loan or time etc. as to its repayment was allowed by the creditor to the borrower and consent/assent in advance thereto was given by the guarantor in the letter of guarantee, subsequent to the date of guarantee, such variation, composition, extension, change or indulgence being within the contemplation of the parties at the time of execution of guarantee did not affect discharge of the surety/guarantee from obligations under the guarantee. And as such surety continued to be bound

by the terms of the guarantee despite moratorium, enlargement of time, composition and variations between the creditors and principal borrower.

- Conclusion:**
- i) No, the appeal has to be rejected being time barred.
 - ii) Prior consent from the guarantor ensures that they remain liable under the guarantee even if changes are made to the loan agreement.

9. Supreme Court of Pakistan
Ghulam Mustafa alias Raja Buledi v. The State
Criminal Appeal No.199 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._199_2023.pdf

Facts FIR was registered against four accused persons under section 302/34 PPC. Trial court convicted two accused and sentenced them while the third accused was acquitted. Fourth accused was declared proclaimed offender. The convicts assailed their conviction before High court but their appeal got dismissed. One of the convicts challenged his conviction before the Supreme Court of Pakistan. The Supreme court of Pakistan accepted appeal, acquitted the appellant and also acquitted the convict who has not preferred appeal and the one who had absconded.

- Issues:**
- i) Whether delayed lodging of FIR after postmortem casts doubt on the prosecution's case?
 - ii) Whether joint submission of empties and pistol to the FSL affects the credibility of the forensic report and recovery evidence?
 - iii) What is yardstick to determine that case of prosecution is doubtful and accused deserves acquittal?
 - iv) If a Court, while hearing the case of an accused, comes to the conclusion that the prosecution evidence is doubtful, whether the benefit of doubt can be extended to a co-accused/convict, who has not filed any appeal against his conviction and sentence or who is absconding?

Analysis: i) The occurrence in this case took place on 02.01.2019, at about 6.20 p.m but the FIR was lodged on the same day at 9.30 p.m i.e., with the delay of about three hours and ten (10) minutes from the occurrence. The distance between the police station and the place of occurrence was only two (02) furlongs...We have further noted that the postmortem examination on the dead-body of the deceased was conducted on 02.01.2019, at about 7.20 p.m i.e., earlier to the registration of FIR, which was lodged at 9.30 p.m...All the above-mentioned facts show that the police got information regarding the incident soon after the occurrence but even then the FIR was not lodged till 9.30 p.m and the same was lodged after conducting postmortem examination on the dead-body of the deceased. Under the circumstances, it is evident that the FIR was lodged after due deliberations and consultations. It also shows that actually the prosecution eye-witnesses were not present at the spot at the relevant time and they had not witnessed the occurrence,

therefore, the abovementioned delay in lodging the FIR was consumed in procuring the attendance of fake eye-witnesses and concocting a fabricated story of the prosecution. The abovementioned gross delay in lodging the FIR has created doubt regarding the truthfulness of the prosecution story.

ii) So far as the recovery of pistol, at the pointing out of the appellant and positive report of Forensic Science Laboratory (FSL) (Ex.P/6-I), are concerned, we have noted that the empties and pistol were deposited together to the office of FSL on 01.02.2019. Under the circumstances, no reliance can be placed on the abovementioned prosecution evidence qua the recovery of pistol and the positive report of Forensic Science Laboratory (Ex.P/6-I) as observed in the cases reported as "Sarfraz v. The State (2023 SCMR 670) and "Abdul Wahid v. The State" (2023 SCMR 1278).

iii) It is by now well settled that if there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused, whereas the instant case is replete with number of circumstances, which have created serious doubts in the prosecution story. Reference in this context may be made to the judgments reported as "Tariq Pervez Vs The State" (1995 SCMR 1345) and "Muhammad Akram Vs The State" (2009 SCMR 230).

iv) . After coming to this conclusion, the conviction and sentence awarded to Muhammad Akbar (co-convict), cannot be allowed to remain in the field, merely on the basis of a technical ground that he has not filed any appeal before this Court against the judgment of the High Court. Though he has not filed any appeal against the impugned judgment of the learned High Court but it will not be just and fair for this Court to deny the benefit of doubt to Muhammad Akbar (co-convict), which benefit has been extended to Ghulam Mustafa alias Raja Baledi (appellant), when the case of the appellant and the abovementioned Muhammad Akbar (co-convict), is not distinguishable rather the case of the above-mentioned co-convict is at better footings, as compared to the case of Ghulam Mustafa alias Raja Buledi (appellant)... the conviction and sentence of Muhammad Akbar (co-convict), cannot be allowed to remain in the field, merely on the basis of this technicality that he has not filed any appeal before this Court against his conviction and sentence. In the cases of "Amin Ali and another v. The State" (2011 SCMR 323) "Shabbir Ahmed v. The State" (2011 SCMR 1142) and "Imtiaz alias Taj v. The State and others" (2018 SCMR 344), this Court extended the benefit of doubt to a convict though he had not challenged his conviction and sentence by way of filing an appeal before this Court...The abovementioned Muhammad Usman (co-accused since acquitted), who was attributed a similar role along with Atta Hussain Buledi (coaccused since P.O), has already been acquitted by the learned trial Court, therefore, no useful purpose shall be served by the arrest of Atta Hussain Buledi (co-accused since P.O) and putting him to trial by the learned trial Court because ultimately he has to be acquitted by the learned trial Court in the light of observations made by the learned trial Court in respect of the case of Muhammad Usman (co-accused since acquitted), as well as, in the light of findings recorded by this Court in the instant judgment. Further Court proceedings in the case of Atta Hussain Buledi (coaccused since P.O), shall

be a futile exercise and the same shall amount to sheer abuse of process of the Court and the law. We may refer here the case of “Muhamtrad Aslam and 5 others v. The State” (1972 SCMR 194), wherein, this Court also extended the benefit of doubt to an absconding co-accused and consequently acquitted him from the case.

- Conclusion:**
- i) Yes, the delayed lodging of FIR after postmortem creates doubt regarding the prosecution’s case.
 - ii) No reliance can be placed on such recovery of pistol and positive report of Forensic Science Laboratory.
 - iii) If there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused.
 - iv) Yes, the benefit of doubt can be extended to a co-accused/convict, who has not filed any appeal against his conviction and sentence or who is absconding

10. Supreme Court of Pakistan
Director, Intelligence and Investigation (Customs), Federal Board of Revenue v. Zaman Khan & others
Civil Petition No. 288-P/2025
Mr. Justice Munib Akhtar, Mrs. Justice Ayesha Malik, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._288_p_2025.pdf

Facts: A registered vehicle was seized by customs authorities on smuggling allegations due to non-production of import documents. The seizure was upheld by the Collector, overturned by the Customs Appellate Tribunal, and the High Court dismissed the department's reference, leading to the present civil petition before the Supreme Court.

Issues:

- i) Whether the Customs Authorities can demand import records from the vehicle owner beyond the statutory retention period provided under Section 211 of the Customs Act, 1969?
- ii) Whether the burden of proof shifts to the Customs Authorities once the owner produces documents prescribed under law in terms of Section 187 of the Customs Act, 1969?

Analysis:

- i) Keeping in view the facts and the legal issues involved in the above reference application, we are of the opinion that legal issues and the questions of law relating to authority of the officials of the custom department to seize an imported vehicle, more than five years old plying on road, within territorial limits of the city, duly registered Civil Petition No. 288-P/2025 15 Islamabad, 23.04.2025 by the Motor Vehicle Registration Authority, in terms of Section 25 of the West Pakistan Motor Vehicle Ordinance, 1965, can be made if the importer/owner of such vehicle, fails to produce the import documents.
- ii) In spite of the fact that the importer/owner of such vehicle is under no legal obligation to keep such record of import beyond the period of five years in terms

of Section 211 of the Act and further, the burden of proof in terms of Section 187 of the Act, stands discharged once the importer/owner produces the registration documents and shifts upon the Custom Authorities to prove otherwise by adopting the legal course.

Conclusion: i) No, owners are not required to retain import records beyond five years.
ii) Yes, the burden shifts to Customs Authorities upon production of valid documents.

11. Supreme Court of Pakistan.
Zahir Zakir Jaffar v. The State through A.G. Islamabad & another
Crl.P.L.A.467/2023
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim,
Mr. Justice Ali Baqar Najafi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p.467.2023..pdf

Facts: The leave was granted by the august Supreme Court to look into the capital punishment confirmed by the Hon'ble High Court, rather enhanced sentence from life imprisonment to death for the offence u/s 376 PPC.

Issues: i) In the context of capital punishments, is it permissible for convictions to be predicated on circumstantial evidence?
ii) In a court of law, what is the admissibility of CCTV footage and its evidentiary value?
iii) What are "Silent Witness" theory, and whether CCTV footage comes under its ambit?

Analysis: i) it is now widely accepted that punishment can be imposed based on circumstantial evidence; however, it is subject to rigorous standards and principles. Conviction exclusively on the basis of circumstantial evidence is not prohibited by law. Nevertheless, the quality and sufficiency of the evidence are more important than its quantity. The circumstantial evidence must be of a nature that is inconsistent with the accused's innocence. The accused must be linked to the offense by a complete and unbroken chain of circumstantial evidence. The conclusion of guilt must be reached by the collective application of the various pieces of circumstantial evidence, with one end of the chain contacting the deceased individual and the other touching the accused individual's neck. If any link in this chain is absent, the entire chain is disrupted and no conviction can be recorded in such a situation.
ii) It is worth mentioning that in the case of State v Ahmed Omar Sheikh (2021 SCMR 873), this Court has established a two-step test for the verification of digital evidence regarding CCTV footage. This examination necessitates that the evidence in question be both authentic and pertinent, and that it has been acquired from a trustworthy and dependable source. The list of conditions comprises:
 "i) providing an explanation of how the video was obtained or its source, and

ii) *presenting a forensic report to show that the video has not been altered.*”

iii) The CCTV footage may also be admitted under the “Silent witness” theory, which stipulates that the video itself functions as evidence without the necessity of a sponsoring witness, provided that the footage is authenticated. It provided unbiased and real-time evidence that is frequently more reliable than human testimony, serving as a potent “Silent Witness”. In Black’s Law Dictionary, 9th Edition, at page 1508, ‘Silent Witness Theory’ is mentioned as under:

“A method of authenticating and admitting evidence (such as a photograph), without the need for a witness to verify its authenticity, upon a sufficient showing of the reliability of the process of producing the evidence, including proof that the evidence has not been altered.”

Conclusion: i) Conviction exclusively on the basis of circumstantial evidence is not prohibited by law. Nevertheless, the quality and sufficiency of the evidence are more important than its quantity.
 ii) CCTV footage must be both authentic and pertinent, and that it has been acquired from a trustworthy and dependable source, and must also be forensically examined to rely upon.
 iii) Silent Witness theory is authenticating and admitting evidence without need for a witness to verify its authenticity. CCTV footage comes under the ambit of such theory.

12. Supreme Court of Pakistan
Muhammad Ijaz @ Jajj v. The State
Criminal Appeal No.345/2020
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim.
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 345 2020.pdf

Facts: The appellant was convicted under section 302 (b) PPC by the trial court for the murder of his wife and sentenced to death. Against his conviction and sentence, he preferred an appeal before the High Court, which was, however, his sentence of death was converted into imprisonment for life. Being aggrieved, the appellant has approached this court by filing the instant appeal with the leave of the Court.

Issue: i) Does the failure of an accused to explain a plausible alternative within his knowledge justify an accused inference against him?
 ii) Can the burden shift to the accused, if the prosecution case lacks credibility?

Analysis: i) Undoubtedly, the accused is not required to take a special plea, but where the only alternative theory to his guilt is a remote possibility which, if correct, he is in a position to explain, the absence of any explanation must be

considered in determining whether the possibility should be disregarded or taken into account.

ii) The above mentioned shifting of some part of the onus to the accused may not be relevant in a case where the entire case of the prosecution itself is not reliable and where the prosecution fails to produce any believable evidence. If the prosecution fails to adduce reliable evidence in support of its own case, then the accused person cannot be convicted merely on the basis of lack of discharge of some part of the onus on him.

Conclusion: i) See above analysis No. i
ii) See above analysis No. ii

13. Supreme Court of Pakistan
Mst. Khalida Bibi v. Naeem Khan & others
Civil Petition No. 252-P of 2025
Ms. Justice Musarrat Hilali, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 252_p 2025.pdf

Facts: A petitioner claimed unpaid dower and maintenance based on the Nikah Nama. The trial court decreed the suit, but the appellate court reversed it. The High Court dismissed the constitutional petition without adjudicating all issues framed by the trial court.

Issues: i) Does a Nikah Nama, when admitted and unchallenged, carry evidentiary presumption in law?
 ii) Is non-production of marginal witnesses of Nikah Nama fatal to a claim where marriage is admitted?
 iii) Does failure to adjudicate a framed issue amount to a jurisdictional error?

Analysis: i) The Nikah Nama is a public document, which is registered under Section 5 of the Muslim Family Law Ordinance, 1961, and as such presumption of truth is attached to it, carrying evidentiary value in terms of Article 85 of the Qanun-e-Shahadat Order, 1984... Mere verbal denial of the execution of Nikah Nama in the statement recorded before the trial court without supporting evidence carries no legal value.
 ii) It is settled law that where the relationship of husband and wife is admitted and the execution of Nikah is not denied, then non-production of the marginal witnesses of the Nikah Nama before the Court is not fatal to the suit of the plaintiff/ wife. The consistent view of the superior Courts is that, in such circumstances, the execution of Nikah Nama stands proved and the plaintiff's entitlement to dower is established.
 iii) Moreso, neither the Appeal Court nor the High Court has recorded any findings on issue No.3 framed by the trial Court, thus, failed to exercise jurisdiction vested in them.

Conclusion: i) Yes, an unchallenged and registered Nikah Nama carries legal presumption of

truth and evidentiary value.

ii) No, non-production of marginal witnesses does not affect the validity of the Nikah Nama when marriage is admitted.

iii) Yes, omission to decide a framed issue constitutes a jurisdictional failure.

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- 14. Supreme Court of Pakistan**
Muhammad Wajid v. The State
Criminal Appeal No 212 of 2023
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim,
Mr. Justice Ali Baqar Najafi.
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 212 2023.pdf

Facts: The Appellant was tried for offences punishable under section 302 and 376 of Pakistan Penal Code for rape and murder of a minor girl. The Appellant was convicted under section 302(b) PPC and sentenced to death as Tazir and also convicted under section 376 PPC and sentenced to life imprisonment. The judgment of the trial court was challenged in the Hon'ble High Court where the appeal was partly allowed by setting aside the conviction under section 376 of PPC, however the conviction under section 302(b) PPC was maintained and murder reference was answered in affirmative. The appellant feeling aggrieved from the conviction and sentence preferred a jail petition assailing the impugned judgment of Hon'ble High Court.

Issues:

- i) Whether a conviction in a capital offence can be based solely on circumstantial evidence, and what safeguards must be observed?
- ii) Whether a conviction can be recorded on the basis of a retracted judicial confession?
- iii) Whether discovery of fact made pursuant to information provided by the accused is admissible as evidence?
- iv) Whether a confessional statement can be partially relied upon when it is corroborated by other evidence, and to what extent may the court accept or reject its contents?

Analysis:

- i) It is well settled principle of law that conviction can be recorded even in case carrying capital punishment on the basis of circumstantial evidence if it excludes all hypothesis of innocence of accused, however, it should be accepted with great caution and be scrutinized minutely for reaching conclusion that no plausible conclusion be drawn except guilt of the accused. The prosecution is duty bound to prove every circumstance independently as is so connected with other circumstances which constitutes an unbroken chain that leads to no other interference but to the guilt of accused.
- ii) It is well established that a conviction can be recorded on the basis of a retracted judicial confession if it is found to be voluntary, true, and corroborated by independent evidence. Reliance placed on "Manjeet Singh v The State (PLD 2006 SC 30)".

- iii) Discovery made pursuant to the information furnished by the accused is admissible evidence under Article 40 of the Qanun-e-Shahadat Order, 1984.
- iv) Where a confessional statement is not the sole basis of the prosecution case and is corroborated by other evidence, the court may accept the inculpatory parts that support with the established facts and reject the portions that are inconsistent or uncorroborated.

Conclusion:

- i) See above analysis No i.
- ii) Conviction can be recorded on the basis of a retracted judicial confession if it is found to be voluntary.
- iii) Discovery made pursuant to the information furnished by the accused is admissible evidence.
- iv) See above analysis No iv.

15. Supreme Court of Pakistan
Amir khan v. The State
Zahid Anjum v. Amir Khan etc.
Jail Petition No. 149/2018 And CR.PL.A No374/2018
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 149 2018.pdf

Facts: The petitioner was convicted for murder under Section 302(b) PPC and sentenced to death, later commuted to life imprisonment. The conviction and sentence were challenged on grounds of absence of premeditation and sudden provocation during a scuffle.

Issues:

- i) Whether prompt reporting of the incident to the police excludes the possibility of deliberation or false implication?
- ii) Whether use of a firearm against an unarmed person during a sudden physical confrontation constitutes lawful self-defence?
- iii) Whether causing death during a sudden fight, under provocation or self-defence, without taking undue advantage or acting brutally, attracts Exception 4 to the erstwhile Section 300 PPC and results in conviction under Section 302(c) PPC?

Analysis:

- i) The matter was reported to the police with commendable promptitude at 05:40 p.m. by the complainant, (...) thereby substantially excluding the possibility of deliberation or consultation in falsely implicating the petitioner.
- ii) In an instinctive reaction to the perceived threat to his person, the petitioner resorted to the use of a firearm. However, as the deceased was unarmed at the time of the occurrence, therefore, the act of firing a shot even if in self-defence exceeded the bounds of lawful self-defence as contemplated under the law.
- iii) In cases where the accused, while acting in self-defence or under sudden provocation, causes the death of a person, such circumstances may justify a

conviction under Section 302(c) of the Pakistan Penal Code, 1860.(...) The case in hand was surely a case of lack of premeditation, the incident was one of a sudden fight which was a result of heat of passion developed upon a sudden quarrel and no undue advantage had been taken by the petitioner/convict nor had he acted in brutal or unusual manner. In the circumstances Exception 4 contained in the erstwhile section 300 PPC squarely stood attracted to the case (...) In view of the totality of circumstances discussed above including the absence of premeditation, the sudden and spontaneous nature of the occurrence, the fact that only a single shot was fired by the petitioner/convict, the unarmed status of the deceased, and the consistency between the ocular and medical evidence, we are persuaded to hold that the case of the petitioner squarely falls within the ambit of Section 302(c) of the Pakistan Penal Code, 1860.

- Conclusion:**
- i) The prompt reporting of the incident substantially excluded the possibility of deliberation or false implication.
 - ii) The use of a firearm against an unarmed person during a sudden confrontation exceeded the bounds of lawful self-defence.
 - iii) See Above Analysis No.iii

16. Supreme Court of Pakistan
Pakistan Railways through Chief Controller of Purchase, Pakistan Railways, Lahore v. CRRC Ziyang Co. Limited, Lahore
CPLA No.813-L of 2024
Mr. Justice Yahya Afridi CJ, Mr. Justice Muhammad Shafi Siddiqui & Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p._813_1_2024.pdf

Facts: A contract executed between the parties. The matter was referred to arbitration. The arbitrators filed the award before the civil court. The petitioner filed objections to the said award praying for setting aside the award and the matter to be remitted back to the arbitrators. The civil court framed the issues, which order was challenged before the High Court through a revision petition. The High court accepted the revision and remanded the case back to civil court for a decision afresh on the basis of available record. Hence, the CPLA filed before the Hon'ble Supreme Court.

- Issues:**
- i) What procedure is to be adopted by the court after filing the award by the arbitrator?
 - ii) What kind of jurisdiction can be exercised by a court while deciding applications for passing decrees in terms of awards or while deciding objections to awards?
 - iii) What is the status of arbitration and in which circumstances the judicial interference is permissible?
 - iv) Whether while deciding objections to arbitration awards, the courts ought to avoid framing of issues and recording of evidence?

- v) How the object of Law of Arbitration would be defeated if issues are framed after filing of award?
- vi) What the courts are expected to after filing of award by the arbitrator?
- vii) What procedure to be adopted by an arbitrator?
- viii) Whether possibility of a trial after the award has been filed in the court would discourage the parties from opting for arbitration?
- ix) What is the demerit of framing of issues, recording of evidence and hearing arguments after the filing of the award in the court?

Analysis:

- i) The process of making an arbitration award a rule of the court follows a structured procedure in Pakistan under the 1940 Act. After an award is filed before a court of competent jurisdiction, the court issues notice to the parties informing them that the award has been filed. This notice serves a critical purpose - enabling the parties to file objections within a period of thirty days of the service of notice of the filing of the award prescribed in Article 158 of the First Schedule to the Limitation Act, 1908.
- ii) Courts, while deciding applications for passing decrees in terms of awards or while deciding objections to awards, generally exercise limited jurisdiction and do not act as appellate bodies over arbitration awards. Their intervention is to be limited to the specific grounds provided in Section 30 of the 1940 Act.
- iii) Arbitration is an autonomous and final forum, and that judicial interference is permissible only in narrow and clearly defined circumstances envisaged by Section 30 of the 1940 Act i.e., jurisdictional error, proven misconduct, or a patent legal mistake visible on the face of the record.
- iv) Bearing in mind the principle that arbitration is intended to provide a swift and final resolution of disputes with minimal court intervention, courts, while deciding objections to arbitration awards, ought to avoid framing issues and record evidence unless absolutely necessary. (---) The framing of issues and recording of evidence, however, undermines the core objectives of the 1940 Act, which are efficiency, finality, and minimal judicial intervention.
- v) Since arbitration, in essence is a time-saving device, the framing of issues followed by the recording of evidence while deciding objections to the award would tend to defeat the very object of resorting to dispute resolution by a domestic forum.
- vi) Courts are expected to pronounce judgment and decree in terms of the award, intervening only on narrow grounds such as misconduct or invalidity of the award, without re-opening factual issues through evidence recording.
- vii) It is now well settled that arbitrators are entitled to regulate their own procedure and are not governed by the strict procedure prescribed by the CPC and the rules regarding evidence contained in the Qanun-e-Shahadat Order, 1984. Arbitrators decide disputes based on evidence presented during arbitration proceedings. They are under no obligation to frame issues as provided in the CPC.
- viii) The possibility of a trial after the award has been filed in court creates uncertainty about the finality and enforceability of awards. This discourages the

parties from opting for arbitration, defeating the legislative intent to promote arbitration as a preferred mode of dispute resolution.

ix) The framing of issues, recording of evidence and hearing arguments post the filing of the award in the court is bound to increase litigation costs for parties and add to the already heavy workload of courts. This again defeats the purpose of arbitration as an economical and efficient alternative dispute resolution mechanism. The recording of evidence and conducting a trial effectively converts the court into an appellate or fact-finding forum, which would be contrary to the statutory scheme envisaged by the 1940 Act.

- Conclusion:**
- i) See above analysis No. i
 - ii) The court generally exercise limited jurisdiction and do not act as appellate bodies over arbitration awards.
 - iii) Arbitration is an autonomous and final forum, and that judicial interference is permissible only in jurisdictional error, proven misconduct, or a patent legal mistake visible on the face of the record.
 - iv) The courts, while deciding objections to arbitration awards, ought to avoid framing issues and record evidence unless absolutely necessary.
 - v) See above analysis No. v
 - vi) Courts are expected to pronounce judgment and decree in terms of the award.
 - vii) See above analysis No. vii
 - viii) See above analysis No. viii
 - ix) See above analysis No. ix

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- 17. Supreme Court of Pakistan**
Ghulam Qadir. v. Ghulam Muhammad Kaleem and others.
Civil Petition No.1684 of 2025
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1684_2025.pdf
- Facts:** The petitioner has challenged the order of the High Court, which dismissed his civil revision against the concurrent decisions of the lower courts that had dismissed his suit. The High Court upheld the findings of the lower courts in its ruling.
- Issues:** i) Can the absence of the illiterate old lady vendor's children as witnesses affect the credibility of the alleged agreement to sell?
- Analysis:** i) We have also noted that the alleged vendor was an illiterate old lady being mother of four sons and three daughters but none of them was the signatory of the alleged agreement to sell as a witness to the same and similarly all the respondents have categorically denied the factum of alleged agreement to sell with the petitioner. The learned counsel for the petitioner failed to point out any misreading, non-reading or any other material irregularity and illegality in the findings of the High Court and the Courts below.

Conclusion: i) Yes, absence of the illiterate old lady vendor's children as witnesses affect the credibility of the alleged agreement to sell.

18. Lahore High Court
Akbar Ali, etc. v. Commissioner, Lahore Division, etc.
W.P. No. 21935 of 2024
Mr. Justice Shujaat Ali Khan.
<https://sys.lhc.gov.pk/appjudgments/2025LHC3612.pdf>

Facts: The petitioners are successors-in-interest to a property measuring 5-Marlas, originally part of a larger tract of land measuring 1-Kanal and 7-Marlas. A portion of this land was sold in 1979, and the petitioners, along with their predecessor, purchased the house through a registered sale deed in 2001. Utility connections were obtained and property tax has been regularly paid. After the death of their predecessor, inheritance mutation was attested in their favour in 2017. When they approached the revenue office for issuance of Fard to sell the property, they discovered that the land had been acquired by LDA for a housing scheme. Their application for de-notification was dismissed by the competent authority, leading to the filing of this petition.

Issues:

- i) Whether the government's initial intention to acquire land can be considered conclusive proof of acquisition, and what is the legal status of the land once the final award is announced?
- ii) Whether the repeal of a statute affects ongoing proceedings initiated under that statute?
- iii) Whether, after the announcement of the Award, the ownership of the property vests in the acquiring agency and the only remedy to challenge the Award is by filing a Reference under the relevant law?

Analysis:

- i) There is no cavil with the fact that initial step of the government, conveying its intention to acquire particular land for a public purpose, cannot be considered as conclusive proof of acquisition but at the same time when final Award is announced on completion of requisite criteria, the land, subject matter of said Award, does not remain in the name of the previous owner(s) for its further alienation in favour of someone else.
- ii) According to the settled principles of interpretation of Statutes, the repeal of an enactment, during continuation of proceedings in a matter under the repealed law, has no negative impact for the reasons that the same have to reach their logical conclusion notwithstanding the repeal of the relevant law.
- iii) It is trite law that after announcement of Award, the property vests in the name of the acquiring agency and nobody can question the validity of said Award except to file a Reference under the relevant provisions of law inter-alia agitating grievance regarding measurement of the acquired land and quantum of compensation etc.

- Conclusion:**
- i) Government's initial intention to acquire land is not conclusive proof of acquisition, but after the final Award, the land vests in the acquiring agency and cannot be transferred by previous owners.
 - ii) Repeal of a statute does not affect pending proceedings, which must conclude under the repealed law.
 - iii) After the Award, property vests in the acquiring agency, and objections can only be raised through a Reference under the law.

19. Lahore High Court
Sui Northern Gas Pipelines Ltd. v. Waseem Majid Malik & others
ICA No.34877 of 2020
Mr. Justice Shahid Karim, Mr. Justice Raheel Kamran
<https://sys.lhc.gov.pk/appjudgments/2025LHC3529.pdf>

Facts: The respondents had challenged an election notice issued by appellant through constitutional petition before the Single Bench of High Court with submissions that the Federal Government could only be represented on the Board of Directors of SNGPL through directors nominated under Section 165 of the Companies Act, 2017 (2017 Act) in proportion to its shareholding in SNGPL. Finally, it was stated that the Federal Government was not eligible to contest elections under Section 159 of the 2017 Act and for it be restrained from participating in the elections scheduled. The constitutional petition was dismissed by the Single Bench of High Court. Through this appeal under Section 3 of the Law Reforms Ordinance, 1972, the petitioner has not challenged the entire judgement of Single Bench but has challenged a specific portion by which it was held that respondent No.1 had the standing to bring the dispute before the High Court in the exercise of its jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

Issues

- i) What are the conditions to invoke the jurisdiction of High Court under section 160 of the Companies Act, 2017?
- ii) Whether the act or function of Federal Government being a member and major shareholder of SNGPL is amenable to the jurisdiction of the High Court?
- iii) Whether the Federal Government as a member of SNGPL can contest the elections of office of Director under Section 159(3) of the Companies Act 2017 Act?
- iv) Can High Court exercise constitutional jurisdiction, if an adequate and efficacious remedy is available under the law?

Analysis:

- i) The first condition stipulated in the above provision to engage the jurisdiction of a High Court is that the act must not only be performed by a person within the territorial jurisdiction of that High Court but also must relate to functions in connection with the affairs of the Federation, a Province or a local authority. Only then can the jurisdiction of a High Court be engaged to make an order directing that person to refrain from doing anything he is not permitted by law to do or to do anything he is required by law to do. Thus, the conditions contained therein

must be established to exist before any order can be passed under Article 199(1)(a)(i) of the Constitution. It follows indubitably that if a person is not performing functions in connection with the affairs of Federation, a Province or a local authority, that person cannot be subjected to an order by a High Court. The distinction brought forth in Article 199(1)(a)(i) is a distinction between public and private acts of a person though he may otherwise be performing functions in connection with the affairs of Federation, a Province or a local authority. If that person is performing public functions then a High Court has the jurisdiction to make an order under Article 199. On the contrary, if that person is merely performing acts of a private nature and are private functions, then the authority of this Court to make an order is seriously in doubt. The primary purpose of the engagement of Article 199 is to confer powers on a High Court in respect of functions of the State involving some exercise of sovereign or public power and not otherwise.

ii) The act in question was of the Federal Government in seeking to contest an election of the Board of Directors of SNGPL. That function is quintessentially a private function being undertaken as an ordinary member of a company incorporated under the 2017 Act. By the mere fact that Federal Government holds a major shareholding in SNGPL does not mean that it becomes amenable to the jurisdiction of this Court under Article 199 of the Constitution while performing its functions as a member of SNGPL. That cannot be the intention of the law and the Constitution. As a shareholder of SNGPL the Federal Government has the same set of rights as other shareholders conferred by the provisions of the 2017 Act. The mere fact that the Federal Government has ventured into corporate enterprises and purchased shares of a company does not mean that in such capacity too the Federal Government is subject to the jurisdiction of a High Court.

iii) It must be borne in mind that the challenge is to the set of exercise of rights, as a member, to contest an election to the office of a director of company. That right flows from the provision of the 2017 Act. It is not a State action issue (as described in *America*). Simply because the Federal Government is a member of a company will not clothe it with the right to maintain a constitutional petition. Imagine the unpalatable result this argument will ensue. What follows is this: only the Federal Government (and none of the other members) can maintain a constitutional petition. The other members will have to take recourse to remedy under Section 160. Such a result is not countenanced by law or the Constitution. The Federal Government is merely a member of SNGPL and has the same rights and privilege as other members.

iv) It is evident that the jurisdiction has been conferred on a High Court in respect of all matters arising under the 2017 Act. As adumbrated, the remedy has been provided by section 160 conferring power on the court to declare elections of directors invalid. That power cannot be usurped under Article 199 of the Constitution as efficacious and adequate remedy has been provided by law and this aspect should have been taken consideration while holding that the constitutional petition was competently filed. The superior courts have time and again held that in case there is an adequate and efficacious remedy provided by

law, a High Court will not exercise its jurisdiction and collateral challenges have not been allowed to sustain.

- Conclusion:**
- i) See above analysis No.i
 - ii) See above analysis No.ii
 - iii) The Federal Government is merely a member of SNGPL and has the same rights and privilege as other members.
 - iv) In case there is an adequate and efficacious remedy provided by law, a High Court will not exercise its jurisdiction and collateral challenges have not been allowed to sustain.

20. Lahore High Court
Ahmed Amin v. Learned District Judge, Attock and others
Writ Petition No.2787 OF 2019
Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC3536.pdf>

Facts: The petitioner challenged the proceedings arising from a family suit involving dissolution of marriage through khula, recovery of dower, maintenance, dowry articles, and gold ornaments; the suit was decreed by the Family Court, petitioner filed an appeal which was dismissed due to non-prosecution, hence this constitutional petition.

Issues:

- i) Whether the Family Court can invoke provisions of the Code of Civil Procedure despite the exclusion under Section 17 of the Family Courts Act, 1964, to meet the ends of justice?
- ii) Whether an appellate court under Section 14 of the Family Courts Act, 1964 has the power to dismiss an appeal for non-prosecution and restore it upon showing sufficient cause?

Analysis:

- i) There is no cavil that Section 17 of the Act, 1964 excludes the applicability of provisions of the Code of Civil Procedure (V of 1908) (hereinafter referred to as “CPC”) to the proceedings before the Family Court in respect of Part-I of Schedule with exception of Sections 10 and 11 of the CPC but it does not mean that Family Court would be completely debarred to call in aid any of the provisions of CPC, when ends of justice so demand and require. The purpose of ouster of the provisions of the CPC in the proceedings before the Family Courts is to avoid the technical implication of such provisions so as it would not frustrate and hamper the proceedings before the Family Courts which otherwise are supposed to be speedy and expeditious. In nutshell, despite clog of Section 17 of the Act, 1964, in absence of any specific provision in the Act, 1964 dealing the subject, Family Courts are not precluded to invoke the provisions of CPC or to draw an analogy therefrom for securing the ends of justice.
- ii) I feel no cavil to observe that an appellate court dealing with an appeal under Section 14 of the Act, 1964 not only is vested with the inherent power to dismiss the appeal for non-prosecution but it can also restore the same on showing

sufficient cause by the appellant if his appeal has been dismissed on account of default.

- Conclusion:** i) Family Court can invoke provisions of the Code of Civil Procedure despite the exclusion under Section 17 of the Family Courts Act, 1964, to meet the ends of justice.
ii) See above analysis No2.

21. Lahore High Court
Shahid Mehmood & Co. (Pvt.) Ltd. v. Additional District Judge, Faisalabad & others
Writ Petition No.46926 of 2023
Mr. Justice Muhammad Sajid Mehmood Sethi
<https://sys.lhc.gov.pk/appjudgments/2025LHC3661.pdf>

Facts: The petitioner contested an ejectment petition filed by private respondents. The application for leave to contest was dismissed, and ejectment was ordered by the Rent Tribunal. The appeal against this order was also dismissed. The petitioner contended that during pendency of the proceedings, the respondents ceased to be owners of the premises and the petitioner executed a new tenancy agreement with another third person, who had acquired lawful ownership. It is alleged that this change of ownership was brought to the Court's notice after the initial application for leave to contest had been filed.

- Issues:**
- i) Whether newly discovered facts, not pleaded in the application for leave to contest, can be considered by the courts at a later stage?
 - ii) Whether newly discovered facts revealing a jurisdictional flaw warrant consideration in ejectment proceedings?
 - iii) Does cessation of the landlord-tenant relationship at the appellate stage invalidate the foundation of an ejectment petition?
 - iv) Can superior courts consider subsequent developments or foundational facts not originally pleaded, and remand the matter for fresh adjudication?
 - v) Can a landlord amend pleadings to include grounds based on events occurring after initiation of eviction proceedings?
 - vi) Whether a writ of certiorari can be invoked to quash a decision tainted by jurisdictional error, legal mistake, or irrationality?

- Analysis:**
- i) Generally, an application for leave to contest must set out all material and substantial defenses. There is no cavil with the well settled proposition that grounds not pleaded in the leave application cannot be considered subsequently, whether during trial or at the appellate stage. However, the Courts may entertain newly discovered facts in exceptional circumstances, provided such facts were genuinely not available or known at the time of filing the leave application and are material to the outcome of the case. Typically, this requires the filing of a formal application to amend the pleadings or to place the new facts on record.
 - ii) Newly discovered facts warrant incorporation into the application for leave to contest the ejectment petition. Where such a newly discovered plea reveals a

fundamental jurisdictional flaw, such as the non-existence or cessation of the landlord-tenant relationship, based on subsequent developments or newly discovered documents, courts— particularly appellate courts—may consider the same.

iii) The relationship of landlord and tenant is the very foundation of an ejectment petition, and if it is shown at the appellate stage that this relationship ceased to exist (e.g., due to a sale, transfer, or extinguishment of tenancy rights), the entire foundation of the ejectment petition may collapse.

iv) It is well established that superior courts may take cognizance of subsequent developments or newly surfaced foundational facts, particularly when they affect the right to initiate or continue litigation, or when they go to the root of the matter, even if not originally pleaded. In such cases, the superior court may permit amendment of pleadings, remand the matter to allow necessary amendments, frame fresh issues regarding the existence of tenancy, and order a fresh adjudication based on the revised factual and legal matrix. In *Messrs Habib Bank Limited v. Sultan Ahmed and another* (2001 SCMR 679).

v) The law regarding the entitlement of a landlord to amend the pleading by adding new and different grounds arising from events occurring subsequent to the institution of eviction proceedings is well established. In *Shah v. Centre Park Plaza Limited & another* (2024 KEELC 13468), the Court recognized the existence of a periodic tenancy between the parties and emphasized the importance of considering subsequent events, such as the termination of the tenancy, in determining the rights and obligations of the parties.

vi) It is well-settled through a consistent line of authority from the superior Courts of the country that a decision made by a lower court or tribunal may be set aside by issuing a writ of certiorari in instances where the court or tribunal has acted outside the limits of its lawful authority, has overstepped the bounds of its jurisdiction or has failed to observe the requirements of natural justice in circumstances where such standards are applicable. Besides, such an order may also be quashed where a legal mistake is apparent on the face of the record, or where the decision is so irrational that it satisfies the test of what is known as *Wednesbury unreasonableness*.

- Conclusion:**
- i) See above analysis No i.
 - ii) Newly discovered facts warrant incorporation into the application for leave to contest the ejectment petition.
 - iii) If it is shown at the appellate stage that this relationship ceased to exist the entire foundation of the ejectment petition may collapse.
 - iv) Superior courts may take cognizance of subsequent developments or newly surfaced foundational facts even if not originally pleaded.
 - v) See above analysis No v.
 - vi) See above analysis No vi.
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22. **Lahore High Court**
Muhammad Siddique V. The State and another
Criminal Appeal No. 9/2025
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Raja Ghazanfar Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3697.pdf>

Facts: Appellant was convicted by the Anti-Terrorism Court in a case registered under the Anti-Terrorism Act, 1997. High Court accepted appeal and acquitted him.

Issues:

- i) What are constituent elements of offence under section 8 of Anti Terrorism Act, 1997?
- ii) What is the distinction between the offences under sections 8(d) and 11-G(1) of the Anti-Terrorism Act, 1997?
- iii) What is the legal import of the word “carries” as used in section 11-G of the Anti-Terrorism Act, 1997?
- iv) What is the scope and application of the maxim *noscitur a sociis* in statutory interpretation?

Analysis:

- i) We begin with section 8 of the ATA. 1 It prohibits various acts to prevent sectarian hatred. These include using threatening, abusive, or insulting words, behaviour, images, or sounds, as well as displaying, publishing, or distributing material containing such content, and possessing it with a view to its being displayed or published. The offence is complete if either of two conditions is met: first, the person commits the act with the intent to stir up sectarian hatred; or second, in the given circumstances, sectarian hatred is likely to be thereby stirred up. The law thus targets both deliberate incitement and conduct that creates a real risk of sectarian conflict.
- ii) It is noteworthy that although section 8(d) and section 11-G(1) of the ATA both refer to possession or carrying of material linked to sectarian or extremist activity, they criminalize different forms of conduct. Section 8(d) applies to possessing threatening, abusive, or insulting material intended or likely to stir up sectarian hatred. It is content-based and applies only where the material is provocative and held for public dissemination. In contrast, section 11-G(1) is concerned with the visible association of the material with a proscribed organization rather than its content. It penalizes wearing, carrying, or displaying items such as flags, banners, or uniforms linked to such groups, even if they are not abusive or insulting, regardless of intent to incite hatred. Significantly, mere possession does not constitute an offence under either provision. In both cases, criminal liability arises only when further elements are established, such as intent or likely effect under section 8(d) and public display or circumstances giving rise to reasonable suspicion under section 11-G(1).
- iii) According to Black’s Law Dictionary (9th ed.), the word “carry” has several meanings, including the following: (i) to convey or transport, (ii) to possess and convey (a firearm) in a vehicle, including the locked glove compartment or trunk of a car, (iii) figuratively, to possess or hold (insurance, etc.). However, section 11-G does not use “carries” in isolation. It appears alongside other terms... In sub-

section (1) of section 11-G of the ATA, the Legislature has used the word “carries” alongside “wears” and “displays” in two distinct clauses. In clause (a), it occurs between “wears” and “displays”, which are followed by the phrase “any article, symbol, or any flag or banner.” In clause (b), the same three words precede the phrase “any uniform, item of clothing, or dress.” Applying the principles discussed above, the word “carries” in section 11-G does not mean mere possession in the general or passive sense but connotes carrying in a way that is visible or suggestive of support or membership of a proscribed organization. It must involve public presentation (such as wearing or displaying emblems, articles, or other material at rallies, group events, or other conduct indicating active affiliation). The prosecution must meet this evidentiary threshold to secure a conviction under section 11-G.

iv), the maxim *noscitur a sociis* dictates that it must be construed in their light and colour. Bennion explains: “A statutory term is recognised by its associated words. The Latin maxim *noscitur a sociis* states this contextual principle ... A word or phrase in an enactment must always be construed in the light of the words, and particularly general words, cannot be read in isolation; their colour and their content are derived from their context.” Crawford states: “In order to ascertain the meaning of any word or phrase that is ambiguous or susceptible to more than one meaning, the court may properly resort to the other words which the ambiguous word is associated in the statute. Accordingly, if several words are connected by a copulative conjunction, a presumption arises that they are of the same class unless, of course, a contrary intention is indicated.” In *Bourne (Inspector of Taxes) v. Norwich Crematorium Ltd.* [1967] 1 WLR 691, at 696, Stamp J. stated: “English words derive colour from those which surround them. Sentences are not mere collections of words to be taken out of the sentence, defined separately by reference to the dictionary or decided cases, and then put back into the sentence with the meaning which you have assigned to them as separate words ...”. The principle of *noscitur a sociis* must be distinguished from the doctrine of *eiusdem generis*, which states that “where general words follow the designation of particular things or classes of persons or subjects, the general words will usually be construed to include only those persons or things of the same class or general nature as those specifically enumerated. For example, where a law prohibits the exclusion of any persons on account of their color from ‘barber shops, eating houses, or other places of public resort,’ the latter phrase will be restricted to places of the same general character of those specifically enumerated.” . S.M. Zafar states that the two maxims operate in most situations identically, but there is a slight difference between them. The principle of *noscitur a sociis* was judicially recognized in our country in *Shakeel Shah v. The State and others* (2022 SCMR 1), *Barkurdar v. Appellate Tribunal/Additional District & Sessions Judge, and others* (PLD 2016 Lahore 101) (FB), *M/s Asfaq Trading Company v. Collector of Customs* (2016 PTD 2111), *Messrs Kashmir Pottery Works v. The Commissioner of Sales Tax* (PLD 1973 Lahore 837 : 1973 PTD 453).

Conclusion: i) See above analysis(i)

- ii) See above analysis(ii)
- iii) See above analysis(iii)
- iv) See above analysis(iv)

23. Lahore High Court
M/s 5H INSAAT Ve Ticaret Anonim Sirketi v. Secretary etc.
W.P.No.1712/2025
Mr. Justice Jawad Hassan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3570.pdf>

Facts: The petitioner was awarded a contract for certain works after completion of all legal formalities and submission of performance securities. The petitioner subsequently sought mobilization advances and commencement orders, which were not issued despite considerable delay. The petitioner through this writ petition challenged the termination notices issued under the contract and sought intervention of the Court.

Issues

- i) What is the legal status, role, and rights of a bidder in public contracts?
- ii) Can the Court intervene in a dispute when an alternative remedy through arbitration is available?
- iii) What are the classifications of arbitration?
- iv) What are the legal benefits of arbitration and its relevance to public interest projects?
- v) What are the legal duties of a Secretary under the Punjab Government Rules of Business?

Analysis:

- i) A bidder is an individual or organization that submits a proposal to undertake a specific project or provide goods/services at a specified price and in the context of public interest projects or government contracts, the bidders play an important role in competing for projects/contracts. The basic role of a bidder is to (i) submit proposals or bids for a project or contract; (ii) provide goods or services as specified in the said project or contract and (iii) comply with the terms and conditions of the project/contract awarded to him. Whereas the rights of a bidder include the right of fair evaluation of his bid, right to be notified of bid evaluation results and most importantly, right to protest or dispute the awarding of the contract if necessary.
- ii) The core point involved in this case is whether in presence of an alternate remedy available to the parties in the shape of arbitration, this Court can intervene in it. Before making any observation in relation thereto, it would be significant to first discuss regarding the arbitration and its scope. (...) therefore, in view of the above background and the facts of the case, specifically when consensus has also been reached between the parties for amicable settlement of the dispute, the impugned notices of termination dated 12.05.2025 are set-aside.
- iii) There are two types of arbitration. The first is “voluntary arbitration” in which the parties agree to arbitration voluntarily, through a contract or agreement and

second type is known as “mandatory arbitration” which is required by law or contract, and the parties must participate in the process.

iv) The first and the basic benefit of arbitration is the faster resolution of a dispute because it contains a process which is faster than the traditional litigation, reducing the time and cost associated with resolving disputes. Arbitration can be more cost-effective than approaching the Court as it eradicates many of the formalities and procedures associated with the litigation. It is commonly used to resolve commercial disputes, labour disputes, (...) Another important aspect of the matter, which also needs consideration, is that the Project relates to welfare of the public at large and it would not be wrong to say that a public interest project only aims to benefit society as a whole, often addressing social, environmental, or economic issues because it improves quality of life and promotes sustainable development.

v) Under Rule 3(3) of the Punjab Government Rules of Business, 2011 (the “Rules of Business”), business of the Government has been distributed amongst several Departments in the manner indicated in the Second Schedule and functions of the Secretary are described under Rule 10 of the Rules of Business, (...) This Court, while interpreting the aforesaid provisions of the Rules of Business first time has given verdict regarding responsibilities and functions of the heads of government departments in the case of PIA Officers Cooperative Housing Society Ltd. (...) by holding that the Secretary, being official head of the department, is responsible for its efficient administration and discipline, for the conduct of business assigned to the department and for the observance of laws and rules.

- Conclusion:**
- i) See analysis No. i.
 - ii) The Court may intervene despite arbitration if circumstances warrant and parties consent to amicable settlement.
 - iii) See analysis No. iii.
 - iv) Arbitration offers efficient dispute resolution, and public interest projects warrant judicial care to prevent harm to societal welfare.
 - v) A Secretary is legally responsible for the department’s efficient administration and adherence to laws and rules.

24. Lahore High Court
Mrs. Farzana Nasir v. Sui Northern Gas Pipelines Ltd.
R.F.A. No. 39-LD of 2023
Mr. Justice Muzamil Akhtar Shabir
<https://sys.lhc.gov.pk/appjudgments/2025LHC3584.pdf>

Facts: An appeal was dismissed for non-prosecution after the appellant allegedly received SMS notification from the court after the hearing date. Restoration of the appeal was sought, challenging the office objection based on a court-issued Circular about reliance on SMS.

Issues: i) What is the legal nature and effect of a “circular” in legal contexts?

- ii) Whether a Circular issued by the Registrar of the High Court regarding digital communication services can bar a legal remedy?
- iii) Whether constitutional guarantees under Articles 4 and 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 require adjudication of a restoration application on its merits?
- iv) Whether dismissal of a case on technical grounds is justified when it prejudices a party due to an act of the court or its functionary?

Analysis:

- i) While “circular” does not have a specific legal definition, it is used in legal contexts to describe documents that are widely circulated or sent to multiple recipients for information or instructions. In legal terminology, a “circular” or “circular letter” refers to a letter, circular, or other written communication that is widely disseminated among a group of people, often for informational or instructional purposes. It is a method of communicating information to a large and diverse group, such as in a government administration, a business, or an organization and may also be addressed to public at large. A circular might contain official information, instructions, updates, new policies or policy changes disseminated to employees or other stakeholders or may share news or events. In essence, a circular letter is a form of written communication designed for broad distribution and information sharing, and its usage can extend into legal contexts as a description of a widely distributed document.
- ii) A Circular issued by the Registrar of a High Court regarding intimation of Mobile App, SMS, notification or similar digital services primarily serves as an administrative instruction to facilitate communication and transparency. It does not have the force of law, does not create modify or extinguish substantive legal rights, obligations or liabilities, and is not enforceable as a judicial order. Its legal value is limited to procedural guidance non-compliance of which by litigant or counsel typically does not attract legal penalties unless the Circular is backed by a specific Law, Rule or Order of the court.
- iii) Besides the application for restoration even otherwise ought to be decided on its own merits especially when Article 10-A of the Constitution of Pakistan guarantees the right to a fair trial and due process for all citizens of Pakistan and Article 4 of the Constitution guarantees protection of law and right of the parties to be treated in accordance with law.
- iv) Needless to mention that it is settled proposition of law that an act of court or its functionary should not prejudice the rights of any party and it is in the interest of justice to decide the matters on merits instead of dismissing the same on technical grounds,

Conclusion:

- i) A circular is an informational document for broad communication and does not possess binding legal force.
- ii) No, such a Circular cannot bar a legal remedy as it lacks the force of law.
- iii) Constitutional guarantees under Articles 4 and 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 require that a restoration application be adjudicated on its merits.

iv) Dismissal on technical grounds is unjustified where court's act causes prejudice.

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- 25. Lahore High Court**
Muhammad Ramzan v. The State
Murder Reference No. 68/2022 & Criminal Appeal No. 16787-J/ 2022
Mr. Justice Farooq Haider & Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC3644.pdf>
- Facts:** The Sessions Court convicted the appellant and sentenced to death under section 302 PPC, on the charge of murder of complainant's father. Hence the appeal was filed by the convict. Murder reference was also sent to the Hon'ble Lahore High Court.
- Issues:**
- i) What reflects from a delayed FIR regarding presence of witnesses?
 - ii) What is required to establish the presence of a 'chance witness' at the time and place of occurrence?
 - iii) How the conduct of witnesses, to prove their presence at the time and place of occurrence, is important?
 - iv) What is the effect of producing the bloodstained clothes of the witnesses during the investigation?
 - v) What is meant and purpose of injury statement?
 - vi) Whether a thing is to be done in that manner in which the law requires to be done?
 - vii) Whether a document can be exhibited/ proved without production of scribe?
 - viii) Whether medical evidence is a substantive or confirmatory type of evidence?
 - ix) What is importance of motive when the substantive evidence is discarded?
 - x) Whether single dent in case of prosecution is sufficient for acquittal of the accused?
- Analysis:**
- i) This state of affairs also reflects that occurrence was not promptly reported to the police. Therefore, case was not promptly registered after the occurrence, which fact reflects that none of the cited witnesses including the complainant was present at the place of occurrence at relevant time of occurrence and time was consumed for procuring, inducing and engaging the witnesses including the complainant; then tailoring story for the case of prosecution and registering the case in its present form after much delay and in above scenario, First Information Report (crime report), which is cornerstone of the case of the prosecution, has lost its relevance/significance, and cannot provide any support to the case of prosecution and superstructure i.e. case of prosecution raised on the basis of such sort of FIR is bound to fall.
 - ii) Therefore, they both were "chance witnesses" and were thus required to establish valid, cogent, plausible and acceptable reason to prove their presence at the "time & place" of occurrence.
 - iii) So, aforementioned conduct of the complainant being son of the deceased as well as Abdul Majeed and Muhammad Latif (cited eye witnesses), who were

maternal cousins of the complainant, was unnatural and not appealing to common prudent man and reflects that they were not present at the “time & place” of occurrence.

iv) By now it is well settled that if bloodstained clothes of the complainant and cited eye witnesses have been produced during investigation, same provide strong corroboration to the ocular account regarding presence of the eye witnesses at the “time & place” of occurrence.

v) Furthermore, injury statement is meant only for mentioning description of injuries and brief report of Police Officer qua manner in which injuries are supposed to have been caused or poison suspected to have been used (as the case may be) as provided in 25.39 of the Police Rules, 1934 and it is clarified that injury statement is not prepared for the purpose of recording statement of injured/complainant qua detail of occurrence like recording of information under Section: 154 Cr.P.C.

vi) It goes without saying that detail of occurrence is incorporated in First Information Report Register whereas its substance in Daily Diary of the Police Station and it is trite law that when law prescribes a thing to be done in a particular manner, it should be done in that manner or not at all and in this regard famous Latin maxim “A communi observantia non est recedendum” can be safely referred.

vii) Learned Deputy Prosecutor General and learned counsel for the complainant remained unable to refer any witness in whose statement, said document has been brought on the record by the prosecution; scribe of said document has not been produced during trial of the case, so said document was neither brought on the record according to law nor exhibited/proved.

viii) Even otherwise, it is trite law that medical evidence is mere supportive/confirmatory type of evidence; it can tell about locale, nature, magnitude of injury, duration of the injury and kind of weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury; therefore, same cannot provide any corroboration to the case of prosecution in peculiar facts and circumstances of the case.

ix) Even otherwise, motive is a double edged weapon, it cuts both the ways, it can also be a reason for false implication; furthermore, when substantive evidence has been discarded, then motive loses its significance and becomes immaterial for conviction.

x) It is well established principle of law that single dent/ circumstance in case of prosecution is sufficient for acquittal.

- Conclusion:**
- i) See above analysis No.i.
 - ii) See above analysis No. ii.
 - iii) See above analysis No. iii.
 - iv) Production of blood-stained clothes provide strong corroboration to the ocular account regarding presence of witnesses at the “time & place” of occurrence.
 - v) See above analysis No.v

- vi) It is trite law that when law prescribes a thing to be done in a particular manner, it should be done in that manner.
- vii) A document can be exhibited/proved by producing its scribe.
- viii) It is trite law that medical evidence is mere supportive/confirmatory type of evidence.
- ix) When substantive evidence has been discarded, then motive loses its significance and becomes immaterial for conviction.
- x) Single dent/ circumstance in case of prosecution is sufficient for acquittal.

26. Lahore High Court
Ali Raza v. The State
Criminal Appeal No.33146/2022.
The State v. Ali Raza
Murder Reference No.155/2022
Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC3872.pdf>

Facts: The appellant preferred this appeal against his conviction in a murder case and the trial court forwarded murder reference for confirmation.

Issues:

- i) Whether is the importance of FIR in a criminal case, when not recorded upon first visit of complainant to Police Station?
- ii) When human blood disintegrates and what would be value of Forensic report, confirming blood upon recovered weapon, after such period?
- iii) Whether a witness can corroborate his own version as a recovery witness of weapon of offence?
- iv) What is nature of medical evidence?
- v) How motive is to be looked and what is nature of motive evidence?

Analysis:

- i) It is important to mention here that while deciding criminal cases, First Information Report (F.I.R) is always considered relevant and cornerstone of the case of prosecution; as a matter of fact, it is the information which is recorded under section 154 Cr.P.C. by the Police and importance is given to said document while keeping in view the consideration that it is first information without any adulteration, pollution, inducement, consultation or deliberation after the occurrence but if it has come on record that after the occurrence, complainant met police official but did not make his statement about detail of the occurrence or though stated detail of the occurrence to the police official, however, the same was not recorded then and there rather First Information Report was subsequently recorded on information provided by the complainant through written application or oral statement.
- ii) It goes without saying that blood disintegrates in the period of three weeks, therefore, report of PFSA, Lahore (Exh.PO) regarding said Chhurri about blood on swab taken from the blade of the Chhurri is inconsequential.
- iii) Law is well settled that no one can corroborate his own version, hence, Shan Abbas being recovery witness cannot corroborate his own version which he has

deposed as eye witness i.e. ocular account.

iv) 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.

v) As far as motive is concerned, it is trite law that motive is the double-edged weapon and can cut both sides equally 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. Even otherwise, when ocular account has been discarded then motive is of no help to the case of prosecution. 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.

- Conclusion:**
- i) An FIR recorded after first visit of informer to Police Station can neither be termed as First Information Report in stricto sensu nor weight/importance can be given it.
 - ii) Blood disintegrates in the period of three weeks, after such period detection of blood bears no value.
 - iii) No one can corroborate his own version.
 - iv) Medical evidence is mere supportive/confirmatory type of evidence, it can merely tell about locale, nature, magnitude of injury and kind of weapon used and not the identity of accused.
 - v) Motive is the double-edged weapon, it's only a circumstance leading to the offence. Its neither a substantive nor corroborative evidence.

27. Lahore High Court
Karamat Ali v. The State, etc.
Criminal Appeal No. 5394/2022
Murder Reference No.12/2022
Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC3719.pdf>

Facts: Through this single judgment the Honorable court disposed of Crl. Appeal No.5394/2022 against “convictions & sentences” and Murder Reference No.12/2022 sent by trial court, as both the matters have arisen out of one and the same judgment passed by learned Addl. Sessions Judge, Nankana Sahib. Appellant along with his co-accused was tried under Sections: 302, 324, 34 PPC {offences under Sections: 337 A (i), 337 F(i), 337 F(ii) PPC were added subsequently} , trial court acquitted Abdul Hameed co-accused whereas convicted and sentenced the appellant.

Issue:

- i) What may be the effect of delay in reporting of an incident?
- ii) What may be the consequences of registration of case FIR after an unexplained delay and what opinion may be formed by a court from this state of affairs?

- iii) Who is a chance witness, in legal parlance?
- iv) Whether evidence of a witness who denies admitted facts should be believed?
- v) What is the evidentiary value of a statement of witness recorded after delay?
- vi) Whether stamp of injury on the body of a witness makes his statement believable?
- vii) What is the evidentiary value of an eye witness who is also a recovery witness?

Analysis:

- i) It is well settled that when there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay and failure to do that will badly reflect upon the credibility of prosecution version.
- ii) This state of affairs reflects that none of the cited eye witnesses including the complainant was present at the “time & place” of occurrence and time has been consumed for procuring, inducing and engaging the witnesses, tailoring story for the case of prosecution and then registering the case in its present form after much delay and in above scenario, First Information Report (crime report), which is cornerstone of the case of the prosecution, cannot be termed as promptly recorded and such sort of FIR cannot provide any support to the case of prosecution rather superstructure i.e. case of prosecution raised on the basis of such sort of FIR is bound to fall.
- iii) “A chance witness, in legal parlance is the one who claims that he was present on the crime spot at the fateful time, albeit, his presence there was a sheer chance as in the ordinary course of business, place of residence and normal course of events, he was not supposed to be present on the spot but at a place where he resides, carries on business or runs day to day life affairs. It is in this context that the testimony of chance witness, ordinarily, is not accepted unless justifiable reasons are shown to establish his presence at the crime scene at the relevant time. In normal course, the presumption under the law would operate about his absence from the crime spot. True that in rare cases, the testimony of chance witness may be relied upon, provided some convincing explanations appealing to prudent mind for his presence on the crime spot are put forth, when the occurrence took place otherwise, his testimony would fall within the category of suspect evidence and cannot be accepted without a pinch of salt.”
- iv) It is well settled that if any witness denies the admitted fact, then his evidence cannot be believed.
- v) It is well settled that if statement of the witness is recorded with delay, then it diminishes its evidentiary value.
- vi) It is well settled that injured witness is not necessarily a truthful witness and he cannot be believed merely because he is having stamp of injuries on his body.
- vii) If recovery witness is the eye witness then his testimony cannot provide any corroboration to the ocular account because he cannot provide any

corroboration to his own testimony.

- Conclusion:**
- i) See above analysis No. i
 - ii) See above analysis No. ii
 - iii) See above analysis No. iii
 - iv) See above analysis No. iv
 - v) See above analysis No. v
 - vi) See above analysis No. v i
 - vii) See above analysis No. vii

28. Lahore High Court
Muhammad Ahmad v. District Judge, Pakpattan, etc.
W.P. No. 23462/2025
Mr. Justice Asim Hafeez
<https://sys.lhc.gov.pk/appjudgments/2025LHC3687.pdf>

Facts: The petitioner operated a medical store where he was repeatedly found by the Punjab Healthcare Commission to be unlawfully practicing allopathic medicine without the required qualifications and licenses. Despite the Commission sealing the premises on multiple occasions, he unlawfully de-sealed and resumed business. He later acknowledged his misconduct through an affidavit and apology. The Commission's hearing committee imposed a fine, which was upheld in appeal. Challenging this, petitioner filed this constitutional petition before the Lahore High Court, which ultimately dismissed the petition, affirming the Commission's authority and due process.

Issues:

- i) Does the Commission's regulatory procedure under the 2016 Regulations conflict with Section 22 of the Punjab Healthcare Commission Act, 2010?
- ii) Whether the interchangeable use of the terms "fine" and "penalty" under the Act, 2010 affects the legality of penalties imposed by committees?
- iii) Can the Hearing Committee constituted by the Commission legally impose fines under the Act, 2010?
- iv) Can an admission made through affidavit and apology be relied upon?
- v) Does the Commission's enforcement mechanism violate principles of procedural due process in quackery-related actions?

Analysis: i) Learned counsel for the petitioner failed to convince that action proposed and powers extended under Regulations 2016 are inconsistent with or violates the scope and mandate of parent statute - section 22 of the Act, 2010 in the context of present case. Evidently, inspection envisaged under section 22 of the Act, 2010, and procedure provided and authority extended to the Enforcement Managers under Regulations, 2016, seems mutually exclusive and manifest no apparent conflict or contradiction – peculiarity of this case hinges around allegations of quackery, and one who practices quackery cannot claim to run a healthcare establishment. I find no compelling reason and justification to declare that checks and preventive mechanisms provided under Regulations, 2016 are inconsistent or

lack application in the context of section 22 of the Act, 2010. Evidently, section 22 of the Act, 2010 provided an added tier in cases where Commissions deems further examination into the activities carried out by proclaimed healthcare establishment. Hypothetically thinking; there may be an occasion where report(s) submitted by the Enforcement Manager(s), eyes and ears of the Commission, may require further probe / examination into the scope of activities carried out by the delinquent, and the Commission may opt for mechanism provided under section 22 of the Act, 2010 - scope and intent of this judgment is not to dilate upon or discuss every possible situation and proceed to narrow down the options available in the context of peculiar situation encountered by the Commission. Section 22 of the Act, 2010 is not attracted, which otherwise manifest no conflict or aberration in enforcement of the Regulations, 2016, framed to realize and achieve the purpose of the Act, 2010. Regulations, 2016 provides for deployment of Enforcement Managers to maximize the reach of the Commission to take steps to achieve bigger objective, i.e., to curb quackery. Enforcement Managers are authorized to inspect, collect evidence, prepare report and make submissions with the competent authority / committee(s) to enable later to act promptly and exercise powers and discharge functions assigned by the Commission - section 40 of the Act, 2010 empowers the Commission to make regulations for carrying out the purposes of the Act, 2010 and one of the functions and powers of the Commission is to take necessary steps to ban quackery in terms of section 4(2)(q) of the Act, 2010. Reading of section 22 of the Act, 2010 in a manner suggested by counsel for the petitioner would render the Regulations, 2016 ineffective, rather redundant. And such connotation in the context of circumstances of the case is unwarranted. I dismiss the argument that visits conducted and report prepared by the Enforcement Manager(s) are contrary to the mandate of or constitutes breach of section 22 of the Act, 2010.

ii) Is section 28 of the Act of 2010 confers exclusivity to the Commission with respect to imposition of fine? Apparently, the expression “fine” and “penalty” has been interchangeably used in the Act, 2010, hence, for the purposes of present judgment, there is no occasion to dilate upon them separately, to understand each’s specific connotation. There is no cavil that power to impose and collect penalty is conferred upon Commission in terms of Section 4(2)(g) of the Act – and those powers are exercised by the competent authority(ies) as mandated by the terms of the statute. And manifestation of such powers and functions by the Commission resulted into an establishment of Anti Quackery cell – regulated under the Resolutions 2016. Regulations, 2016 defines an expression „competent authority“ in terms of regulation 2(c) and in terms thereof, the Commission is empowered to form committees for hearing of those matters reported to it, regarding acts and incidences of quackery – this manifests an intent to take steps to ban quackery in exercise of function assigned under section 4(2)(q) of the Act, 2010. Commission is a corporate body – juridical person – which operates and functions through assigns / delegatee(s) or bodies / committees, being qualified as an alter-ego of the Commission. Board constituted under section 5 of the Act, 2010 is not a Commission, nor the Chairperson could claim to be a Commission.

Committee(s), instrumentalities of the Commission, in terms of Regulations, 2016, are empowered to examine the reports submitted by Enforcement Managers, scrutinize the reports, afford hearings to identified delinquents and make recommendations / orders, including imposition of fines, as the case may be – imposition of fines are regulated under regulation 7(4) of the Regulations, 2016.

iii) Powers exercised by the Committee, be it the hearing committee, which is a competent authority, are manifestation of the powers and functions of the Commission... Exercise of powers, vested in the Commission, by the committee(s) constituted by the Commission, would not constitute a breach of section 28 of the Act, 2010, in the context of imposition of fines.

iv) Submission of affidavit and acceptance of allegations constitutes an admission, which can be used against the petitioner in absence of any exception pleaded... no-where, petitioner alleged that affidavit was procured through coercion, misrepresentation or undue influence.

v) No case of abuse of procedural and substantial due process is made out – opportunity of hearing was granted and fine imposed commensurate with the gravity of allegations and acts detrimental to public interest(s). Documents reflect that petitioner appeared before the Committee, appointed by the Commission to conduct hearing and evaluate the report and evidence submitted by the Enforcement Manager(s), where petitioner was confronted with allegations in a question-answer session, who acknowledged his wrongdoing and act of de-sealing premises on four occasions, unlawfully. Nothing substantial is available to counter or dismiss allegations of practicing allopathy without authorization / license – which activity is termed as quackery and attracts appropriate action under the relevant law. I have examined the grounds of appeal, wherein, no-where, petitioner alleged that affidavit was procured through coercion, misrepresentation or undue influence. Submission of affidavit and acceptance of allegations constitutes an admission, which can be used against the petitioner in absence of any exception pleaded – conceptually and legally there is a difference between admission and confession; former is attracted to this case. Even otherwise, regulatory wrongdoing(s) is a specie of strict liability wrong(s), where guilty act alone has to be established.

- Conclusion:**
- i) The Commission's regulatory procedures under the 2016 Regulations do not conflict with Section 22 of the Punjab Healthcare Commission Act, 2010.
 - ii) The interchangeable use of "fine" and "penalty" under the Act, 2010 does not affect the legality of penalties imposed by committee.
 - iii) Hearing Committee constituted by the Commission are legally empowered to impose fines under the Act, 2010.
 - iv) An affidavit and apology constitute valid admission unless coercion or undue influence is specifically alleged and proven.
 - v) The Commission's enforcement actions followed procedural due process and were legally sound in addressing quackery-related violations.

29. Lahore High Court
Muhammad Manzoor v. Muhammad Shafi (deceased) through legal heirs, etc.
Civil Revision No. 3483/2014
Mr. Justice Asim Hafeez
<https://sys.lhc.gov.pk/appjudgments/2025LHC3677.pdf>

Facts: This Civil Revision is directed against concurrent decisions, whereby, suit for declaration and perpetual injunction, instituted by respondent No.1, was decreed by the trial court, which decision was affirmed by the Appellate Court through its judgment.

Issues

- i) Is the Mutation an instrument in the context of Article 91 of Limitation Act?
- ii) Whether transactions of sale are to be challenged under section 42 or under section 39 of the Specific Relief Act, 1877?
- iii) What is limitation period for filing a declaratory suit under Article 120 of Limitation Act?
- iv) What is effect of failure to prove underlying transaction?

Analysis:

- i) Mutation is not an instrument in the context of Article 91 of the Act. Mutation records the effect of change in the ownership in fact caused by virtue of a legal transaction, effected through written document for the purposes of Article 91 of the Act. Mutation is not the document of title but evidence thereof. Mutation in-fact embodies a transaction and an effect extended thereto for the purposes of revenue record. In essence Mutation is the progeny, cause and effect of the transaction(s) and not predecessor thereto. Aforesaid attribute(s) of Mutation(s) is a settled proposition of law and no tweaking is required. Hence, Mutation is not an instrument and Article 91 of the Act is not attracted to this case.
- ii) Facts alleged depict that declaration was sought against void and unenforceable transaction(s) of sale, which transactions, in wake of denial, are not classifiable as voidable transactions under the scope of sections 19 & 19-A of the Contract Act 1872 – factum of extending consent to alleged transactions and execution of mutations in the first place was not alleged. Since declaration, being the primary and fundamental relief, was sought therefore section 42 of the Specific Relief Act 1877 and not the section 39 thereof is attracted.
- iii) Declaration of rights, allegedly prejudiced upon execution of mutations, was sought and that is within six years of the accrual of case of action – bringing Article 120 in focus. Case-laws cited by counsel for the petitioners are distinguishable, primarily on two counts; firstly, Article 91 of the Act is not attracted, – mutations are not the instruments. And secondly, transactions impugned were void and not voidable – attracting Article 120 and cause would accrue from 07.03.2007– which brings suit within six years.
- iv) Once underlying transaction was not proved, simplicitor, impugned mutations are ineffective and insufficient to refute the title of the respondent No.1. This manifest terminal failure on the part of the petitioner.

- Conclusion:** i) Mutation is not an instrument and Article 91 of the Limitation Act is not attracted.
 ii) See above analysis No.ii
 iii) See above analysis No.iii
 vi) Once underlying transaction was not proved, mutation is ineffective and insufficient to refute the title.

30. Lahore High Court
Muhammad Bakhsh (deceased) through L.Rs. & others v.
Jiwan Hayat & others
Civil Revision No.940-D of 2006
Mr. Justice Ahmad Nadeem Arshad
<https://sys.lhc.gov.pk/appjudgments/2025LHC3636.pdf>

Facts: Respondents/ plaintiffs filed suit for declaration challenging entries in the revenue record. Trial Court dismissed the suit but appeal was accepted by District Court and the suit was decreed. Judgment was assailed before High Court through revision petition but the same was dismissed.

Issues: i) What is the evidentiary value and legal status of mutation entries under the law?
 ii) When does admission of facts become conclusive and binding on a party making it?
 iii) After the promulgation of the West Pakistan Muslim Personal Law (Shariat) Application Act, 1962, were limited owners entitled to their Shari'ah share upon the termination of their limited interest under Section 3 of the Act?

Analysis: i) Presumption of truth and correctness is not attached to the entries made in the mutation. In order to prove these entries strong and unimpeachable evidence is required. Entering a mutation or reporting factum of acquisition of any right in an estate to Patwari is mere ministerial act, which would not confer or extinguish any right in property. Under section 42 of Land Revenue Act, 1967, no witnesses or respectables are required either to accompany the person reporting acquisition of such an interest to Patwari nor to witness the entering of a mutation in said connection... The date of death mentioned in the mutations do not find corroboration through any other evidence. The entries in the mutation register by themselves are not conclusive evidence of the facts which they purport to record.
 ii) Although admission of facts are only relevant and are not conclusive proof of the matters made through said admission. However, such admissions become conclusive and are binding on a party making them only if it amounts to a representation on a matter of fact made to the other party, who in consequence of such representation has altered its position. When admission is thus acted upon by the party to whom it is made, it operates as estoppel and becomes in a way conclusive, inasmuch as the party making it is not then permitted to show that the admission was wrong.

iii) As per Section 3 of the West Pakistan Muslim Personal Law (Shariat) Application Act, 1962, limited interest of female holders terminates and in terms of Section 5 of the Act (ibid) on the termination of the limited estates, the property was to be considered as the ownership of the last full owner and should have devolved upon his legal sharai heirs alive at the time of his death and if anyone of such heir had died prior to the termination of the limited estate his heirs would get the share to which their predecessor would have been entitled if alive. Accordingly, the limited owners were also entitled to their sharai share whether alive or dead.

Conclusion: i) see above analysis (i).
 ii) see above analysis (ii)
 iii) Yes. The limited owners were entitled to their sharai share whether alive or dead.

31. Lahore High Court
The State v. Muhammad Irfan alias Pomi
Murder Reference No. 221 of 2021
Mr. Justice Muhammad Tariq Nadeem, Mr. Justice Raja Ghazanfar Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3801.pdf>

Facts: The appellant was convicted under Section 302(b) of the Pakistan Penal Code for committing *qatl-i-amd* and sentenced to death, along with an order to pay compensation to the legal heirs of the deceased; the remaining accused were acquitted by the trial court; appellant filed an appeal against his conviction and sentence, while complainant challenged the acquittal of the co-accused; a murder reference was also filed for confirmation of the death penalty.

Issues: i) Whether eyewitness testimony can be rejected solely due to the witnesses' relationship with the deceased?
 ii) Whether recording and translating evidence without the witness and court's presence violates legal requirements?
 iii) Whether an acquittal creates a double presumption of innocence that the prosecution must overcome to secure a conviction?
 iv) Whether failure to provide simultaneous Urdu translation of English-recorded witness testimony violate fair trial rights under Article 10-A of the Constitution?

Analysis: i) It is settled proposition of law that mere relationship of eye witnesses with the deceased by itself is no ground to disbelieve their evidence. Even otherwise, their evidence is trustworthy and confidence inspiring which cannot be discarded merely on the basis of their relationship with the deceased especially when they have no animosity with the appellant.
 ii) From bare reading of the above reproduced provisions of law, it manifests that the intention of the law (code) is that Urdu has been declared as the language of subordinate courts, but in the Province of Punjab, the same has not been implemented up till now, and in Sessions Courts, evidence is being recorded in

English. It is noteworthy that law is very much clear on the point that the evidence should be taken down in the language of witnesses by the Magistrate or Judge himself or be recorded in his presence, hearing and superintendence. Similarly an authenticated translation of such evidence in the language of the court or in English is also a legal requirement. Normally in the Province of Punjab, witnesses give their evidence in Urdu language whereas in Sessions trials, evidence is mostly recorded in English language and it has become a trite that evidence is translated in Urdu by the Reader of the Court subsequently in the absence of witnesses, accused and the Presiding Officer of the court.

iii) It is well settled law that every accused, after his acquittal, had earned a double presumption of innocence, for rebuttal of which heavy onus lays on the prosecution but it had failed to discharge the same.

iv) It is worthwhile noticeable here that most of the witnesses in the Province of Punjab give their evidence in Urdu, which the accused can also easily understand, for the reason, if the evidence of a witness dictated by the Presiding Officer in English is simultaneously translated in Urdu, it shall become convenient for the Presiding Officer to comply with the provisions of Section 360 Cr.P.C. as well. This practice, in our view, shall definitely reduce the chance of any violation of the right of fair trial given to the parties in terms of Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973.

- Conclusion:**
- i) Trustworthy and confidence inspiring evidence cannot be discarded merely on the basis of their relationship with the deceased
 - ii) Recording and translating evidence without the witness and court's presence violates legal requirements.
 - iii) See above analysis No.iii.
 - iv) Simultaneous Urdu translation of English-recorded witness testimony reduce the chance of any violation of the right of fair trial given to the parties in terms of Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973

32. Lahore High Court
Malik Ameer Haider Sangha v. Federation of Pakistan and 05 others
W.P. No. 47550 / 2024
Mr. Justice Abid Hussain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC3836.pdf>

Facts: Through the instant constitutional Petition, the Petitioner prays that the acts of the Respondents, more precisely, the functionaries of Inland Revenue regarding raid and seizure of record at the business premises of his sole proprietorship concern without complying with the requirements of Section 40 of the Sales Tax Act, 1990 (the "Act") be declared as illegal and unlawful, the Respondents be directed to return the record unlawfully seized and be further restrained from taking illegal coercive measures against the Petitioner.

Issues i) Whether the constitutional petition under Article 199 of Constitution of Pakistan is maintainable before High Court to assail statutory infringements?

- ii) What are the requirements to obtain search warrant?
- iii) Whether a search warrant obtained in the name of one business concern can be used to raid and confiscate record of the other business concerns?
- iv) What is fate of the raid and seizure operation by the Inland Revenue Department without complying with the requirements of Section 40 of the Sales Tax Act, 1990?

Analysis:

- i) The stated remedy of appeal is not available to assail statutory infringements which is examined by this Court in exercise of its power of judicial review under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. Hence, the objections qua maintainability are baseless and accordingly, the same are overruled.
- ii) It is explicitly clear from the above that discretion to obtain warrant is not unfettered. There must be a reason to believe that some useful or relevant record required with respect to any proceedings under the Act is available at a particular place. This is an extraordinary power granted by the Act in addition to other powers, such as, to have access to premises, stocks and records, to call for information and posting of an officer at the premises of a tax payer under Sections 38, 38A and 40B of the act. The exercise of power of search, being harsh in nature, has been made dependent upon certain conditions with the objective to place a check on unbridled, arbitrary and capricious use of power.
- iii) Where a person has more than one proprietorship business concerns with different lines of business, it is obligatory to disclose the name of the concern(s) regarding which search warrant is required. A search warrant obtained in the name of one business concern cannot be used to raid and confiscate record of the other business concerns. If their offices were situated at the same place, there was no impediment to list the names and address of all concerns owned by one person regarding which search warrant was required.
- iv) Section 40(2) of the Act unequivocally requires that the officer who has obtained search warrant shall make such search in his presence in accordance with the relevant provisions of the Cr.P.C., Section 103 whereof, obligates that search and seizure must be carried out in the presence of independent witnesses. The Respondent-Department has admitted the seizure of record in the absence of any independent witness and the explanation rendered in this behalf that the said provisions of law do not apply to fiscal matters is unacceptable being in violation of express mandate of law as held in the cases of Master Enterprises, Food Consults and Pakistan Chipboard (surpa). As such, the raid and seizure of record by Respondent No. 5 was unlawful being in derogation to the express provisions of Section 40 of the Act.

Conclusion:

- i) The constitutional petition is maintainable before High Court to assail statutory infringements.
- ii) There must be a reason to believe that some useful or relevant record required with respect to any proceedings under the Act is available at a particular place.

- iii) A search warrant obtained in the name of one business concern cannot be used to raid and confiscate record of the other business concerns.
- iv) See the above analysis No.iv

33. Lahore High Court
Zafar Ali (deceased) v. Ghulam Mustafa Chaudhry, etc
Civil Revision No. 33211 of 2023
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC3768.pdf>

Facts: Petitioner purchased agricultural land under a written agreement and paid substantial consideration over multiple instalments. Dispute arose when petitioner sought specific performance, which respondents opposed by claiming oral rescission and refund of sale consideration.

Issues:

- i) Whether written agreement to sell can be rescinded orally and if so, what is the standard of proof?
- ii) Whether a litigant is obligated to disclose names of witnesses in his pleadings to prove oral rescission of an agreement, keeping in view import of Order VI, Rule 2, CPC?
- iii) Whether an amount of money deposited by the buyer in his own account, in respect of which he could not substantiate his source, can be treated as circumstantial evidence of refund of the sale consideration by the seller, pursuant to an oral recession?

Analysis:

- i) As regards the first question, it is worth mentioning that under Section 62 of the Contract Act, 1872, parties to a contract may mutually agree to rescind it, and such rescission needs not to be in writing. The critical requirement is mutual consent of the parties. The law does not prohibit oral rescission. While oral rescission is legally permissible, the Courts have stressed that it must be established by clear, cogent, and convincing evidence. (...) The above discussion reinforces that the evidentiary burden is high and cannot be met through general or vague assertions. The improbability of undocumented transactions, especially where original transactions were reduced in writing or formally executed, has led the Courts to disbelieve the claims of oral rescission. Moreover, the provisions of Articles 102 and 1036 of Qanun-e-Shahadat Order, 1984 in general and proviso 4 to Article 103 in particular are relevant to the case in hand, since they lay down the basic principle that subsequent oral contract to rescind the earlier written contract may be proved albeit the standard of proof remains the same as required for oral agreement. Taken together, the above referred legal provisions in the light of the judicial pronouncements referred, establish a consistent legal approach: oral rescission is recognized in law, however, strict proof is required in line with legal and evidentiary standards and without such proof—both in pleadings and in evidence—the Courts are unlikely to uphold claims of oral rescission against written agreements.
- ii) At first glance, there appears to be a contradiction between the rule under the

CPC that pleadings must contain only material facts and not evidence i.e., names of witnesses, dates, times, and places that typically form part of evidence—and the judicial requirement that oral agreements or oral rescission must be pleaded with specific details such as the exact date, place, and names of the witnesses. However, this Court is of the opinion that this is more a matter of functional distinction than the actual conflict. The CPC's directive to plead only facts (and not evidence) is meant to ensure that the pleadings define the scope of the controversy clearly, without burdening them with evidentiary material, which is to be introduced later during the trial. But when a party asserts a claim or defence that is inherently exceptional—such as rescission of a written agreement through an oral understanding—the particulars of time, place, and witnesses become essential elements of the factual foundation of the defence itself, not just the evidence. It is in such situations that the Courts have consistently held as examined hereinabove, that general or vague assertions are insufficient, and failure to state these particulars can render the entire defence implausible. Thus, in the context of oral transactions, the details about names of witnesses are not merely evidentiary—rather the same constitute material facts necessary to give rise to the defence, and must therefore, be pleaded to pass the threshold of a valid defence under Order VI Rule 2, CPC.

iii) Under these circumstances, it belies logic that the parties would agree to such an unreasonable arrangement and after payment of a substantial amount in cash, neither written receipt or cancellation was taken, nor was any stamp paper executed or attested at the time of rescission or payment. (...) Further, if the respondents/plaintiffs really made the payment in cash on 07-12-2011, why would they not insist on some form of written acknowledgment even on a plain paper receipt, especially when they were previously meticulous in formalizing extensions and partial payments? The entire narrative is circumstantial evidence indicating that the story of oral rescission is contrived and lacks credibility. As a corollary, mere fact that some amount was deposited by the petitioner/defendant in his bank account on the same day, when the respondents/plaintiffs withdrew an amount from the same branch, does not in itself constitute corroboration of an oral rescission of written agreements, which otherwise could only be proved by clear and cogent evidence that the respondents/plaintiffs failed to lead.

- Conclusion:**
- i) A written agreement can legally be rescinded orally, but such rescission must be proved through clear, cogent, and convincing evidence; vague assertions are insufficient.
 - ii) In cases of oral rescission, disclosure of names of witnesses in pleadings is necessary as they constitute material facts required under Order VI Rule 2, CPC.
 - iii) Mere deposit of money by the buyer in his own account without credible proof of source does not constitute circumstantial evidence of refund or oral rescission.
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34. Lahore High Court
Muhammad Safraz v. Secretary, Specialized Healthcare and Medical Education department etc.
W.P. No. 43029/2024
Mr. Justice Anwaar Hussain.
<https://sys.lhc.gov.pk/appjudgments/2025LHC3760.pdf>

Facts: The petitioner, a civil servant, challenges the initiation of a new inquiry and a personal hearing notice, arguing that it amounts to reopening a concluded matter. It is asserted that in earlier litigation, the Additional Advocate General informed the Supreme Court of Pakistan that the petitioner had already been exonerated in a prior departmental inquiry on the same facts, precluding any fresh proceedings.

Issues:

- i) What does indicate the term “nonfunctional” of tribunal?
- ii) Whether a constitutional petition can be entertained by the High Court due to the non-functional status of the Service Tribunal, and does such entertainment affect the Tribunal’s constitutionally vested jurisdiction?
- iii) Whether Article 212 of the Constitution confers exclusive jurisdiction upon the Service Tribunal to adjudicate matters relating to the terms and conditions of service of civil servants, including disciplinary proceedings?
- iv) Whether a mere allegation of lack of jurisdiction or mala fides is sufficient to confer jurisdiction upon the High Court where such jurisdiction is otherwise barred under the Constitution?
- v) Whether the initiation of inquiry proceedings falls within the scope of terms and conditions of service of a civil servant?
- vi) Whether a de novo inquiry or personal hearing notice, though not independently appealable, can be challenged if the final disciplinary order is based on disregard of a binding decision by the Supreme Court or the Service Tribunal?
- vii) Whether allegations of mala fide in an inquiry fall within the exclusive jurisdiction of the competent forum and the Service Tribunal?

Analysis:

- i) It is imperative to observe that term “nonfunctional”, merely, indicates that although the Tribunal has been established, it is temporarily not operational, say on account of any vacancy.
- ii) The entertainment of a constitutional petition on account of non- functional Service Tribunal is an exceptional remedy carved-out to ensure that a civil servant is not left remediless on account of non- appointment of Chairman and/or members by the Government, however, this does not and should not so operate as to divest the Tribunal of its constitutionally vested jurisdiction and/or, conversely speaking, vest this Court with constitutionally divested jurisdiction.
- iii) The constitutional scheme under Article 212 is unambiguous and categorical in its terms: exclusive jurisdiction in matters relating to the terms and conditions of service of civil servants lies with the Tribunal, including matters arising from the disciplinary proceedings.

- iv) Mere allegation that an order is without jurisdiction or tainted with mala fides does not ipso facto vest this Court with jurisdiction where it is otherwise barred under the Constitution.
- v) Initiation of inquiry proceedings clearly falls within the terms and conditions of service.
- vi) It would suffice to observe that even if the order directing a de novo inquiry or the issuance of a personal hearing notice is not independently appealable within the departmental hierarchy under the applicable service laws, any final order passed pursuant to such disciplinary proceedings would give rise to a right of appeal before the Tribunal and if the competent authority, while conducting a de novo inquiry or issuing a personal hearing notice, acts in disregard of a final order of the Supreme Court of Pakistan or a prior binding decision of the Tribunal on the same set of facts, such conduct may constitute a valid ground to challenge any final adverse order passed as a consequence of the disciplinary proceedings.
- vii) Similarly, whether the inquiry is based on mala fide also remains within the exclusive jurisdiction of the competent forum under the applicable service laws followed by judicial scrutiny by the Tribunal.

- Conclusion:**
- i) See above analysis No. i
 - ii) Constitutional petition may be entertained due to a non-functional Tribunal, but this does not divest the Tribunal of its constitutional jurisdiction..
 - iii) Article 212 confers exclusive jurisdiction on the Tribunal over civil servants' service matters, including disciplinary proceedings.
 - iv) Alleging lack of jurisdiction or mala fides does not by itself confer jurisdiction where constitutionally barred
 - v) Initiation of inquiry falls within the terms and conditions of service.
 - vi) See above analysis No.vi
 - vii) See above analysis No.vii

35. Lahore High Court
Nusrat Sadiq v. Nadeem Asghar etc.
W.P. No.72122/2021
Mr. Justice Anwaar Hussain.
<https://sys.lhc.gov.pk/appjudgments/2025LHC3883.pdf>

Facts: The petitioner through this petition challenges the Appellate Court's judgment, which modified the Trial Court's decision by awarding her Rs.60,000/- monthly maintenance (with 10% annual increase) including Iddat, reduced the minor's annual increase to 10%, and upheld the finding on dower.

Issues:

- i) Whether the absence of a formal effectiveness certificate nullifies the oral divorce or renders it ineffective?
- ii) Whether the law prohibits a husband from participating through an authorized attorney in proceedings relating to divorce and maintenance?
- iii) Whether a marriage stands dissolved upon pronouncement of *talaq* in triplicate without requiring additional legal or procedural formalities under Islamic law?

Analysis:

- i) The absence of a formal effectiveness certificate does not ipso facto nullify the oral divorce or render it ineffective.
- ii) There exists no bar in law preventing a husband from submitting a written statement or deposing through a duly authorized attorney in matters pertaining to the divorce and maintenance.
- iii) Such an interpretation would run contrary to the spirit of Islamic *Shariah* as also the jurisprudence developed thereof, which recognizes the dissolution of marriage upon the pronouncement of *talaq* in triplicate, rendering the marital relationship extinct without further formalities.

Conclusion:

- i) See above analysis No. i.
- ii) A husband may lawfully participate in divorce and maintenance proceedings through an authorized attorney.
- iii) Talaq pronounced in triplicate dissolves the marriage instantly under Islamic *Shariah* without requiring further formalities.

36. Lahore High Court
Shahid Javed v. Government of Pakistan, etc.
Writ Petition No.4166 of 2025
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC3866.pdf>

Facts: By way of this petition, the petitioner has called in question the order of the Home Department, Government of Punjab whereby his review application was dismissed while maintaining his name on Passport Control List (“PCL”).

Issues:

- i) On which test must a restriction on the freedom of movement be satisfied?
- ii) What is the impact of including of a citizen’s name on the PCL?
- iii) What makes the power of government agencies and departments under Rule 22(2)(b) of the Passports Rules, 2021 (“Rules”) render the mechanism susceptible?
- iv) What action offend the constitutional guarantee provided under Article 15 of the Constitution?
- v) In what manner, should the power to curtail a citizen’s mobility be exercised?
- vi) To what extent, does the presumption of innocence remain intact?
- vii) Are recommendations based on unverified suspicions or incomplete investigations are permissible?
- viii) Is mere involvement in a criminal case sufficient to justify a restriction on international travel?
- ix) How should the Rule 22(2)(b), be interpreted?
- x) In what manner should the decision to curtail a citizen’s right to travel abroad be exercised?
- xi) What is the result of executive actions rendered in deviation from the standard prescribed for executive decision?

- xii) Which legal presumption is associated with a person who has been granted bail?
- xiii) Which Court is invested with power to ensure presence of an under-trial accused, to grant exemption from the personal appearance and to withdraw/cancel the bail?
- xiv) Under what circumstance, does judicial correction become imperative?

Analysis:

- i) The right to freedom of movement is a fundamental right enshrined in the Constitution, and any restriction on liberty must satisfy the test of procedural fairness.
- ii) The inclusion of a citizen's name on the PCL, particularly, under Rule 22(2)(b) of the Rules, constitutes a serious interference with this right.
- iii) While the above referred Rule permits the government agencies and departments to recommend placement of the name of a citizen on the PCL, the absence of an intelligible framework, objective criteria, or any obligation to provide a hearing to the affected person renders the entire mechanism susceptible to arbitrariness.
- iv) When such discretion is exercised without a clear legislative standard or procedural safeguards, it offends the constitutional guarantee under Article 15 of the Constitution, which secures the right of every citizen to move freely that includes the liberty to travel abroad.
- v) The power to curtail a citizen's mobility cannot rest solely with the administrative machinery or law enforcement agencies, and any such action must be rooted in legal authority exercised in accordance with principles of fairness and accountability.
- vi) The presumption of innocence remains intact unless and until a finding of guilt is recorded by a Court of law.
- vii) To allow recommendations, based on unverified suspicions or incomplete investigations, to serve as the sole basis for denying a citizen the right to travel would not only be constitutionally impermissible but would also elevate executive opinion to the status of conclusive proof.
- viii) This Court is of the opinion that mere involvement in a criminal case is insufficient to justify a restriction on international travel, especially when the accused is admitted to bail by a Competent Court.
- ix) Rule 22(2)(b), to the extent that it confers unstructured discretion, must be interpreted narrowly so as to avoid constitutional invalidity.
- x) It is, therefore, imperative that the decision to curtail a citizen's right to travel abroad be based on a well reasoned and transparent process, endorsed at the highest level of the executive through proper application of mind, and accompanied by adequate notice and opportunity of hearing.
- xi) Any deviation from this standard renders the executive action vulnerable and liable to be set aside for being contrary to the law, and in derogation of the fundamental rights.
- xii) Once a person has been granted bail, the legal presumption is that he is not fleeing justice.

xiii) In addition, the Trial Court is vested with certain powers under the Code of Criminal Procedure, 1898 (“Code”) to ensure presence of an under-trial accused who is on bail. Similarly, the Trial Court retains full authority under the Code to grant exemption from the personal appearance whenever necessary and in case the said exemption is misused, the power vests with the Courts to withdraw/cancel the bail.

xiv) Where liberty is curtailed on the basis of misrepresentation and vague administrative routine, judicial correction becomes imperative.

- Conclusion:**
- i) A restriction on freedom of movement must satisfy the test of procedural fairness.
 - ii) It amounts to infringement of fundamental right to freedom of movement.
 - iii) Absence of an intelligible framework, objective criteria, or any obligation to provide a hearing to the affected person.
 - iv) Exercise of discretion a clear legislative standard or procedural safeguard.
 - v) That such legal authority must be exercised in accordance with principles of fairness and accountability.
 - vi) It remains intact till a finding of guilt is recorded by a Court of law.
 - vii) They are not permissible under the constitution.
 - viii) Mere involvement in a criminal case is not sufficient to justify a restriction on international travel.
 - ix) It must be interpreted narrowly.
 - x) See above analysis No. x
 - xi) It renders the executive action vulnerable and liable to be set aside.
 - xii) That he is not fleeing justice.
 - xiii) See above analysis No. xiii
 - xiv) When liberty is curtailed on the basis of misrepresentation and vague administrative routine.

37. Lahore High Court
TCS etc. v. Muhammad Siddique Ghuman etc.
First Appeal Against Order No. 36959 of 2022
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC3888.pdf>

Facts: Appeal under Section 33 of the Punjab Consumer Protection Act, 2005 was directed against judgment whereby the Trial Court had accepted the complaint of respondent and awarded him Rs.124,000/- as compensation.

Issues:

- i) Whether a courier company is liable for misdelivery to an unauthorized person when the consumer was deceived by a third party and the consignment was booked under a self-collection service?
- ii) Does the subsequent return or recovery of a misdelivered item absolve the courier company of liability for compensation due to earlier negligence?

Analysis: i) The failure to verify identity and the handing over of the parcel to an

unauthorized person constitutes a breach of contractual duty as well as negligence. The fraud, which the intended consignee committed with the respondent, was materialized because of the inefficiency and breach of duty on the part of the appellant-company by handing over the mobile phone to the irrelevant person. The admission of error by the appellant-company is legally significant. It confirms that the appellant-company failed to adhere to standard protocols of identification and verification, which are essential in cases where shipments are booked with agreed self-collection.

ii) The return of the mobile phone at a later stage does not undo the breach, nor does it negate the claim for damages, particularly, where there has been mental distress, delay, and inconvenience caused to the respondent/consumer. The burden on a service provider, particularly one dealing in logistics and insured goods, is to ensure that such lapses do not occur. The reliance on mere representations by an unknown third party pretending to be the desired recipient or his/her representative, without documentary verification, violates the reasonable standards expected of such services under consumer protection principles.

- Conclusion:** i) It is irrelevant that the intended consignee was a fictitious person and was impersonated by someone and the respondent claimant was himself naïve in being trapped and the same does not absolve the appellant-company of its duty to prevent such frauds.
- ii) The subsequent return or recovery of a misdelivered item does not absolve the courier company of liability for compensation due to earlier negligence.

38. Lahore High Court
Muhammad Aslam v. The State & another
Crl. Appeal No.22010/2022
The State vs. Muhammad Aslam
Murder Reference No.79/2022
Bashir Ahmed vs. Muhammad Saeed, etc.
Crl. Appeal No.22009/2022
Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC3516.pdf>

Facts: The appellants have challenged their conviction and award of death sentence in a murder case registered against them.

- Issues:**
- i) How the extra-ordinary promptitude in registration of a murder case be looked?
 - ii) What medico-legal signs are left by close-range fire shots and why?
 - iii) What is the Burning, Scorching/Charring, Singing, Blackening and Tattooing upon entry wounds?
 - iv) What is effect of non-identification and non-accomping the dead body to hospital by eyewitnesses?
 - v) What is importance of Inquest Report and wisdom behind its preparation?
 - vi) What is evidentiary value of recoveries and when favourable to prosecution?

Analysis:

- i) The matter was reported with extraordinary promptitude. Furthermore, the postmortem examination of the deceased was conducted shortly thereafter, at 3:00 p.m. on the same day. While the swift initiation of autopsy ostensibly reflects procedural efficiency, it simultaneously raises plausible concerns regarding the actual time of the registration of the FIR. The exceptionally short interval between the occurrence, the lodging of the FIR, and the commencement of the postmortem cast doubt on whether all requisite steps, such as police arrival at the scene, initial inquiry, transportation of the body, and formal paperwork, could have been completed within such a narrow timeframe. This unusual promptness creates a reasonable suspicion that the FIR may not have been lodged at the time recorded in its relevant column and that the timing may have been manipulated to lend the appearance of immediacy and procedural regularity.
- ii) In firearm injuries, the presence of burning, scorching, singeing, blackening, and tattooing on the entry wounds serves as critical medico-legal signs of close-range discharge. On the other hand, exit wounds are always free from the aforementioned signs. These effects are caused by the thermal energy and particulate matter released from the muzzle of the firearm upon discharge, and they serve a vital role in estimating the firing distance and evaluating the factual matrix presented by the prosecution.
- iii) Burning is caused by the intense heat and flame expelled from the muzzle of a firearm when it is discharged at very close range...Scorching is distinct from burning in that it primarily results in reddening and charring of the skin surface without full thickness burns. It is caused by the hot gases that escape the muzzle...Singeing refers to the partial burning or curling of hair caused by heat and flame during the firearm discharge. It is generally seen in exposed areas such as the scalp, beard, or forearms...Blackening around a firearm entry wound, also known as soot deposition, smudging, or smoke soiling, is a well-established sign of close-range shooting...It holds significant forensic value in differentiating between near-contact and intermediate-range shots...Tattooing, stippling, or peppering occurs when partially burnt or unburnt grains of gunpowder embed into the skin.
- iv) The eyewitnesses did not even identify the body further weakens their credibility. In the absence of any tangible proof of their presence at the crime scene, their testimony cannot be relied upon. The material contradictions in their statements, along with their failure to accompany the deceased or be listed as identifiers in official reports, strongly indicate that they were not present at the time of the occurrence.
- v) The inquest report, as required under Section 174 Cr.P.C. and Rule 25.35(1) of the Police Rules, must incorporate all material particulars of the investigation conducted up to the time of its preparation as it is prepared in duplicate when the initial investigation has been completed. The subsequent prompt transmission of the report to the medical officer for endorsement signifies the intent to ensure transparency and to forestall any later manipulation or fabrication by the investigating agency. This due process protection is vital to maintaining the credibility and veracity of the investigation from its very inception, as it helps to

rule out the possibility of tampering with or fabricating the police record, including the practice of padding the investigation with false or exaggerated details.

vi) Apart from that, the evidence of recovery, being merely corroborative in nature, could not be safely relied upon in isolation. Such evidence acquires relevance only when the substantive evidence, namely, the ocular account, commands confidence.

- Conclusion:**
- i) Unusual promptness creates a reasonable suspicion that the FIR may not have been lodged at the time recorded in its relevant column and that the timing may have been manipulated
 - ii) The presence of burning, scorching, singeing, blackening, and tattooing on the entry wounds serves as critical medico-legal signs of close-range discharge.
 - iii) These effects are caused by the thermal energy and particulate matter released from the muzzle of the firearm upon discharge.
 - iv) The failure to identify or accompany the dead body to hospital weakens their credibility.
 - v) The inquest report must incorporate all material particulars of the investigation conducted up to the time of its preparation. It helps to rule out the possibility of tampering with or fabricating the police record.
 - vi) Corroboratory evidence acquires relevance only when the substantive evidence, commands confidence.

39. Lahore High Court
Muhammad Rafi v. Muhammad Yousaf
Civil Revision No. 806 of 2015
Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC3906.pdf>

Facts: A suit was filed for specific performance of an agreement regarding 4 marla property (referred to as property-A), allegedly purchased for Rs.160,000/- out of which Rs.110,000/- was initially paid and the remaining Rs.50,000/- was to be paid within three months. The plaintiff claimed that the entire consideration, along with an additional Rs.40,000/- as registration fee was paid. The defendant admitted execution of the agreement but contended that due to a stay on property-A, both parties mutually agreed to substitute it with another property (property-B), measuring 4 marla and 1 sq.ft., for which a mutation was executed in favour of the plaintiff and an additional sum of Rs 40,000/- was paid which payment was acknowledged at the back of the agreement. The trial court dismissed the suit. The First Appellate Court disagreed with the findings of the trial Court.

Issues: i) Under what circumstances can an existing agreement can be considered legally substituted by a new agreement and who has to discharge such burden?

Analysis: i) This is settled that it is always a question of fact whether the parties have substituted their earlier agreement with a new. This depends upon the intention of

the parties (PLD 1958 (W.P.) Karachi 158). The one who alleges this has the burden to prove (1994 SCMR 2189) (2018 SCMR 1586). The prerequisites include consensus ad idem amongst the parties (1925 Privy Council 232). The Honourable Supreme Court of Pakistan as well as this Court in Muhammad Iftikhar Abbasi (2022 SCMR 1074) and Mst. Waris Jan cases have examined the essentials of novation (PLD 2019 Lahore 333).

Conclusion: i) See above analysis No i.

40.	Lahore High Court Khalid Hussain v. Manzoor Hussain, etc. W.P. No. 10136 of 2012 Mr. Justice Muhammad Raza Qureshi https://sys.lhc.gov.pk/appjudgments/2025LHC3751.pdf
Facts:	By way of this constitutional petition, petitioner has questioned the legality and validity of order passed by the Member (Judicial-VII), Board of Revenue, Punjab, pursuant where to ROR filed by the petitioner and proforma respondents No.15 to 22 was dismissed.
Issues:	i) Do the concurrent findings of facts of revenue hierarchy become sacrosanct merely because they are concurrent? ii) Does a Court or Tribunal have jurisdiction to make an error of law? iii) In what way should a forum exercise the jurisdiction bestowed upon it? iv) When do the findings of facts become sacrosanct?
Analysis:	i) It must be borne in mind that concurrent findings of facts by <i>fora</i> functioning in revenue hierarchy do not become sacrosanct only because it is concurrent. ii) Neither a Court nor a Tribunal has jurisdiction to make an error of law. iii) The forum which is invested with the jurisdiction to decide a particular matter, has no jurisdiction to decide it rightly or wrongly because the condition for the grant of jurisdiction is that it should decide the matter in accordance with the law. When a quasi-judicial or judicial forum dealing with the matter goes wrong in law, it goes out of jurisdiction conferred upon it because the said forum has only jurisdiction to decide the matter lawfully but has no jurisdiction to decide wrongly. iv) Any finding of facts only becomes sacrosanct if it is based on proper appraisal of evidence and following the mandate of law.
Conclusion:	i) The concurrent findings of facts are not sacrosanct. ii) A Court or Tribunal cannot make legal errors. iii) A forum should decide the matter in a lawful manner. iv) They become sacrosanct when they are based on proper appraisal of evidence.

41. Lahore High Court
Nabila Hakim Ali Khan v. Government of the Punjab, etc.
W. P. No.51439 of 2023
Mr. Justice Raheel Kamran
<https://sys.lhc.gov.pk/appjudgments/2025LHC3845.pdf>

Facts: The Petitioner assailed the notification issued by the Caretaker Government whereby her services as Ombudsperson Protection against Harassment of Women at Workplace were de-notified. The notification was challenged on the ground that it lacked lawful authority and was in contravention of the legal provisions and tenure protections governing the office. Hence; this constitutional petition.

Issues

- i) When does an Act that states it shall come into force “at once” become enforceable?
- ii) Can an Ombudsperson appointed for a fixed term be removed before the expiry of the term under the Act?
- iii) Are fair trial and due process rights under Article 10-A of the Constitution of Pakistan, applicable to all sub-constitutional laws affecting civil rights?
- iv) Does a Caretaker Government have the authority to remove or dismiss public officials?
- v) Does unilateral revocation of an Ombudsperson’s appointment by a Caretaker Government amount to overreach when the Act is silent on removal procedures?
- vi) What are the constitutional and statutory powers and duties of the Election Commission of Pakistan regarding the conduct of elections?
- vii) Does the Protection against Harassment of Women at the Workplace Act, 2010 disqualify individuals with a political background from being appointed as Ombudsperson?
- viii) What directive did the Court issue regarding the future appointment procedure for the office of the Ombudsperson?

Analysis:

- i) it is well settled that when an Act of Parliament or a Provincial Assembly provides that it will come into force at once then every provision of it becomes enforceable from the day the Act receives assent of the President or, as the case may be, the Governor, unless any provision of the Act suggests otherwise.
- ii) Section 7(6) exclusively addresses the scenario of resignation by the Ombudsperson, offering this as the sole explicitly stated mechanism for the termination of her tenure. Apart from this voluntary relinquishment of the position by the Ombudsperson herself, the Act does not prescribe any ground or procedure for the Government or any other authority to initiate the removal of the Ombudsperson. 9. In the absence of a statutorily prescribed procedure for the removal of the Ombudsperson, particularly when the appointment is for a fixed term, the incumbent cannot be removed from office prior to the expiration of that term, save for the universally recognized grounds of proven misconduct or incapacity, which would necessitate a due process even if not explicitly detailed within the Act.

iii) It is trite law that the fair trial and due process rights guaranteed by Article 10A of the Constitution are to be read as an integral part of every sub-constitutional legislative instrument that dealt with determination of civil rights and obligations of any person.

iv) the Caretaker Cabinet is appointed under Article 224(1A) of the Constitution upon dissolution of the Assembly or completion of its term. (...) Rule 170(1) of the Election Rules, 2017, further clarifies the power to transfer public officials, stating that the Caretaker Government "may transfer or shuffle public officials, if considered expedient, after the approval of the Commission." This underscores the limitation on the Caretaker Government's authority over public officials. 11. Plain reading of Section 230 reinforces the view that a Caretaker Government has limited powers, primarily aimed at administrative continuity and facilitating elections, without the mandate to take major policy decisions or actions with long-term implications. There are instances where the removal of public officials by a Caretaker Government was deemed unlawful, highlighting that the power of removal/dismissal/termination/reduction in rank is not vested in a Caretaker Government.

v) Indeed, allowing a Caretaker Government to unilaterally revoke the appointment of an Ombudsperson, especially when the relevant Act is silent on removal procedures, could be seen as an overreach.

vi) The Election Commission of Pakistan is constituted by Article 218 of the Constitution, and its purpose is delineated in Article 218(3), which stipulates that it is the duty of the Election Commission to organize and conduct elections honestly, justly, fairly, and in accordance with the law, and to guard against corrupt practices. Article 219 outlines the specific duties of the Commission, which primarily revolve around the preparation of electoral rolls, organizing and conducting elections, and appointing Election Tribunals. Article 220 requires all executive authorities in the Federation and in the Provinces to assist the Commissioner and the Election Commission in the discharge of his or their functions.(...) Section 4 of the Elections Act, 2017, grants the Commission the power to issue directions or orders necessary for the performance of its functions and duties, including ensuring complete justice and securing attendance or production of documents. Section 5 mandates assistance to the Commission from any person or authority, including all executive authorities. Section 8(c) empowers the Commission to issue instructions, exercise powers, and make consequential orders necessary for ensuring that an election is conducted honestly, justly, fairly, and in accordance with the Act and Rules.

vii) It is imperative to note that Section 7 of the Act articulates no such disqualification. Had the Legislature intended to bar individuals with a political background from holding the office of Ombudsperson, it would have explicitly included such a provision.

viii) in the case of *Mushtaq Ahmad Moral and others v. The Honourable Lahore High Court, Lahore and others* (1997 SCMR 1043), to ensure that future appointments to the position of Ombudsperson are beyond reproach, it is apt to direct that the relevant authorities should, with due expediency, formulate and

implement a comprehensive, transparent and merit-based appointment procedure. This must include public advertisement through newspapers having wide circulation, electronic as well as social media to ensure outreach to all eligible and qualified individuals. An evaluation process, preferably involving the Public Service Commission would serve to objectively assess the candidates' suitability.

- Conclusion:**
- i) The Act is enforceable from the day, it receives assent.
 - ii) An Ombudsperson cannot be removed prior to the expiration of the term.
 - iii) Article 10-A is integral part of every legislative instrument.
 - iv) The removal of the public official is not vested in a Caretaker Government.
 - v) The unilateral revocation of an Ombudsperson's could be seen as an overreach.
 - vi) See analysis No.vi.
 - vii) Section 7 of the Act articulates no such disqualification.
 - viii) See analysis No.viii.

42. Lahore High Court
Naeem abbas v. Altaf Hussain etc.
F.A.O.No.47 of 2025
Mr. Justice Syed Ahsan Raza Kazmi
<https://sys.lhc.gov.pk/appjudgments/2025LHC3823.pdf>

Facts: Through this appeal, the appellants have assailed the judgment and decree passed by learned Appellate Court, brief facts of the case are that appellants filed a suit for declaration which dismissed by the trial court. Being aggrieved, they filed an appeal before the learned Appellate Court, which was accepted and the appellants were allowed to amend the plaint and the matter was remanded to the learned Trial Court for decision afresh. Hence this appeal.

Issue:

- i) Whether the appellate court can decide a case on its own if sufficient material is available on record?
- ii) Whether a court can add or remove parties at the appellate stage, if so, what are the guide lines provided by apex courts?

Analysis:

- i) There is no cavil to legal proposition that under Section 107 and Order 41 Rule 24 Civil Procedure Code, 1908, an appellate court can decide a case itself if sufficient material is available on record.
- ii) The court can add or remove parties under Order 1 Rule 10 CPC, either suo moto or on a party's application. However, the court must ensure that the rights of all parties, especially those added at the appellate stage, are protected and afforded a fair opportunity to present their case. 13. It is trite law that in case new parties are added at the appellate stage, they must be given a fair opportunity to present their case. Given the importance of pleadings in civil disputes, and to ensure justice is served, the case should be remanded to the trial court under Order 41 Rule 23 CPC, allowing the new parties to file their pleadings and participate in the proceedings.

Conclusion: i) See above analysis No. i
ii) See above analysis No. ii.

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- 43. Lahore High Court**
Mst. Tahira Akhtar v. The Chancellor, Women University Multan/Governor of Punjab, etc.
W.P. No.11202 of 2023
Mr. Justice Malik Javid Iqbal Wains
<https://sys.lhc.gov.pk/appjudgments/2025LHC3591.pdf>
- Facts:** The petitioner challenged the minutes of the meeting of the syndicate before High Court, which was remitted to respondent No.1 (Chancellor) in shape of revision for its decision in terms of Section 10(5) of the Women University, Multan Act, 2010 (hereinafter “Act, 2010”), however the same was dismissed. Being aggrieved of the orders of the syndicate and Chancellor of the University as well as advertisement published for the Post of Registrar, the petitioner filed these petitions, which are being decided by this single judgment as identical questions of law and fact are involved therein.
- Issues:**
- i) What does the plain reading of section 14 of the Act, 2010 reveal?
 - ii) Which mechanism does section 14 of the Act, 2010 provide for?
 - iii) What type of bar does 2nd clause of Section 14 imposes?
 - iv) What is the procedural mechanism for the appointment of administrative officers in light of section 4 of the Act, 2010?
 - v) Which forum is empowered to appoint a Registrar on the recommendation of the Vice Chancellor?
 - vi) What are the statutory powers of the Syndicate?
 - vii) What is the doctrine of “Implied Powers”?
 - viii) On which principles must a statutory body act while performing its duties?
 - ix) What is the doctrine of “necessary implication”?
 - x) What does this doctrine (necessary implication) ensure?
 - xi) When is the competent authority entitled to reassess the matter in light of the updated information?
 - xii) Does the selection or recommendation by a committee create any enforceable or vested right to appointment?
 - xiii) What does the plain reading of Sub-statute (3) of Statute 34 of the University Statutes, 2021 come to light?
 - xiv) Can the High Court act as a selection or appointing authority while exercising constitutional jurisdiction?
- Analysis:** i) A plain reading of the above provision of law makes it abundantly clear that the authority to appoint a Registrar vests with the Syndicate, but such appointment is contingent upon a recommendation made by the Vice Chancellor, who performs a gatekeeping or advisory role, ensuring that only suitable candidates are brought forward for consideration.

- ii) The above provision provides mechanism as “in such manner and on such terms and conditions as may be prescribed” means that the process of appointment and the service conditions (such as tenure, salary, benefits, and job responsibilities) must conform to the rules or regulations laid down by the University’s statutes, rules, or governing regulations. This ensures uniformity, transparency, and procedural fairness in appointments, and prevents arbitrary action.
- iii) The second clause of Section 14 imposes a mandatory bar to the effect that the Syndicate shall not appoint any person unless the person possesses the prescribed qualifications and experience. The use of the term “shall not” indicates a prohibitive and non-discretionary obligation.
- iv) The above provision of law reflects the procedural mechanism for initiating the appointment of key administrative officers, including the Registrar. It authorizes the Vice Chancellor to constitute a committee under the relevant provisions of the Act, 2010 to conduct the selection process and recommend a suitable candidate to the Syndicate for appointment (...) the committee constituted by the Vice Chancellor was legally competent to make recommendations for the appointment of Registrar to the Vice Chancellor.
- v) As per Section 14(1) of the Act, 2010, the Syndicate is empowered to appoint a Registrar on the recommendation of the Vice Chancellor, subject to the terms and conditions as may be prescribed.
- vi) Section 31(2)(i) of the Act, 2010 expressly empowers the Syndicate to make or recommend statutes pertaining to the scales of pay, method of recruitment, and other terms and conditions of service of officers (...) as per Section 14(1) of the Act, 2010, the Syndicate is empowered to appoint a Registrar on the recommendation of the Vice Chancellor, subject to the terms and conditions as may be prescribed (...) sub-section (xx) of Section 2 also gives authority to the Syndicate to appoint members to the various Authorities, committees and bodies in a prescribed manner. This assigns to the Syndicate not merely a passive supervisory role, but an active and dynamic responsibility that encompasses policy formulation, strategic planning, and prudent allocation of institutional resources to achieve the objectives set forth under the Act (...) Section 20(1) of the Act, 2010 provides that the Syndicate shall, take effective measures “subject to the provisions of this Act and statutes” meaning thereby the Syndicate must exercise its powers within the framework provided by law (...) the Syndicate, as the highest executive body of the University or a public Institution, may lawfully intervene to reconsider or withhold approval of the recommendation (...) The Syndicate, as the appointing authority, is not bound to accept a recommendation blindly. If it learns of new facts affecting eligibility, integrity, or merit, it has the institutional responsibility to prevent improper appointments by sending the recommendation back for review, not by rejecting it outright without due process (...) The decision making authority (e.g. Syndicate) has the ultimate power to make the final selection. It is not bound by the selection body’s recommendation and can differ with their opinion based on the totality of the circumstances (...) the Syndicate, being the competent authority under the

University Act to recommend and effect changes in the regulatory framework, was well within its jurisdiction and discretion to propose an amendment to Sub-statute (3) to ensure greater legal clarity and administrative precision in the terms and conditions governing these statutory posts.

vii) Where a statutory body is given a power (e.g. to appoint a Registrar), it is also implied that the body has the power to seek clarification, request reconsideration, or defer action where new facts come to light, so long as it does not usurp the role of the recommending authority.

viii) The statutory body must act in furtherance of public interest and institutional integrity, especially universities, being autonomous bodies, must act fairly and in accordance with their internal regulations, but their decision-making should accommodate transparency and fairness, especially in appointments.

ix) The doctrine of “necessary implication” is a well-established rule of statutory interpretation, which mandates that where a statute confers a power, it implicitly confers all powers necessary to carry out that power.

x) This doctrine ensures the functionality and effectiveness of statutory authorities by allowing them to take reasonable actions that are, incidental to their express powers, essential to fulfill their duties, and not inconsistent with the statute itself.

xi) The law recognizes that where material developments arise after the recommendation, but before appointment, the competent authority is entitled to reassess the matter in light of the updated information.

xii) It is well-settled that mere selection or recommendation by a committee does not create any enforceable or vested right to appointment.

xiii) It is evident from a plain reading of Sub-statute (3) of Statute 34 of the University Statutes, 2021, that while it provides that the Registrar, Treasurer, and Controller of Examinations shall be entitled to such perks and privileges as are admissible to Government servants in the corresponding scale of pay, the provision remains limited in its scope. The clause, though valid in so far as it incorporates by reference the benefits structure available to government employees, does not delineate with sufficient clarity the complete perks and privileges including, but not limited to, Basic Pay, Allowances, Pay Protection, and other regulatory norms governing service continuity. In the absence of a comprehensive statutory framework defining these essential terms, ambiguity arises in the administrative application and enforcement of perks and Privileges. This ambiguity, if left unaddressed, may lead to disputes and interpretational inconsistencies, thereby affecting institutional governance and fairness in appointments.

xiv) It is a settled law that the High Court, while exercising constitutional jurisdiction under Article 199 of the Constitution, 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) The authority to appoint a Registrar vests with the Syndicate on the recommendation of Vice Chancellor.
 - ii) This provision provides mechanism for process of appointment and the service

conditions having conformity with the University's statutes, rules and regulations. iii) It imposes a bar that Syndicate shall not appoint any person unless the person possesses the prescribed qualifications and experience.

iv) See above analysis No. iv.

v) Syndicate

vi) See above analysis No. vi

vii) In case of express statutory power to appoint, it is also implied that the body has the power to seek clarification, request reconsideration, or defer action on revealing new facts.

viii) Public interest and institutional integrity.

ix) Where a statute confers a power, it implicitly confers all powers to carry out that power.

x) Functionality and effectiveness of statutory authorities.

xi) When material developments arise after the recommendation, but before appointment.

xii) It does not create any enforceable or vested right to appointment.

xiii) See above analysis No. xiii

xiv) The High Court is not expected to act as a selection or appointing authority...

- 44. Lahore High Court**
Ayesha Iftikhar etc. v. Federation of Pakistan etc.
W.P. No. 220388 of 2018
Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC3791.pdf>

Facts: The petitioners challenged the executive's interpretation and non-implementation of the binding judgment in *Fazal-e-Haq v. Director of Accounts, Pakistan Post Office Department* (PLD 2003 Lahore 726), which held that administrative control over the accounting organizations, including the Pakistan Post Office Accounting Department, exclusively rests with the Controller General of Accounts under Section 6 of the Controller General of Accounts (Appointment, Functions and Powers) Ordinance, 2001. Contrary to this binding precedent, the respondents, relying on Rule 8 of the Rules of Business, 1973, issued minutes and notifications assuming executive authority to reinterpret and implement the said provision. The petitioners seek implementation of the earlier binding judgment.

Issues:

- i) Interpretation of section 6 of Controller General of Accounts (Appointment, Functions and Powers) Ordinance, 2001.
- ii) Who holds the exclusive authority over the service matters and administrative control of the Accounts Department in Pakistan Post Office?
- iii) Can the executive branch interpret a statutory provision once a Constitutional Court has finally interpreted it?
- iv) What is the proper course for a bench that disagrees with an earlier decision of equal strength on a question of law?
- v) Guiding principles for vertical and horizontal precedents in judicial decision-making.

- vi) Whether the Constitution allow the executive to bypass the authority of a binding judgment delivered by a Constitutional Court? Explain with reference to the principle of separation of Powers.
- vii) Constitutional provisions in various jurisdictions establishing that judicial decisions are binding on all state organs and individuals.
- viii) Whether the principle of separation of powers include the judiciary's authority to review the legality and constitutionality of actions by public and private entities?

Analysis:

- i) The question of interpretation of section 6 has already been decided by the Court in the case reported as *Fazal-e-Haq and another v. Director of Accounts, Pakistan Post Office Department, Lahore and 2 others* (PLD 2003 Lahore 726)... the interpretation of section 6 of the Ordinance, as accorded by *Fazal-e-Haq* judgment supra, still holds the field and the same is binding precedent for all intents and purpose.
- ii) The matter pertaining to terms and conditions of service of employees of Accounts Department of Pakistan Post Office, as well as, the administrative control and authority of all the departmentalized accounting organizations, including the Post Office Accounting Department, exclusively vests in the Controller General of Accounts of Pakistan.
- iii) If a legal question is posed, involving interpretation of a statutory provision of a particular statute and such interpretation has been accorded by a Constitutional Court, having attained finality, as is the case in hand, no question of decision or interpretation by the executive branch arises.
- iv) The reliance may be placed upon the case *Mekotex (Pvt) Limited* (2024 SCMR 1168) wherein, it has been held: ‘.....No doubt, the earlier decision of a bench of a High Court, or of this Court, on a question of law is binding on another bench of equal numeric strength when dealing with the same question, in the sense that the latter bench cannot decide the same question contrary to the first decision. However, the latter bench is not precluded from examining the correctness of the earlier decision or forming a different view. In such a case, the proper course of action is to refer the matter to the Chief Justice of the High Court, or in the case of this Court to the Bench-Constitution Committee, with a request for the constitution of a larger bench to examine the correctness of the earlier decision.”
- v) The same subject has also been elaborately explained by Bryan A. Garner in the “*Law of Judicial Precedents*”, the crux whereof has been summarized in the following terms:
 “A summary of vertical and horizontal precedents. Four statements can sum up the principles of vertical and horizontal precedents discussed in ss 2 and in this ss 3: (1) If an applicable precedent issued from a court hierarchically superior to the one deciding a new case, then the decision must follow the vertical precedent. (2) If an applicable precedent issued from the very court deciding a new case, then the court should follow it, but in certain circumstances may depart from it. (3) If a seemingly applicable precedent issued from a court hierarchically inferior to the

one deciding a new case, then the decision need not (but may) adopt the reasoning and decision.

(4) If a seemingly applicable precedent issued from a court outside the jurisdiction, and there is no hierarchical relationship to the deciding court, it may be considered persuasive if it is cogently reasoned—but never binding.”

vi) One thing is settled: there is no scope of any authority of the executive to ignore a binding judgment of a Constitutional Court. In the words of Chief Justice Ajmal Mian⁷; “All three organs have to act within the bounds specified in the Constitution, any transgression or encroachment by one organ over the sphere of the other will result in chaos and uncertainty. It is, therefore, paramount that an equilibrium is to be maintained inter se between the three organs of the State within the limits delineated by the Constitution.”

vii) It is a sine qua non for a successful state that the decisions passed by its judiciary must have binding force. The mandate is specifically supplied in certain Constitutions that expressly subjects the other powers of the State to the decisions of the Courts. The Spanish Constitution of 1978 contains a provision in that regard that “it is compulsory to execute the sentence and other final judgments of Judges and Court”. Likewise, Article 205 of Portuguese Constitution provides that “the decisions of the Courts shall be binding on all public and private entities and shall prevail over all other authorities”. While Article 165 of the South African Constitution states that “An order or decision issued by a Court binds all persons to whom an organ(s) of the State to which it applies”.

viii) Separation of power does not only mean that Judges are independent; it also means that judiciary would effectively yield the power to review the legality, and eventually the constitutionality of the acts of other public and private powers. In John Locke’s account of Separation of Power, the Executive is not limited to enforcing the rules laid down by the legislature.

Conclusion: i) See above analysis No i.

ii) The matter pertaining to terms and conditions of service of employees of Accounts Department of Pakistan Post Office, as well as, the administrative control exclusively vests in the Controller General of Accounts of Pakistan.

iii) If a legal question involving interpretation of a statutory provision arise, no question of decision or interpretation by the executive branch arises.

iv) See above analysis No iv.

v) See above analysis No v.

vi) There is no scope of any authority of the executive to ignore a binding judgment of a Constitutional Court.

vii) See above analysis No vii.

viii) See above analysis No viii.

45. Lahore High Court
Muhammad Faheem v. Province of Punjab through Secretary S&GAD,
Regulation Wing, Punjab, Lahore and 4 others
Writ Petition No. 7787 of 2023
Mr. Justice Malik Muhammad Awais Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC3708.pdf>

Facts: By way of filing writ petition, the petitioner has impugned the advertisement being published as well as the recruitment process undertaken by the respondents where 3% disabled persons quota of total sanctioned and overall strength of the cadre post i.e. Junior Clerks has been unlawfully ignored.

Issues:

- i) Whether the failure of the government to advertise and fill posts under the disability quota, and to provide equal employment terms and conditions, constitutes a violation of the fundamental rights of disabled persons under the Constitution of Pakistan and applicable laws?
- ii) Whether the writ of mandamus can be issued to compel the government to comply with statutory obligations related to the employment of persons with disabilities?
- iii) Whether departmental secretaries have a legal duty under the Punjab Rules of Business, 2011 to ensure implementation of the disability employment quota?

Analysis:

- i) The Constitution of the Islamic Republic of Pakistan, 1973 has guaranteed the right to life and to participate in every sphere of it without any discrimination. Constitutional right of equality applies to persons with disabilities and guaranteeing them full enjoyment of their fundamental rights without any biasness. The protection of the right to life, dignity and equality under the Constitution provides a sturdy platform for mainstreaming persons with disabilities (...) It is the obligation of the State under the Constitution to make all possible endeavours to mainstream persons with different abilities and to embrace the diversity in the society (...) There is statutory mechanism for the protection of rights of employment of disabled persons. The Punjab Empowerment of Persons with Disabilities Act 2022 Section 31 of the Act 2022 deals with the 3% quota for persons with disabilities.
- ii) It is the obligation of the respondents to publish the advertisement whereby the above quota of the disabled persons be fixed. Writ of mandamus in Pakistan is a judicial intervention under Article 199 of the Constitution to prevent miscarriage of justice or institutional failure, especially in cases of significant public interest or where government agencies have failed to fulfil their legal duties.
- iii) Rule 10 of the Punjab Rules of Business 2011 provides as '10. Functions of Secretary:- (1) A Secretary shall: (a) the official head of the Department and be responsible for its efficient administration and discipline, for the conduct of business assigned to the Department and for the observance of laws and rules, including these rules, in the Department.

Conclusion: i) The failure of the government to advertise and fill posts under the disability

quota constitutes a violation of the fundamental rights of disabled persons.

ii) See Analysis ii above.

iii) Rule 10 of the Punjab Rules of Business 2011 casts upon duty and responsibility on the Secretary concerned to ensure the implementation of statutory mechanism supra for ensuring good governance and upholding the fundamental rights of the petitioner.

46. Lahore High Court
Muhammad Shafiq v. The State.
Crl. Revision No. 45 of 2025.
Mr. Justice Ch. Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC3828.pdf>

Facts: The parties were in criminal litigation by filing FIR and cross version for an offence of attempt to commit Qatl i Amd. Challan of both the cases were pending before Magistrate. Meanwhile, the injured of the occurrence died. Being dissatisfied with the investigation, the complaint was filed before learned ASJ, who summoned the accused and the judicial record of FIR case. The revision filed before the high court with contention that the ASJ (Trial Court) could not have summoned the record of FIR case from the court of Magistrate.

Issues:

- i) What condition is required to be fulfilled for exercise of power under section 94 of Cr.P.C requiring the production of a document?
- ii) For which purpose and at what stage a party can apply to the court under section 94 of Cr.P.C for production of a document?
- iii) What is meant by the word “thing” used in section 94 of Cr.P.C?
- iv) Whether trial court can summon the record, if yes, what are pre-condition to invoke the Section 94 of Cr.P.C?

Analysis:

- i) The only condition for the exercise of the power under section 94 Cr.P.C is that the production of the document must be necessary or desirable for the purposes of the inquiry or trial before the court. The word 'whenever' in section 94 clearly indicates that a court can exercise the power of requiring the production of any document under this Section at any stage of the inquiry or trial.
- ii) Therefore, any party may at any stage of the inquiry or trial apply to the court, under section 94, for the production of a document and is entitled to its production if it satisfies the court that the production of that document is necessary or desirable for the purposes of such inquiry or trial.
- iii) The word "thing" in section 94, Cr.P.C. should be broadly construed to encompass anything relevant to the offence, the production of which would promote the cause of justice.
- iv) So above analysis clearly reveals that trial court can certainly summon the record and only pre-condition to invoke the Section 94 Cr.P.C is that the court is to be satisfied production of documents or thing which is necessary for just decision of the case. Moreover, scope of section 94 Cr.P.C is very wide and word

whenever suggests that the court could exercise powers conferred to it at any stage or inquiry or trial.

- Conclusion:**
- i) The only condition for the production of the document is that document must be necessary or desirable for the purposes of the inquiry or trial.
 - ii) See above analysis No. ii
 - iii) See above analysis No. iii
 - iv) Trial court can summon the record and only pre-condition is that the court is to be satisfied the production of documents.

47. Lahore High Court
The State v. ASJ, etc.
CrI. Misc. No. 5458-M of 2023
Mr. Justice Ch. Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC3544.pdf>

Facts: An application, seeking custody of the confiscated sugar stock on Supardari, was filed before the learned Magistrate Section 30. However, the learned Magistrate dismissed the said application. Aggrieved by the dismissal, a criminal revision before the learned Additional Sessions Judge, was filed which stood accepted and it was directed that the sugar stock be handed over on Supardari. Feeling aggrieved by the order of the Revisional Court, the petitioner has preferred the instant petition under section 561-A Cr.P.C.

Issues:

- i) Whether a provincial law can restrict inter-provincial trade without complying with Article 151 of the constitution?
- ii) Whether the Punjab Prevention of Speculation in Essential Commodities Act, 2021 apply to goods in transit for inter-provincial trade given its territorial limits?
- iii) Whether seized goods in inter-provincial trade can be released on *supardari* under a provincial act that excludes Cr.p.c. procedures?

Analysis:

- i) Article 151(4) of the Constitution contains two fold test in this regard; firstly the legislative instrument should contain reasonable restriction in the interest of public health, public order or morality, or for the purpose of protecting animals or plants from disease or preventing or alleviating any serious shortage in the Province of an essential commodity and unlike the Constitution of 1956; secondly the bill has to be presented to the President. The sub Article 4 mandates that the Provincial Act has to be presented to the President so to say the Bill after receiving Governor assent and publication be sent to the President and after receiving Presidential nod it would be an enforceable law to regulate Inter-Provincial trade.
- ii) This Act was passed by the Punjab Assembly on 15 December 2021; assented to by the Governor of the Punjab on 24 December 2021; and was published in the Punjab Gazette (Extraordinary), dated 24 December 2021 clearly there is no Presidential assent. Hence, the Act of 2021 cannot impact any Inter Provincial trade activity, consequently was inapplicable on the transaction under question.

iii) The Section 6(3) deals that 'the provisions of the Code Criminal Procedure shall not be applicable on search and seizure made under this act, hence protection provided under Code of Criminal Procedure about the search and seizure are not applicable as the seized essential commodities would be sold in open market so it is argued in continuation of the same search and seizure wherein ouster of the Code contained in section 7 prescribes the other method of the essential commodities which does not prescribe any power to return the seized essential commodities' (...) the argument advanced by the Learned Law officer that the product so seized under the law cannot be released as the Code of Criminal procedure does not apply to seizure and searches made the Act of 2021. Above legal position clearly establishes that the transaction attracts definition of the Inter- Provincial trade and the relevant articles of the Constitution and the officer was acting under a statute which is not compliant with the Article 151. Consequently, the action of seizure performed by the complainant of the FIR does not have any recognizable administrative and statutory underpinnings and was not sustainable being dehors the law.

- Conclusion:** i) A provincial law cannot restrict inter-provincial trade without complying with Article 151 of the constitution.
 ii) The Punjab Prevention of Speculation in Essential Commodities Act, 2021 does not apply to goods in transit for inter-provincial trade.
 iii) See analysis iii above.

48. Lahore High Court
Sakina Bibi v. The State and another
Criminal Appeal No.177-2024/BWP
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Raja Ghazanfar Ali Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3670.pdf>

Facts: The appellant preferred this appeal against her conviction in a criminal case registered for the offence under section 9 of the CNSA, 1997.

Issues: i) What is the effect of non-production of Register no. xix of the Police Station, upon the safe custody of narcotics?
 ii) What is effect of non-production of road certificate issued by DPO for transmission of narcotics to PFSA?

Analysis: i) The Moharrer of the police station namely Shahid Imran 1110/HC (PW.2) did not utter a single word that any entry was made regarding keeping of the case property i.e. 20 sealed parcels i.e. 14 of opium and six of the charas along with black coloured purse, traveling bag of black colour, two towels as well as one lady's suit of green colour and a mobile phone in register No. XIX prior to keeping the same in Malkhana. Neither the investigating officer nor the Moharrer of the police station produced the attested copy of register No. XIX or attested copy of any road certificate before the court. Similarly neither the Moharrer Shahid Imran 1110/HC (PW.2) nor the investigating officer uttered a single word

that any such entry was made in register No. XIX or in any Roznamcha about handing and taking over of the case property on 12.04.2023 for its transmission to Saddar Malkhana intact. Similarly, neither the Moharrer nor the investigating officer uttered any word about handing over of the sample parcels i.e. seven sealed parcels said to contain opium and three sealed parcels said to contain charas to Muhammad Saleem SI/I.O for their transmission to PFSA, Lahore intact. This non-mentioning of handing and taking over of the case property as well as sample parcels in relevant register has made the whole prosecution case doubtful so far as the chain of safe custody of the narcotics is concerned.

ii) It is a well settled principle of criminal jurisprudence arising out of maxim “Communi observantia non est recedendum” that when law required a thing to be done in a particular manner, the same must be done accordingly and if the prescribed procedure was not followed, it would be presumed that the same had not been done in accordance with law.

- Conclusion:**
- i) When entries in Register no. xix of Police Station is not mentioned before the court and road certificates issued for transmission of narcotics to PFSA are not produced, the prosecution case becomes doubtful and chain of safe custody is broken.
 - ii) When law required a thing to be done in a particular manner, the same must be done accordingly and if the prescribed procedure was not followed, it would be presumed that the same had not been done in accordance with law.

49. Lahore High Court
Umair Altaf v. The State etc.
Criminal Misc. No.3033-B/2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC3495.pdf>

Facts: The petitioner was arrayed as an accused for making a video containing derogatory/blasphemous remarks and uploading it on his TikTok account. The petitioner sought post-arrest bail after its refusal by both the lower courts.

Issues

- i) Whether cognizance of offence under Section 295-A of PPC can be taken without a complaint made by the Federal or Provincial Government or an authorised officer, as mandated by Section 196 of Cr.P.C?
- ii) What should the court do if a report under Section 173 Cr.P.C. is submitted without the required government complaint under Section 196 Cr.P.C?
- iii) Does Section 196 Cr.P.C. bar the registration and investigation of cases before cognizance is taken by the court?

Analysis:

- i) It appears from the very language of said provision of Section 196 of Cr.P.C. that it deals with the stage of taking the cognizance by the Court. Cognizance by the Court is taken after report under Section 173 of Cr.P.C. is received. Compliance of said condition precedent was not mandatory for the lodgment of

FIR and commencement of investigation. Said condition precedent would be required at the time of submission of report under Section 173 of Cr.P.C. to confer jurisdiction upon the learned trial Court to take the cognizance.

ii) If report under Section 173 of Cr.P.C. is submitted before the court, which is not accompanied by any complaint either of the Federal Government or Provincial Government as required under Section 196 of Cr.P.C., the court shall follow the provision of Section 230 of Cr.P.C. and shall stop the proceedings till the above complaint from either of the Governments is received.

iii) In the said cases dictum laid by the honourable superior Courts was that Section 196 of Cr.P.C. does not debar to register and investigate the case in order to come to the truth and the provision of Section 196 of Cr.P.C. would come into play when the court takes cognizance of the offence, because the Function of the court would commence only when challan is submitted to it for trial.

- Conclusion:**
- i) Section 196 Cr.P.C. applies only at the stage of court's cognizance, not at FIR or investigation stage.
 - ii) If the challan lacks the required government complaint, the court must suspend proceedings under Section 230 Cr.P.C.
 - iii) Section 196 Cr.P.C. does not bar investigation and applies only when the court takes cognizance.

50. Lahore High Court
Zubaida Bibi v. District Police Officer and 02 others.
Writ Petition No. 4926-HB of 2025
Mr. Justice Tanveer Ahmad Sheikh.
<https://sys.lhc.gov.pk/appjudgments/2025LHC3501.pdf>

Facts: The petitioner, through the instant petition under Article 199 of the Constitution read with Section 491 Cr.P.C., seeks recovery of her son and nephew, allegedly abducted from their residence by the police officials, who also demanded a bribe for their release. In compliance with court directions, police officials appeared and reported that one detainee, involved in multiple criminal cases, was killed during an encounter by the firing of his own accomplice, with an FIR registered accordingly. The other detainee, also a proclaimed offender in numerous cases, sustained injuries during a similar incident and is currently admitted in hospital, with a separate FIR registered.

Issues:

- i) What is the scope of protection under the Torture and Custodial Death (Prevention and Punishment) Act, 2022 (herein after called Act, 2022) regarding torture during custody, and does it extend to private individuals acting in collusion with public officials?
- ii) What role does the preamble play in determining the legislative intent behind an enactment?
- iii) What is the evidentiary value of statements obtained through torture under the Act, 2022, and how are such statements treated in legal proceedings?

- iv) Which agency is exclusively authorized under Section 5 of the Act, 2022 to investigate complaints against public officials, and what is the effect of this exclusivity?
- v) What exclusive jurisdiction is conferred upon the Court of Sessions under Section 6 of the Act, 2022, and how does the non obstante clause affect other courts?
- vi) Why does the Act, 2022 take precedence over the Anti-Rape (Investigation and Trial) Act, 2021 in cases of custodial rape, and what legal basis supports the investigation by the F.I.A.?
- vii) Whether under Section 4 of the Act, 2022, the F.I.A. is required to investigate only on receipt of a complaint, or does it have suo motu powers to initiate investigations?

Analysis:

- i) Preamble of the Act, 2022 speaks about the protection given to a person during custody from torture etc perpetrated by public officials. When the act is read in its context, it also covers private persons, who happen to be the privy to the crime along with public official.
- ii) Preamble of an enactment highlights the object for the achievement of which it is promulgated. It is key for the understanding of a statute.
- iii) The most important aspects of Act, 2022 are that any statement, information or confession obtained from a person as a result of torture, etc. was made inadmissible in evidence in any proceedings against the said person, rather it was admitted as an evidence against the accused committing the torture, vide Section 3 thereof.
- iv) Under Section 5 of Act, 2022, only F.I.A. was empowered to the exclusion of all the other agencies to investigate the complaint against public officials committing the offence under the Act.
- v) The court of Sessions was given exclusive power/jurisdiction under Section 6 of the Act, 2022 to try the offences, which is also “non obstante” clause, hence excludes all the other courts.
- vi) When both the above enactments are kept into juxtaposition to each other, the Act, 2022 being latter in the event of time carrying complete overriding effect shall be given preference over the former Act, 2021, which contains “non obstante” clause partially, as such I feel no hesitation in holding that cases of the custodial rape shall be inquired into and investigated by F.I.A. under the Act, 2022 read with F.I.A. Act, 1974 and the rules made thereunder and the provisions of Anti-rape (Investigation and Trial) Act, 2021 shall be given secondary importance and applicability.
- vii) It is made clear to him for academic purpose that Section 4 of the Act, 2022 enjoins a duty upon F.I.A. to investigate the complaints received under the Act, 2022. It does not mean that the F.I.A. shall investigate the crime only on a complaint made to them. The F.I.A. has suo motu powers to enquire into and investigate a crime amenable to its jurisdiction under the F.I.A. Act and the rules made thereunder, as such F.I.A. was bound to take up the matter even if no complaint is moved to them.

- Conclusion:**
- i) The preamble of Act, 2022 protects individuals from torture in custody by public officials and also includes private persons involved in the crime.
 - ii) The preamble outlines the purpose of an enactment and is essential for interpreting the statute.
 - iii) Section 3 of the Act, 2022 renders statements obtained by torture inadmissible against the victim but admissible against the torturer.
 - iv) Section 5 of the Act, 2022 exclusively empowers the F.I.A. to investigate offences by public officials, excluding all other agencies.
 - v) Section 6 of the Act, 2022 grants exclusive jurisdiction to the Sessions Court to try offences, overriding all other courts.
 - vi) The Act, 2022, being later and having complete overriding effect, takes precedence over the Anti-Rape Act, 2021, empowering the F.I.A. to investigate custodial rape cases.
 - vii) Section 4 of the Act, 2022 mandates the F.I.A. to investigate complaints but also empowers it to initiate suo motu investigations without a formal complaint.

51. Lahore High Court
Ifraheem Hadayat. v. Atif Masih, etc.
W.P.No.19347 of 2025
Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC3608.pdf>

Facts: This constitutional petition questions the validity of an order made by the Additional Sessions Judge, who accepted an application under section 265-K of the Criminal Procedure Code (Cr.P.C.) and acquitted respondents No. 1 to 4 from the complaint.

Issues: i) In what circumstances should applications for summary dismissal or premature acquittal in complaint cases to be accepted?

Analysis: i) The consistent judicial position is that once notice has been issued to the accused and cognizance has been taken, courts discourage acquittal under section 265-K, Cr.P.C. This is particularly true in complaint cases under the Illegal Dispossession Act, 2005 where factual disputes regarding possession, ownership, or illegal dispossession must be resolved through trial proceedings. The courts have uniformly emphasized that summary dismissal or premature acquittal undermines the evidentiary process and such applications must be rejected unless it is apparent on the face of the record that no offence is made out.

Conclusion: i) If it is apparent on the face of the record that no offence is made out.

LATEST LEGISLATION/AMENDMENTS

1. Vide Notification No.SOR-III(S&GAD)1-14/2025 dated 04-04-2025; The Punjab Prison Service Rules, 2025 are promulgated.

2. Vide Notification No.SOG(YA&S)9-20/2024 dated 29-04-2025; The Constitution of the Sports Board Punjab is made.
3. Vide Notification No.SO(Admn)4-22/2025 dated 14-05-2025; amendment in existing proviso in rule 22 is made in The Admission of Public into Immovable Antiquities, Rules 2013.
4. Vide Notification NoEstt.I-4/2025-PPSC/632 dated 19-05-2025; the regulation No.25 is replaced in the Punjab Public Service Commission Regulations, 2022.
5. Vide Notification No.SO(Cab-I)2-27/2012 dated 23-05-2025; the amendment is made in first and second schedule of Environment Protection and Climate Change Department of The Punjab Government Rules of Business, 2011.
6. Vide Notification No.SO(Cab-I)2-3/2024(ROB) dated 30-05-2025; the amendment is made at serial No.26 & 31A of first schedule and second schedule in Livestock and Dairy Development Department of The Punjab Government Rules of Business, 2011.
7. Vide Notification No.SO(Cab-I)2-53/88 dated 30-05-2025; the amendment is made at serial No.20 of first schedule in Industries, Commerce and Investment Department of The Punjab Government Rules of Business, 2011.
8. Vide The Provincial Motor vehicles (First Amendment) Act, 2025 dated 30-05-2025; the amendment is made in section 2 & 116-A and repeal of Provincial Motor vehicles (Amendment) Ordinance 2025 of the Provincial Motor vehicles Ordinance 1965.
9. Vide The Police Order (Amendment) Act 2025 dated 30-05-2025; omission of Article 18B, insertion of Articles 18C & 186A, addition of fourth schedule and repeal of The Police Order (Amendment) Ordinance 2025 is made in The Police Order, 2002.
10. Vide The Motor Vehicle (second Amendment) Act 2025 dated 30-05-2025; amendment is made in section 39-A, 107, 112, 112-C, 115, first & fifth schedule of the Provincial Motor Vehicle Ordinance, 1965.
11. Vide The Drugs (Amendment) Act, 2025 dated 30-05-2025; amendment is made in section 31 of the Drugs Act, 1976.
12. Vide The Provincial Motor Vehicles (Third Amendment) Act, 2025 dated 30-05-2025; amendment is made in section 24 of the Provincial Motor Vehicle Ordinance, 1965.
13. Vide The Stamp (Amendment) Act, 2025 dated 30-05-2025; amendment is made in section 27-A, 48 & 73 and insertion of section 50-A of the Stamp Act, 1899.
14. Vide The Provincial Employees Social Security (Amendment) Act 2025 dated 30-05-2025; the amendment in long title and preamble and insertion of section 43-A is made in the Provincial Employees Social Security Ordinance, 1965.
15. Vide The Punjab Workers Welfare Fund (Amendment) Act 2025 dated 30-05-2025; the amendment is made in section 2, 4, 7 & 18 of the Punjab Workers Welfare Fund Act 2019.

16. Vide The Companies Profits (Workers Participation) (Amendment), Act 2025 dated 30-05-2025; amendment is made in section 2, 5 to 7 & 8A of The Companies Profits (Workers Participation) Act, 1968.
17. Vide The official Gazette of Punjab 2025 dated 30-05-2025; the Punjab Financial Advisory Service Act, 2025 is promulgated.
18. Vide The Punjab Arms (Amendment) Act, 2025 dated 30-05-2025; amendment is made in section 3, 4, 7, 8, 11A, 11B, 12, 13, 14, 14A, 15 to 19, 22, 23 & 27, substitution of heading of chapter II and omission of section 27 of the Punjab Arms Ordinance, 1965.
19. Vide The Punjab Judicial Academy (Amendment) Act 2025 dated 30-05-2025; amendment is made in sections 2, 3, 4, 8, 10, insertion of new section 10A & 15-A and substitution of section 15 of The Punjab Judicial Academy Act, 2007.
20. Vide the official Gazette of Punjab dated 30-05-2025; The Punjab Fertilizer Control Act 2025 is promulgated.
21. Vide Anti-terrorism (Punjab Amendment) Act 2025 dated 30-05-2025; amendment is made in section 11EEEE of the Anti-terrorism Act, 1997.
22. Vide the official Gazette of Punjab dated 30-05-2025; The Musarrat Institute of Technology Act, 2025 is promulgated.
23. Vide The Lahore Leads University (Amendment) Act, 2025 dated 02-06-2025; amendments are made in sections 2, 4, 6, 10, 17, 18, 25, 26 & schedule, omission of section 28 and substitution of section 29 of The Lahore Leads University Act, 2011.
24. Vide The National College of Business Administration and Economics, Lahore (Amendment) Act 2025 dated 02-06-2025; amendments are made in Ordinance XX, sections 2, 4, 5, 9 and insertion of section 13-A of The National College of Business Administration and Economics, Lahore Ordinance, 2002.
25. Vide the official Gazette of Punjab dated 02-06-2025; The Imperial Tutorial College University Act, 2025 is promulgated.
26. Vide the official Gazette of Punjab dated 02-06-2025; The Mukabbir University of Science & Technology, Gujrat Act, 2025 is promulgated.
27. Vide the official Gazette of Punjab dated 02-06-2025; The ABWA University Act, 2025 is promulgated.
28. Vide The Times Institute, Multan (Amendment) Act 2025 dated 02-06-2025; general amendment in Act XXV, sections 2, 3, 4, 6, 18 & schedule and addition of section 32 is made of The Times Institute, Multan Act 2020.
29. Vide the official Gazette of Punjab dated 02-06-2025; amendment is made in sections 4, 12, 31 & schedule of the Next Institute of Science and Technology Act, 2025.
30. Vide notification No.SO(TAX)3-5/2015 dated 02-06-2025; amendments are made in The Appellate Tribunal of Punjab Revenue Authority Service Rules, 2017.
31. Vide the official Gazette of Pakistan dated 03-06-2025; The Islamabad Capital Territory Child Marriage Restraint Act, 2025 is promulgated.

32. Vide The Special Technology Zones Authority (Amendment) 2025 dated 05-06-2025, amendment is made in section 6 of The Special Technology Zones Authority Act, 2021.

SELECTED ARTICLES

1. HARVARD LAW REVIEW

<https://harvardlawreview.org/print/vol-138/unwarranted-warrants-an-empirical-analysis-of-judicial-review-in-search-and-seizure/>

Unwarranted Warrants? An Empirical Analysis of Judicial Review in Search and Seizure by Miguel F.P. de Figueiredo, Brett Hashimoto, Dane Thorley

Every year, police perform searches governed by the Fourth Amendment on hundreds of thousands of individuals and their property throughout the United States. Many of the academy's most decorated scholars have focused on the genesis and jurisprudential nature of the Fourth Amendment's warrant requirement. Surprisingly, we know almost nothing about how the Fourth Amendment regulates searches and how searches actually work in practice. In this Article, we pull back the curtain on the search and seizure process by presenting the largest quantitative study of warrants of any kind. We analyze over 33,000 warrant applications filed through Utah's "e-Warrants" system over a three-year period. By utilizing the full texts of the warrant affidavits, along with digital timestamp metadata, we categorize warrants by type, length, and complexity and establish when and for how long judges review warrants. Our key findings demonstrate that the warrant review process is fast and nearly always results in approval. Ninety-eight percent of warrant reviews eventually result in an approval, and over 93% are approved on first submission. Further, we find that the median time for review is only three minutes, and that one out of every ten warrants is opened, reviewed, and approved in sixty seconds or less. Our analyses that account for warrant complexity and length also suggest that many approved warrants are either not read carefully or not read in full (or both). We also perform a qualitative analysis of a randomly selected subsample of warrants and find cases where the review process has clearly failed. Taken together, our results have critical implications regarding the warrant review process that force us to reconsider the constitutional nature of probable cause and the role that judicial review plays as a "check" on police searches. In light of these implications, we explore the political, economic, and logistical constraints that judges face when reviewing warrants and consider pathways to reform that are mindful of these factors.

2. MANUPATRA

<https://articles.manupatra.com/article-details/Exploring-Alternative-Dispute-Resolution-in-Matrimonial-Conflicts-An-Analysis>

Criminal Psychology and Theories of Criminology & Punishments: Understanding the Mind Of Offenders In India By Pankaj Pandey by Vanshita Vijh and Aayush Patodi

In order to understand the complex patterns of crime and its effects on society, criminology—the scientific study of crime and criminality - has become a crucial field of study. In order to lessen the impact of criminality and improve public security, criminologists seek to understand the causes, effects, and control of crime. Given the social, economic, and cultural diversity of India, criminology is especially important there. Indian economic growth, urbanization, and social transformation have created new challenges for the criminal justice system and the law enforcement machinery. In the words of Indian criminologist Dr. R.N. Kaul, "Criminology in India must address the root causes of crime, i.e., poverty, inequality, and social injustice." (Kaul, 1975) Scholars like Dr. Singh have emphasized that an all-encompassing strategy to avoid control should be adopted based on sociology, psychology, law, and economics. (Singh, 2012) Indian Journal of Criminology, a publication of Indian Society of Criminology, is an appropriate venue for scholars to submit research on crime and criminal justice in India. Worldwide, criminology uses inter-disciplinary theories to explain crime and its impact. Criminological theories like classical, positivist, and strain theories provide frameworks to explain crime patterns and design effective interventions. (Siegel, 2020) With the understanding of these theories and their application to the Indian scenario, criminologists can develop context-specific interventions to fight crime and provide justice.

3. **Lawyers Club India**

<https://www.lawyersclubindia.com/articles/power-politics-and-the-law-trump-vs-musk-17768.asp>

Power Politics and The Law: Trump vs Musk by Vanya Garima Kachhap

The power-play between Donald Trump and Elon Musk has geared up into a high stakes struggle for power, with Trump threatening to revoke Elon's government contracts and subsidies if he gets re-elected. This reported tension is stemming from Elon, refusing to support Trump's political campaign and his growing influence. Billions are tied in federal contracts to Tesla, SpaceX, Starlink and the conflict is now posing legal, constitutional and national security issues—especially in terms of how far a President can go in exercising his executive powers to retaliate.

4. **Lawyers Club India**

<https://www.lawyersclubindia.com/articles/ai-ethics-and-power-who-s-really-leading-the-global-tech-race--17770.asp>

AI, Ethics, and Power: Who's Really Leading the Global Tech Race? By Yaksh Sharma

Artificial intelligence is no longer just a futuristic buzzword it's a critical component of global power and influence. Nations are racing to dominate the development and deployment of AI technologies, not only to drive economic growth but also to shape the ethical, legal, and cultural frameworks around its use. From surveillance and automation to education and healthcare, AI is becoming embedded in the fabric of daily life. This

global race isn't just about who has the most data or computing power it's also about leadership, accountability, and trust. While countries like the United States and China continue to invest billions in AI research and infrastructure, other nations are focusing on human-centered development, fairness, and regulatory innovation. The question is no longer who builds the smartest AI, but who builds the most responsible one. Interestingly, AI isn't confined to large-scale industrial or military applications. It's also transforming the creative industries. Platforms that offer AI music services are enabling artists, marketers, educators, and content creators to compose soundtracks that match tone, tempo, and emotion with minimal technical skill. This democratization of creative technology illustrates just how broad AI's reach has become and how different stakeholders around the world are adapting its power to local needs.

5. MANUPATRA

<https://articles.manupatra.com/article-details/ENFORCEABILITY-OF-ARBITRAL-AWARDS-IN-ARBITRATION-HURDLES-TO-THE-IMPLEMENTATION-OF-THE-COVETED-MECHANISM>

Pretty Pixels, Pricey Privacy: The Ghibli AI Trend Unmasked by Umang Binayakia

The unregulated growth of AI and its increasing embedment in day-to-day digital communications demand a strong legal backdrop to respond to privacy threats and jurisdictional issues. As data processing through AI increases in complexity, a legislative approach that is commensurate with global best practices is the need of the hour. Until such time, the users must be cautious when interacting with AI systems, not unwittingly forgoing their personal data rights. While AI opens unprecedented possibilities for innovation, it must be submitted to non-negotiable compliance with privacy legislations. Regulatory agencies, lawyers, and policymakers must strive for exhaustive AI governance to make sure that user data is secure, private, and not exposed to unlawful exploitation. With the increasing intricacies in AI-based data processing, a legislative framework that is keeping pace with international best practices is the call of the hour. Till then, users need to be careful in using AI platforms so that they don't inadvertently undermine their personal data rights.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*
Volume - VI, Issue - XII
16 - 06 - 2025 to 30 - 06 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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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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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_17062_025.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 individual and 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_1_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.

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.

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_1_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)

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.

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 competent 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.

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_1_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.

- 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

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.

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_1_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-settled 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.

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

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_1_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.

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, <u>Mr. Justice Mazhar Alam Khan Miankhel</u> 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.

16.	Lahore High Court Waqar Ahmad Khan v. The National Accountability Bureau, etc. W.P. No. 21790 of 2025 <u>Ms. Justice Aalia Neelum, (Chief Justice), Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa</u> 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 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.

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* with section 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 pertains to regular inquiry and later deals with procedure when inquiry is dispensed 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

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 chargeable 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.

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.

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.

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.

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.

27. **Lahore High Court**
Waqas Ahmad v. Dr. Muhammad Sarwar Khan, the Pro-Vice
Chancellor, University of Agriculture, Faisalabad & another
Ctrl. 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

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.

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.

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 signed 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.

32. Lahore High Court
Mst. Bakhsh, 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.

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 labeled 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.

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.

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

**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.

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.

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.

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.

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.

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)

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.

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.

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.

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

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.

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. Pfander, 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.

LAHORE HIGH COURT BULLETIN



Fortnightly Case Law Update *Online Edition*

Volume - VI, Issue - XIII

01 - 07 - 2025 to 15 - 07 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(01-07-2025 to 15-07-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles
Prepared & Published by the Research Centre Lahore High Court

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1. **Supreme Court of Pakistan**
Pakistan Telecommunication Company Ltd, Islamabad v. Imran Aziz and others
Civil Appeal No.1509 of 2021
Mr. Justice Yahya Afridi, CJ Mr. Justice Amin-Ud-Din Khan, Mrs. Justice Ayesha A. Malik
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1509_2021.pdf

Facts: Employees transferred from a government telecommunications department to corporatized and later privatized entities sought continued pensionary benefits, claiming rights equivalent to those held by civil servants.

Issues:

- i) Whether the statutory framework under the PTC Act and PTCL Act preserved the evolving pensionary rights of transferred employees who were originally civil servants.
- ii) Whether the Masood Bhatti review judgment was misapplied by treating the cessation of civil servant status as terminating evolving pension rights.
- iii) Whether the distinction between civil servants and workmen among transferred employees was legally warranted in determining entitlement to revised pension benefits.

Analysis:

- i) Section 9(1) provides for all employees of T&T to stand transferred to PTC ‘on the same terms and conditions to which they were entitled immediately before such transfer.’ (...) Section 9(2), PTC is unequivocally barred from altering these terms and conditions, leading to the preservation and protection of the concrete set of rights of every employee(...) Section 36(1) of the PTCL Act refers to ‘existing terms and conditions of service and rights, including pensionary benefits,’... indicating that what is being protected is not a static set of entitlements but one that continues through time(...)Sections 36(2) and 36(5) of the PTCL Act, as well as Section 9(2) of the PTC Act, must be maintained in full, without any reduction or modification... These provisions guarantee that pensionary benefits, as they existed and developed, would be carried forward, not reset or diminished.
- ii) The misreading of the statutory framework is further compounded by a misapplication of the Masood Bhatti review judgement... this Court... drew a clear distinction between administrative status and the protection of vested rights by acknowledging that, while employees ceased to be civil servants, their pensionary entitlements, once vested, continued to enjoy statutory protection... To treat the loss of status, as also entailing a rupture in the evolving framework of pensionary rights, as the adopted view does, is to both neglect the pervasive protective intent of the legislature... and to misapply precedent set by the Court in Masood Bhatti review judgement.
- iii) The statutory framework did not adopt a blanket approach to all categories of employees; rather, it preserved rights according to their pre-existing legal character... Civil servants, by virtue of their status under the civil service laws, held pensionary entitlements... governed by statutory principles allowing for periodic revision and enhancement... In contrast, workmen... did not possess

equivalent entitlements grounded in law... Recognizing this differentiation is essential to a faithful application of the statutory protections... reflecting continuity of legal entitlements rather than the imposition of a uniform standard upon legally distinct classes.

- Conclusion:**
- i) The statutory framework preserved the evolving pensionary rights of transferred employees who were originally civil servants.
 - ii) The Masood Bhatti review judgment was misapplied by equating loss of civil servant status with termination of pension rights.
 - iii) The distinction between civil servants and workmen was legally warranted to determine entitlement to revised pension benefits.

2. Supreme Court of Pakistan
Ahsan Ali Dawach v. The State through Chairman NAB & others
Civil Petition No.256-K of 2024
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Aqeel Ahmed Abbasi, Mr. Justice Salahuddin Panhwar
https://www.supremecourt.gov.pk/downloads_judgements/c.p._256_k_2024.pdf

Facts: The petitioner was taken into custody during an investigation into a pension fund scam involving misappropriation through fake vouchers. A vehicle found in his custody was seized, and he later sought its release on superdari, which was denied by the Trial and High Courts, prompting the present appeal.

- Issues:**
- i) What are the permissible modes of freezing movable and immovable property under section 12 of the National Accountability Ordinance, (NAO) 1999?
 - ii) What legal remedy is available to an aggrieved person against a Freezing Order under section 12 of the NAO, 1999?
 - iii) How should the definition of 'Freezing' under section 5(m) of the NAO, 1999 be interpreted in conjunction with the operative provisions of section 12?
 - iv) What procedural obligations does a Court have when deciding an application under section 516-A Cr.P.C.?
 - v) What constitutional protections exist regarding a citizen's right to property under Articles 23 and 24 of the Constitution of Pakistan?
 - vi) Does granting interim custody of a vehicle on superdari affect the outcome of the trial or the legal status of the accused?
 - vii) What are the legal requirements under section 24-A of the General Clauses Act, 1897 for exercising statutory powers?
 - viii) Does failure to file an objection under section 13 of the NAO, 1999 bar an accused from seeking interim custody of property?
 - ix) How should courts interpret and apply general and special laws in the context of the NAO, 1999 and the Cr.P.C.?

Analysis: i) Indeed Section 12 (ibidem), inter alia provides in clear terms that if the property ordered to be frozen is a debt or other movable property, the freezing may be made: (i) by seizure; or (ii) by appointment of receiver; or (iii) by prohibiting the

delivery of such property to the accused or to anyone on his behalf; or (iv) by all or any of such or other methods as the court or the Chairman NAB as the case may be, deem fit and if the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases: (i) by taking possession; or (ii) by appointment of receiver; or (iii) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or (iv) by all or any of such methods as the Chairman NAB or the Court may deem fit.

ii) Section 13 (*ibidem*), *inter alia* accentuates a remedy in well-defined words that the Court shall have exclusive jurisdiction to entertain and adjudicate upon all claims or objections against the freezing of any property under Section 12 above and such claims or objection shall be made before the Court within 14 days from the date of the order of freezing such property, and in case the accused or any other aggrieved party, whose claim or objection against freezing of property, has been dismissed by the Court, he may, within ten days file an appeal against such order before the High Court.

iii) No doubt, the expression “Freezing” is provided in the definition with a long range of its fragments and components, but the fact remains that this definition cannot be read in isolation; for better understanding, it is to be read with the modes of freezing of movable property provided in the parent Section 12 of the NAO 1999,

iv) The application moved under Section 516-A Cr.P.C. must be decided expeditiously after providing a fair chance to contest the legality of the seizure and the order must be based on cogent reasons as to why the vehicle should be released or why it should not be released, rather than deferring the application for an indefinite period or disposing of it in a slipshod or cursory manner.

v) According to the command and mandate of Article 23 of the Constitution of the Islamic Republic of Pakistan, 1973, (“Constitution”), every citizen has a right to acquire, hold, and dispose of property in any part of Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest. All at once, it is engrained and embedded under Article 24 of the Constitution that no person shall be deprived of his property save in accordance with the law with certain exceptions already jotted down in the Article itself.

vi) However, it is clarified that the scheme of law permitting the interim custody of vehicle on superdari neither amounts to prejudice the trial, nor gives a clean chit to the accused, nor does it relieve or exempt the owner/recipient of custody from pending legal proceedings.

vii) Section 24-A of the General Clauses Act, 1897, which provides that (1) where, by or under any enactment, a power to make any order or give any direction is conferred on any authority, office or person such power shall be exercised reasonably, fairly, justly and for the advancement of the purposes of the enactment; (2) The authority, office or person making any order or issuing any direction under the powers conferred by or under any enactment shall so far as necessary or appropriate, give reasons for making the order or as the case may be

for issuing the direction and shall provide a copy of the order or as the case may be the direction to the person affected prejudicially.

viii) There is no demonstrable restriction or prohibition in the law that if an accused or aggrieved person fails to lodge a claim or objection against the Freezing Order in terms of Section 13 of the NAO 1999, they shall be deprived and shall, perpetually or unremittingly, not be able to apply for interim custody of the vehicle/property.

ix) it is also a well-known interpretation of law that special law prevails and dominates over a general law. However, while resolving the issue by the Courts on whether a statute is a special or general law, the crucial consideration must be the legislative intent, and of course in case of divergence, the rule of harmonious construction may be adopted. It is almost transparent that by virtue of Section 17 of the NAO 1999, the legislature has expounded that by reference, the provisions of the Cr.P.C. shall mutatis mutandis apply to the proceedings under this Ordinance and Chapter XXIIA, Cr.P.C., shall apply to trials.

- Conclusion:**
- i) Property may be frozen by seizure, receiver, or prohibition, as deemed fit by NAB or the Court.
 - ii) Objections to Freezing Orders must be filed within 14 days; appeals lie to the High Court.
 - iii) 'Freezing' must be read with Section 12 to understand its practical application.
 - iv) Section 516-A CrPC application require prompt, reasoned decisions after fair hearing.
 - v) The Constitution protects the right to property, subject to lawful restrictions.
 - vi) Interim custody of vehicle on superdari does not affect trial or absolve the accused.
 - vii) Statutory power must be exercised fairly with reasons provided.
 - viii) Not objecting to freezing doesn't bar seeking interim custody later.
 - ix) Special law prevails, but Cr.P.C. applies unless inconsistent with NAO.

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3. **Supreme Court of Pakistan**
Habib-ur-Rehman and others v. Abdul Karim (deceased) through L.Rs & others
Civil Petition No.770-K of 2022
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._770_k_2022.pdf

Facts: The petitioners purchased a commercial property, which was under the tenancy of the predecessor of the respondents. The tenant was removed in eviction proceedings during the pendency of appeal. The appeal was later allowed, the tenant's successor sought restitution of possession after a considerable delay. The petitioners opposed this move, citing their ownership, but were nonetheless directed to hand over possession. Their revision was dismissed with liberty to pursue appropriate civil remedies. Subsequently, the petitioners filed a suit for declaration and possession, accompanied by an application for condonation of delay. The respondents sought rejection of the plaint on the ground of res judicata.

The trial court rejected the plaint, and the appeal was dismissed for limitation and non-payment of court fee. These concurrent findings of lower fora were upheld by the High Court, leading to the present petition.

- Issues:**
- i) Can delay in the institution of a suit be condoned under section 5 of the Limitation Act?
 - ii) What is the limitation period for filing a suit for possession of immovable property under Article 142 of the Limitation Act?
 - iii) Whether the question of limitation is a pure question of law or a mixed question of law and fact, and can it be dismissed without judicial examination?
 - iv) Is the doctrine of res judicata applicable in every case where a previous decision exists, and courts must examine its applicability in depth before dismissal?
 - v) What are the key elements and objectives of the doctrine of claim preclusion (res judicata)?
 - vi) How is a “decree” defined under section 2(2) of the CPC, and what are its types and exclusions?
 - vii) Whether rejection of a plaint under order VII rule 11 CPC amounts to a decree and does it bar a fresh suit?
 - viii) Can section 149 of the CPC be read as a proviso to section 4 of the Court Fees Act to allow curing of court fee deficiency?
 - ix) How should the expression “having the force of a decree” in the Court Fees Act be interpreted in light of the definition of “decree” under section 2(2) CPC?
 - x) What discretionary power does the court have under section 148 CPC?
 - xi) What discretionary power does the court have under section 149 CPC?
 - xii) What does expression “at any stage” in section 149 CPC accentuate?
 - xiii) Can a suit or appeal be dismissed due to deficiency in court fee without providing the plaintiff/appellant an opportunity to make good the deficiency?
 - xiv) Is it the duty of the judges to apply the correct law even if the parties or their counsel fail to point it out?
 - xv) Can concurrent findings of fact by lower fora be reversed in second appeal if they are in violation of law or based on legal/jurisdictional errors?
 - xvi) Can an Appellate or High Court reverse concurrent findings if they are found to be legally flawed or based on apparent errors on the record?

- Analysis:**
- i) If we delve into the scope of Section 5, it applies, without a doubt, only to an appeal or application for revision, review of judgment, or for leave to appeal, or any other application to which the said section may be made applicable by or under any other enactment. (...) this section is only applicable to the instances mentioned above, and no condonation can be claimed for the delay in the institution of a suit, except for the exclusion of time specifically provided under Section 14 to 16 of the Limitation Act, and so on and so forth.
 - ii) According to Article 142 of the Limitation Act, a suit for possession of immovable property can be filed within a period of twelve years, and the cause of action triggers from the date of dispossession.

- iii) In the present controversy, the question of limitation is a mixed question of law and fact, but due to the misunderstanding of the advocate, the application was filed under Section 5. Nonetheless, it was also the responsibility of the Trial Court to examine the plaint diligently, including the cause of action vis-à-vis Section 3 of the Limitation Act.
- iv) In our considerate view, what the aforesaid Section unambiguously advocates is that, before non-suiting under this doctrine, it is obligatory for the courts to carry out a diagnostic exercise to determine whether the circumstances pleaded actually attract the principle of *res judicata* or not, rather than summarily dismissing the lawsuits on mere contentions without judicious reasoning.
- v) This doctrine also connotes “claim preclusion,” whose indispensable elements include that the erstwhile judgment must be valid and final between the parties, and the same issue must not be brought again for re-litigation. Furthermore, this rule is essential to avert repetitive litigation and to ensure justice, equanimity, and dependability in judicial proceedings by curbing frivolous and vexatious litigation, often initiated with mala fide intention or ulterior motives just to drag the opponents in courts for reopening matters already conclusively decided. Simultaneously, it also lightens the court’s docket and helps eliminate time-consuming and meritless litigation.
- vi) According to the Section 2 (2), CPC, “decree” means the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit, and may be either preliminary or final. It shall be deemed to include the rejection of a plaint, the determination of any question within Section 144 and an order under Rules 60, 98, 99, 101, or 103 of Order XXI, but shall not include: (a) any adjudication from which an appeal lies as an appeal from an order, or (b) any order of dismissal for default. Section 2 (2), CPC, further explains that a decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit and it may be partly preliminary and partly final.
- vii) In line with Order VII Rule 13, the rejection of the plaint on any of the grounds, mentioned under Order VII Rule 11, CPC, shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.
- viii) The Court opined that Section 4 of the Court Fees Act is not the final word and the court must consider the provisions of both the Act and the Code and harmonize the two sets of provisions which can only be done by reading Section 149 as a proviso to Section 4 of the Court Fees Act by allowing the deficiency to be made good within a period of time fixed by it.
- ix) It was further held that in order to understand the expression “having the force of a decree” occurring in this article of the Court Fees Act, it would be useful to derive guidance from the definition of a “decree” contained in Section 2 (2), CPC, according to the provisions of which, a decree is a formal expression of an

adjudication conclusively determining the rights of the parties with regard to all or any of the matters in controversy before the Court.

x) The provision for enlargement of time is assimilated under Section 148, CPC, which articulates that where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by the CPC, the Court may, in its discretion from time to time, enlarge such period, even though the period originally fixed or granted may have expired.

xi) Whereas, Section 149 deals with the power to make up the deficiency of court fee and provides in a translucent stipulation that where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court fee; and upon such payment, the document, in respect of which such fee is payable, shall have the same force and effect as if such fee had been paid in the first instance even without filing any application for extension of time.

xii) The expression “at any stage” alluded to in Section 149 accentuates that the deficiency, if any, on account of court fee can be ordered to be made good by the Appellate Court at any stage of proceedings in appeal.

xiii) The provision delineated under Order VII, Rule 11 and Section 149, CPC, must be read collectively and in unison. In case of deficiency in the court fee, the Court cannot dismiss the suit or appeal without pinpointing the inadequacy and then providing a timeline for payment.

xiv) Judges are expected in all circumstances to know the law and such is their hallmark as entrenched in the principle that 'a Judge must wear all laws on the sleeve of his robes'. Courts, while dispensing justice, are duty-bound to apply the law in its true perspective, and the application of the relevant legal provisions cannot be avoided simply on the ground that such provisions were not brought to the court's notice by the parties.

xv) If the concurrent findings recorded by the lower fora are found to be in violation of the law, or based on misreading or non-reading of evidence, they cannot be treated as so sacrosanct or sanctified that they cannot be reversed by the High Court in its revisional or constitutional jurisdiction or in a second appeal, as a corrective measure, come what may.

xvi) It is also not within the domain or function of the Appellate Court and/or the High Court to re-weigh or re-interpret the evidence, but they can examine whether the impugned judgment or order attains the benchmark of an unflawed judgment; and whether it is in consonance with the law and evidence and free from unjust and unfair errors apparent on the face of record, and if the concurrent findings are found to be in violation of law or based on flagrant and obvious defects floating on the surface of the record, then it can be reversed as a corrective measure without undue regard to the fact that the matter culminated in concurrent findings.

- Conclusion:**
- i) Section 5 does not apply to institution of suits.
 - ii) Limitation for possession is twelve years from dispossession.

- iii) Limitation must be judicially examined by the Trial Court.
- iv) Courts carry a diagnostic exercise for attraction of res judicata before dismissal.
- v) Res judicata prevents repetitive and frivolous litigation.
- vi) A decree conclusively determines rights and may be preliminary or final.
- vii) Rejection of plaint does not bar a fresh suit.
- viii) Section 149 may be read as a proviso to section 4 to cure fee deficiency.
- ix) “Having the force of a decree” should be interpreted via Section 2(2) CPC.
- x) Courts may enlarge time even after expiry.
- xi) Court may permit court fee to be paid at any stage.
- xii) Appellate Court can allow fee deficiency to be cured at any stage.
- xiii) Suit/appeal cannot be dismissed without pinpointing and providing timeline to pay court fee.
- xiv) Judges must apply correct law, regardless of counsel’s failure.
- xv) Concurrent findings can be reversed if legally flawed.
- xvi) Appellate/High Court may correct judgments with legal or evident errors.

4. Supreme Court of Pakistan
Commissioner Inland Revenue (Legal), Islamabad v. Pakistan LNG Limited and others
Civil Petitions No.3578 and 4598 of 2024
Mr. Justice Munib Akhtar, Mrs. Justice Ayesha A. Malik, Mr. Justice Shahid Waheed
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3578 2024.pdf

Facts: The tax authorities issued immediate recovery notices to third parties under section 140 of the Income Tax Ordinance on the same day appellate orders were uploaded, without providing taxpayers any reasonable time to comply. This action was challenged and the High Court set aside the notices.

Issues:

- i) Whether section 140 of the Income Tax Ordinance, 2001 requires the Commissioner to set a future date for payment in the notice to third parties, or permits immediate recovery on the date of issuance?
- ii) Whether Rule 210C(3) of the Income Tax Recovery Rules, 2002, which allows same-day recovery, is consistent with section 140 of the Ordinance?

Additional Note:

- iii) Whether, under the doctrine of merger, a fresh notice under section 137(2) must be issued after appellate orders before any coercive recovery can be undertaken under sections 138 or 140?
- iv) Whether immediate recovery under Section 140 on the same day of notice violates taxpayer rights to due process, dignity, and fair opportunity to comply?
- v) Whether the Revenue’s immediate coercive recovery under section 140 violated due process rights.

Analysis: i) A bare reading of Section 140(1) reveals the express condition to set a date for payment, in the notice on which the stipulated tax has to be paid. The use of the words by the date set out in the notice in Section 140(1) of the Ordinance reflects

the very clear requirement to provide for a future date in the notice on which the tax becomes payable... the very act of setting a date mandates the Commissioner to plan for a future date and notify the third-party of the date when the recovery will be effected... The condition of fixing a future date is in effect a legal safeguard which ensures that the process of recovery is protected from arbitrariness and undue haste.

ii) We have carefully examined the relevant Rules and find that Rule 210C is contrary to the requirements of Section 140 of the Ordinance. The said section requires the Commissioner to set a date in the notice for recovery purposes, hence, the requirement of the Rules for immediate recovery is against the scheme of Section 140 of the Ordinance... The requirement of notice before recovery is not merely statutory but reflects the broader guarantees of due process and fair trial under Article 10A of the Constitution, as well as the right to dignity under Article 14.

Additional Note:

iii) An essential guideline in this context is that when an appeal is properly brought before a higher authority...the order from the lower authority merges with the decision from the higher authority... it is the latter which subsists... Consequently...the Commissioner was required to issue a fresh notice under section 137(2) reflecting the amounts determined in the appellate order...Only if the taxpayer failed to pay...could the recovery mechanisms provided in sections 138 or 140 be activated.

iv) The Commissioner, without first confirming that the appellate order as stipulated in section 129(4) had been duly served on the taxpayer (respondent), rushed to issue a notice under section 140 to the Bank demanding an immediate payment by the close of that same day. This notice was fundamentally flawed for several reasons. Firstly, it was issued prematurely, as the Commissioner (Appeals) was required to serve his decision on the taxpayer (respondent) before any such notice could be sent out. Secondly, any recovery actions against a taxpayer (respondent) could not be initiated without providing them with a reasonable timeframe to settle the “amount payable” specified in the appellate order. Thirdly, failing to afford the taxpayer Civil Petitions No.3578 & 4598 of 2024 7 (respondent) sufficient time to pursue further legal options regarding the appeal was manifestly unjust. Fourthly, it caused an injury to the dignity of the taxpayer (respondent). It is important to emphasise that the right to dignity is the most central of all fundamental rights, as it is the source from which all other rights are derived. The Ordinance aims to strike a balance between ensuring tax recovery and upholding taxpayer dignity. The recovery process executed in these cases disregarded this balance. The failure to verify whether the “amount payable” had been classified as “tax due” before declaring the taxpayer (respondent) as a defaulter – and subsequently issuing a direct payment notice to the person holding money on behalf of the taxpayer (respondent) – amounted to discrediting the taxpayer (respondent) within its community and negatively affecting its business reputation. All of these factors strongly suggest that the pursuit of tax recovery took precedence over the protections afforded to the taxpayer (respondent) within

a legal framework that upholds fundamental rights, such as the right to a fair trial, access to justice, dignity, and due process. No legal standards can justify this culture of authoritative dominance in tax recovery, as it fundamentally undermines the core principles of justice. This creates an imbalance between the need for efficient tax recovery and the protection of taxpayer's rights.

v) Another significant aspect of this case highlights the excessive and autocratic exercise of the Revenue's authority, which severely impeded the taxpayer's (respondent's) ability to seek judicial remedies and breached due process rights.

- Conclusion:**
- i) Section 140 require the Commissioner to set a future date for payment in the notice; immediate recovery on the date of notice is not permitted.
 - ii) Rule 210C(3) is inconsistent with section 140 of the Ordinance and cannot override the statutory safeguard.
 - iii) A fresh demand notice under section 137(2) is required after an appellate order before invoking recovery under section 140.
 - iv. Immediate recovery under section 140 without providing reasonable time violates statutory safeguards and constitutional rights to dignity and due process.
 - v) The Revenue's immediate coercive recovery without affording fair opportunity breached due process rights.

5. **Supreme Court of Pakistan,
Shahid Ali v. The State
Criminal Petition No.53-K of 2021
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan.**
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 53 k 2021.pdf

Facts: A minor boy was found murdered, and his body was recovered from a nearby water tank. A criminal case was registered against unknown persons, and following investigation, the accused was charged and later convicted of murder, receiving a death sentence along with compensation liability. The conviction was upheld by the High Court, but the Supreme Court later acquitted the accused by extending the benefit of doubt and ordered his release, subject to no other detention.

- Issues:**
- i) What is the legal principle underlying the "last seen together" theory, and under what condition can it be used to infer guilt?
 - ii) What role does the time gap between the last sighting and the crime play in applying the "last seen together" doctrine to establish guilt?
 - iii) Whether the sole fact of the deceased being last seen with the accused is sufficient to establish a murder charge?
 - iv) What essential factors must be established for the "last seen" theory to credibly link the accused to the crime?
 - v) Who is considered a "chance witness" in criminal law, and under what circumstances is their presence at the crime scene viewed with suspicion?

- vi) Whether the admissibility and evidentiary value of a chance witness's testimony can be determined by a fixed rule or depends on the facts and circumstances of each case?
- vii) Whether a confession is admissible if not made voluntarily and free from any influence?
- viii) Whether a confession is admissible only if it is genuine, voluntary, and made without any coercion or influence?
- ix) Whether a confession made to a police officer is admissible if it is recorded in the presence of a Magistrate?
- x) Whether a confession made to someone other than a police officer, while in police custody, is inadmissible unless made in the immediate presence of a Magistrate?
- xi) Whether a confession made by an accused to a journalist while in police custody is admissible as evidence against the accused?

Analysis:

- i) This Court, while explaining the theory of last seen together, has held that it is one where two persons are seen together alive and after an interval of time one of them is found alive and the other dead. If the period between the two is short then an inference could be drawn that the person alive was the author of the other's death.
- ii) The time gap between the sighting and the occurrence should be such that the possibility of someone else committing the crime could be ruled out.
- iii) It has been further held that the circumstance of the deceased being last seen in the company of the accused is not by itself sufficient to sustain the charge of murder.
- iv) This court has further observed that the foundation of the last seen theory is based on the principle of probability, cause and connection. It requires cogent reasons that the deceased in normal and ordinary course was supposed to accompany the accused, proximity of the crime scene, a small gap between the sighting and the crime, no possibility of a third person's interference, motive and time of death of the victim.
- v) A chance witness, in legal terms, is a witness who claims that he or she was present at the crime scene at the fateful time and that his presence there was by sheer chance while in the ordinary course of business, place of residence and in the normal course of events he or she was not supposed to be present at the scene.
- vi) The admissibility and evidentiary value of the testimony of a witness who falls in the category of a chance witness essentially depends on the facts and circumstances of each case and no hard and fast rule can be laid down in this regard.
- vii) The confession, therefore, whether judicial or extra judicial, must be demonstrably voluntary, made out of absolute free will and without influence of any kind, whether a threat, inducement, promise or even hope etc.
- viii) The fundamental principle regarding the admissibility and assessment of a confession, judicial or extra judicial, is that it ought to be genuine voluntary and

must have been made out of one's free will. It must have been given freely and without any coercion or influence in any form.

ix) A confession made to a police officer, even in presence of a Magistrate, is inadmissible.

x) Confession of guilt made to any person other than a police officer and while in the custody of a police officer cannot be proved against the latter and thus is not admissible in evidence unless it is made in the immediate presence of a Magistrate.

xi) A statement amounting to a confession made by an accused to a journalist while in custody of a police officer and any such statement recorded and disseminated publically can also not be proved against the accused.

- Conclusion:**
- i) The "last seen together" theory applies when two individuals are last seen alive together, and shortly after, one is found dead, allowing an inference against the survivor.
 - ii) See above analysis No.ii.
 - iii) See above analysis No.ii.
 - iv) "Last seen" theory rests on probability and requires strong linkage through proximity, short time gap, absence of third-party involvement, motive, and timing of death.
 - v) A chance witness is someone who claims to have been at the crime scene by coincidence, despite having no usual reason to be there.
 - vi) The evidentiary value of a chance witness depends on the specific facts of each case, with no rigid rule for admissibility.
 - vii) A confession must be clearly voluntary, made with absolute free will and free from any threat, inducement, promise, or hope.
 - viii) A confession, whether judicial or extra-judicial, is admissible only if it is genuinely voluntary and made out of free will without any form of coercion or influence.
 - ix) See above analysis No.ix.
 - x) A confession made to someone other than a police officer while in police custody is inadmissible unless made in the immediate presence of a Magistrate.
 - xi) A confession made by an accused to a journalist while in police custody, even if recorded and publicized, is inadmissible in evidence.

6. Supreme Court of Pakistan.
Noor Agha v. The State and another
Criminal Petition No.27-K of 2025
Ms. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 27_k 2025.pdf

Facts: The petitioner seeks his post-arrest bail on statutory ground, which was declined by the courts below and upheld by the High Court.

Issues: i) What material is to be considered while dealing with the bail of an accused on

statutory ground?

ii) Whether the grant of bail on statutory ground is a right of the accused?

iii) Whether the right of accused on statutory ground has any exception?

iv) What is meaning and scope of the expression 'hardened, desperate or dangerous criminal' as contemplated in 4th proviso to section 497 of the CrPC?

v) What is distinction in forming opinion by the court in deciding bail under subsection (1) and 4th proviso to the section 497 CrPC?

vi) What material facts prosecution should establish to disentitle an accused from bail of statutory ground?

Analysis:

i) The prosecution did not place on record any material other than the material collected during the investigation. The prosecution had not placed before the trial court nor the High Court sufficient material to enable them to form an opinion whether the petitioner was a 'hardened, desperate or dangerous criminal'. The role attributed to the petitioner was no more than an alleged facilitator, accomplice or being part of a conspiracy to commit the alleged crime. It is not the case of the prosecution that the petitioner has a previous criminal record nor that his release could pose a threat to others. It is also not the case of the prosecution that the petitioner, after release on bail, may harm others, repeat the offence or act in any manner which may be prejudicial to the peace of the society.

ii) The 3rd proviso to sub-section (1) of section 497 of the Cr.P.C. governs the statutory right to claim release on bail on the ground of delay in the conclusion of trial. The legislature has explicitly used the expression 'shall' in the 3rd proviso and it creates a right in favour of an accused to be released on bail provided the conditions stipulated for claiming such a right have been fulfilled. The 3rd proviso sets out the conditions for being released on bail on the ground of statutory delay.

iii) The three exceptions are; if the accused is a previously convicted offender for an offence punishable with death or imprisonment for life or 'in the opinion of the court' is a hardened, desperate or dangerous criminal or is accused of an act of terrorism punishable with death or imprisonment for life. If one of the three exceptions stipulated in the 4th proviso is attracted then the right contemplated in the 3rd proviso could not be given effect to though the delay may not be attributable to the accused and the prescribed period of detention has been completed.

iv) The meaning and scope of the expression 'hardened, desperate or dangerous criminal' was considered by this Court in the case of Moundar¹. It was held that the court has to form an opinion and such opinion could not be subjective but must be based upon material placed before it which reasonably supports the conclusion that the person concerned was a criminal of one of the classes described in the expression. It was further held that the expression 'criminal' used by the legislature in the 4th proviso could not be construed in its technical sense. It was not dependent on a formal charge or accusation nor that the person should have been adjudged guilty of a charge in a court of law. It was further explained that the opinion could be formed on the basis of material available in the case

before it, if that was sufficient, or it may also take into consideration any other material which may have been produced by the prosecution to enable the court in forming of the opinion regarding the character of the person as a 'hardened, desperate or dangerous criminal'.

v) It is noted that the scope and effect of the expression in the 4th proviso i.e hardened, dangerous or desperate criminal is distinct from the restriction on the power and discretion of a court under sub section (1) of section 497 of the Cr.P.C not to release an accused on bail if there appears reasonable grounds for believing that the accused may be guilty of an offence punishable with death or imprisonment for life or for ten years. This distinction highlights that the exception in the 4th proviso is not in the context of the merits of the case i.e forming an opinion whether reasonable grounds exist for believing that an accused may have been guilty of one of the offences specified by the legislature. Bail may have been declined on merits in terms of forming an opinion under sub section (1) of section 497 but if the conditions specified under the 3rd proviso are met and the case does not attract one of the exceptions specifically mentioned in the 4th proviso then it entitles an accused to claim bail on the basis of statutory delay as a fresh and independent ground.

vi) The exception of being a hardened, desperate or dangerous criminal contains four distinct expressions. Hardened, desperate or dangerous' have been used by the legislature disjunctively and cannot be construed as conjunctive and they precede the expression 'criminal'. There must be sufficient material placed before the court by the prosecution to enable it to form an opinion that if the accused is released on bail under the 3rd proviso, then there would be a substantial risk or it would be highly probable that he or she would cause serious harm to the society and its members because of being a hardened, dangerous or desperate criminal...The prosecution may place before the court material to demonstrably show that, if released, the accused could interfere with or influence the investigation by threatening or harming the witnesses or the members of law enforcement agencies. There could be several factors which the court may take into consideration in forming an opinion whether an accused seeking bail under the 4th proviso is a hardened, desperate or dangerous criminal. No general rule can be laid down as to how a court is to form an opinion because it would depend on the facts and circumstances of each case. However, the opinion cannot be based on mere presumptions, conjectures or subjective basis. The court essentially has to form an opinion that there is substantial risk or a real and high likelihood of harm to the society, if the accused is released on bail on statutory ground.

- Conclusion:**
- i) The prosecution had to place on record to show the petitioner is a “hardened, desperate or dangerous criminal,” and his release would be “prejudicial to the peace of the society.”
 - ii) The legislature has explicitly used the expression 'shall' in the 3rd proviso and it creates a right in favour of an accused to be released on bail provided the conditions stipulated for claiming such a right have been fulfilled.
 - iii) There are three exceptions to the right of bail on statutory ground; if the

accused is a previously convicted offender for an offence punishable with death or imprisonment for life or 'in the opinion of the court' is a hardened, desperate or dangerous criminal or is accused of an act of terrorism punishable with death or imprisonment for life.

iv) See above analysis No.iv.

v) For making opinion by the court deciding bail application under subsection (1) of section 497 CrPC, court has to look into the material placed by the prosecution after investigation. However, in dealing the bail on statutory ground otherwise material is also to be considered.

vi) The prosecution may place before the court material to demonstrably show that, if released, the accused could interfere with or influence the investigation by threatening or harming the witnesses or the members of law enforcement agencies.

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7. **Supreme Court of Pakistan**
Tahir alias Tahri v. The State
Criminal Appeal No.9 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 9 2023.pdf

Facts: The appellant was sentenced to death on five counts for his involvement in a multiple homicide case. After over twenty-five years of incarceration, mostly in a death cell, he sought commutation of his death sentence to life imprisonment on the basis of the expectancy of life doctrine, prolonged delay in appellate proceedings, and other mitigating circumstances.

Issues:

- i) Whether the principle of expectancy of life, after a convict has served a period equal to or exceeding a life sentence while pursuing legal remedies, is a sufficient ground on its own to commute a death sentence under section 302(b) PPC?
- ii) Whether prolonged delay in the conclusion of appellate remedies, not attributable to the convict, constitutes a mitigating factor justifying commutation of a death sentence under Article 9 and 12(b) of the Constitution?
- iii) Whether the existence of mitigating factors, such as lack of prior criminal record, young age at the time of offence, and doubtful recovery of weapon, obligate the court to exercise discretion in favour of awarding life imprisonment under section 302(b) PPC?
- iv) Whether the simultaneous imposition, in effect, of multiple punishments through prolonged death-cell incarceration violates the constitutional prohibition against penalties greater than or different from those prescribed by law under Article 12(b)?

Analysis: i) It is obvious from the above survey of the jurisprudence of this Court that the principle of expectancy of life is relevant in the context of section 302 (b) of the PPC when the convict who has been handed down the sentence of death has served equal to or more than the term of the other prescribed legal punishment, i.e

imprisonment for life during pendency of the legal remedies provided under the law. (...) However, this principle by itself and as a sole mitigating factor would not be sufficient for a court to exercise its discretion by commuting the sentence of death to imprisonment for life.

ii) There could be certain consequences on account of the prolonged delay in execution of the sentence of death which, in the facts and circumstances of a particular case, may become a valid mitigating factor and extenuating circumstance for a court to take into consideration along with the principle of expectancy of life for altering the sentence. (...) The delay may be so inordinate and long which may demonstrably surpass the reasonable and necessary time required for completion of the remedies (...) depending on the facts and circumstances in each case.

iii) In this case the mitigating factors have been highlighted above. The appellant has remained incarcerated for more than twenty five years. (...) He was young in 1991 when the occurrence had taken place. (...) He did not have any criminal record prior to the occurrence and, therefore, he was a first time offender. As already noted above, the recovery of the fire arm weapon is not free from doubt and the evidence brought on record in this regard is not safe to be relied upon.

iv) It would be unjust to impose a double punishment by keeping an accused in a death-cell for a long period of time when the delay is also not attributed to the latter (...) Such an unauthorized punishment amounts to a penalty greater than or of a kind different from the penalty prescribed by law for the offence at the time it was committed. (...) Depending upon the facts and circumstances of a case, the living conditions of the prison (...) could be considered as one of the mitigating factors and it can then be taken into account along with principle of expectancy of life

- Conclusion:**
- i) Expectancy of life alone is not sufficient for commutation but may be considered with other factors.
 - ii) The prolonged delay not attributable to the convict can be a valid mitigating factor.
 - iii) The existence of such mitigating factors warranted exercise of discretion in favour of life imprisonment.
 - iv) The prolonged death-cell incarceration combined with delay can result in an unconstitutional penalty beyond that prescribed by law.

8. Supreme Court of Pakistan
Seeta Ram v. The State
Jail Petition No.51 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._51_2023.pdf

- Facts:** The petitioner was accused of committing a fatal shooting in a public place, allegedly firing twice at the victim while threatening others who attempted to intervene. The investigation had commenced prior to the formal registration of

the case, and there was a notable delay in naming the accused. The case relied on eyewitness accounts, a retracted confession, and recovery of a weapon. The trial court convicted and awarded a death sentence, which was upheld by the High Court.

Issues:

- i) What is the legal status and meaning of the term ‘First Information Report’ (FIR)?
- ii) What is the distinction between cognizable and non-cognizable offences regarding the police’s power to investigate under CrPC?
- iii) What is the legal effect of the expression ‘shall’ as used in sections 154 and 155 of CrPC?
- iv) What procedural safeguards and limitations govern the police’s power to investigate cognizable and non-cognizable offences under Cr.P.C?
- v) Under what circumstances may a police officer decline to investigate a cognizable offence, and what procedural obligations arise?
- vi) To what extent is an investigating officer bound by contents of FIR during investigation?
- vii) Is it mandatory to register an FIR upon receipt of information and can the police assess its correctness before registration under Section 154 Cr.P.C?
- viii) What is the distinction between ‘investigation’ and ‘inquiry’ under the Cr.P.C?
- ix) What exceptions allow investigative steps before FIR registration under the Cr.P.C?
- x) What is the legal consequence if the information provided for FIR registration is later found to be false?
- xi) How may a previous statement be used under Articles 140 and 153 of the Qanoon-e-Shahadat Order (QSO), 1984?
- xii) Is omission of a witness’s name in the FIR sufficient to discard their testimony?
- xiii) How does delay or promptness in FIR registration affect the presumption of credibility and risk of false implication?
- xiv) What presumption does Article 91 of the QSO, 1984 create regarding statements or confessions?
- xv) Is a statement made to a police officer admissible under Article 38 of the QSO, 1984?
- xvi) When is a confession by an accused in custody admissible, and what legal provisions govern its recording?
- xvii) Under what conditions can a judicial confession form the basis for a conviction?
- xviii) Does the retraction of a judicial confession affect its admissibility and evidentiary value?
- xix) What precautions should a court take when recording a confession of a juvenile?
- xx) Can a confessional statement be accepted and rejected in part by the court?

xxi) When is the plea of the accused considered, and what is the prosecution's burden of proof?

xxii) When is a confession considered irrelevant under Article 37 of the QSO, 1984?

Analysis:

i) 'First Information Report' is not an expression used or defined in the Cr.P.C. It refers to information received by an officer In charge of police station under section 154 or section 155 of the Cr.P.C

ii) The expressions 'cognizable' and 'non cognizable' are defined under sections 2(f) and 2(n) respectively. In case of a cognizable offence, section 156 empowers any police officer In charge of a police station to investigate without the order of a Magistrate while section 155 places a clog on the power of the police officer, who cannot investigate without a specific order of a Magistrate competent in this regard and as has been mandated under section 155(2).

iii) the legislature has used the expression 'shall' in both these sections, making it a mandatory statutory obligation of the In charge of a Police Station to enter the information in the relevant prescribed book or, in other words, to register the FIR.

iv) In case of a non-cognizable offence, it is a statutory duty to enter the information in the relevant prescribed book but investigation cannot be commenced or carried out without obtaining a specific order from a Magistrate competent in this regard. In case of a cognizable offence the powers of an In charge of a police station to investigate are also not unfettered, rather they have been circumscribed under section 157 of the Cr.P.C. Before embarking on the course of investigation, the In charge of a police station must, on the basis of the information received or otherwise, have 'reason to suspect' the commission of an offence which he is empowered under section 156 to investigate. In such an eventuality it is a statutory duty of the latter to forthwith report to the competent Magistrate and then proceed.

v) Proviso (b) of sub-section 1 of section 157 provides that if it appears to the officer In charge of a police station that there is no sufficient ground for embarking on an investigation then he may decide not to investigate the case. In such an event the officer in charge of the police station shall state in his report to the Magistrate the reasons for his decision and forthwith notify the informant that he will not investigate the case or cause it to be investigated.

vi) After registration of the FIR the occurrence is treated as a case and it enables the police officer to initiate the process of investigation under sections 156, 157, and 159 of Cr.P.C. This Court has held that the investigating officer is not to be guided nor is he or she controlled in this regard by the contents of the FIR. The contents of an information under section 154 are not sacrosanct. The investigation, after registration of the case, cannot be embarked upon in a mechanical manner and the investigating officer is bound to observe the provisions of the Cr.P.C

vii) The registration of an FIR as soon as the information has been received relating to the commission of a cognizable offence is necessary for preserving the evidence and to rule out the possibility of making up a story after deliberations

and consultations. This Court has consistently held that an officer In charge of a police station has no authority, nor does such authority vest with any other person, to refuse to register an information under section 154 when it discloses the commission of a cognizable offence. Moreover, the officer In charge of a police station nor any other person is vested with the authority to embark upon an inquiry regarding the correctness or otherwise of the information which has been given for the purposes of registration of a case under section 154 of the Cr.P.C.

viii) The expression 'investigation' has been defined under section 2(l) of the Cr.P.C and it includes all the proceedings under the Code for collection of evidence conducted by a police officer, or by any person other than a Magistrate, who is authorized by a Magistrate in this behalf. Likewise, 'inquiry' is defined under section 2(k) and it includes every inquiry conducted under the Code by a Magistrate or a court.

ix) Though there are some exceptions explicitly mentioned in the Cr.P.C when steps which are part of the process of investigation could be taken before a case is registered under section 154 of the Cr.P.C e.g under sections 54, 55, 57 or 151 *ibid*. It is noted that, even in such an eventuality, sections 60 and 61 make it a mandatory duty of the concerned police officer to take the arrested person before or to inform the Magistrate.

x) In case the information is ultimately established to be false then it would attract the offence and its prescribed punishment under section 182 of the PPC.

xi) In terms of Articles 140 and 153 of the Order of 1984 it is no more than a previous statement which may be used for confronting its maker unless the same has been proved by the prosecution³.

xii) The non mentioning of the name of a witness in the FIR is not a fatal omission and it would not be a sufficient reason to discard the testimony in every case. The evidentiary value of a testimony depends on the facts and circumstances of each case⁴.

xiii) The delay gives an opportunity of prior consultation and deliberations and, therefore, the possibility of false implication and manipulation cannot be ruled out. The promptness eliminates the chances of such prior consultation and deliberations and raises a presumption of credibility and *bona fides*⁵.

xiv) Article 91 of the Qanoon-e-Shahadat Order, 1984 ('Order of 1984') provides that whenever any document is produced before any court, *inter alia*, given by a witness in a judicial proceedings or before any officer authorized by law to take such evidence or to be a statement of confession by any person or an accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, the court shall presume that the document is genuine and that any such statement as to the circumstances under which it was taken purporting to be made by the person signing it are true and that such evidence, statement or confession was duly taken. This presumption is essentially qualified by the expression 'taken in accordance with law'.

xv) It is noted that under Article 38 of the Order of 1984 no statement which is made to or before a police officer is admissible even if it is made in the immediate presence of a Magistrate.

xvi) a confession of an accused while in custody is also inadmissible except when it is made in the immediate presence of a Magistrate or if there is a disclosure of fact as contemplated under Article 40 of the Order of 1984. Section 164 of the Cr. P.C. sets out the mandatory conditions relating to recording a judicial confession in the course of investigation conducted under chapter XIV *ibid*. Section 364 prescribes the manner in which the judicial confession is to be recorded under section 164 *ibid*. The safeguards are provided under Chapter 13 of the High Court Rules and Orders (Vol.III) ('Rules and Orders').

xvii) It has been the consistent view of this Court that a judicial confession can be made the basis for a conviction when it is found to be true, convincing and made voluntarily without any duress, coercion, inducement or any other influence of whatever nature.

xviii) Even a retracted confession recorded in accordance with law would be presumed to be genuine as has been contemplated under Article 91 of the Order of 1984. Retraction of a judicial confession is not a sufficient ground for discarding it if it is otherwise found to be reliable⁷. Mere retraction would not diminish its evidentiary value if it has been corroborated by other evidence⁸. (...) The judicial confession, even when retracted, does not lose its evidentiary value if it is independently corroborated and the court is satisfied that the narration is true and has been made voluntarily¹⁰.

xix) A court has to exercise extra caution while recording a confessional statement in case of vulnerable classes such as juveniles. It is desirable, in their case, to provide them counseling/consultation, *inter alia*, of a natural guardian¹⁶.

xx) A confessional statement has to be read as a whole and its inculpatory parts cannot be relied upon while discarding the exculpatory portions¹⁷. The confessional statement must be accepted and rejected as a whole¹⁸.

xxi) The prosecution has to prove its case against an accused beyond a reasonable doubt irrespective of any plea raised by an accused in his defense and the prosecution cannot fall back on the plea of an accused to prove his or her case. If the prosecution fails in proving its case the accused has to be acquitted. The stage to consider the plea of the accused precedes proving his guilt beyond a reasonable doubt²¹.

xxii) Article 37 of the Order of 1984 explicitly provides that the confession made by an accused person is irrelevant in a criminal proceeding if the making of the confession appears to the court to have been caused by any inducement, threat or promise, having reference to the charge against the accused person and which proceeds from a person in authority and is sufficient, in the opinion of the court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he/she would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

- Conclusion:**
- i) FIR refers to initial information received by police but has no formal definition in the Cr.P.C.
 - ii) Police may investigate cognizable offences directly, but non-cognizable offences require Magistrate's approval.

- iii) Recording FIR is a mandatory statutory obligation upon the police.
- iv) See analysis No.iv.
- v) See analysis No.v.
- vi) FIR initiates the case, but investigation must follow the law, not the FIR narrative.
- vii) Police cannot delay FIR registration or verify facts before recording.
- viii) See analysis No.viii.
- ix) Limited pre-FIR steps are allowed but require strict compliance with reporting duties.
- x) Giving false information for FIR can attract criminal liability under the PPC.
- xi) FIR has limited evidentiary value unless properly proved in court.
- xii) A witness's credibility is not necessarily diminished by non-mention in the FIR.
- xiii) Delay in FIR raises suspicion of false implication; promptness supports authenticity.
- xiv) Confessions and judicial statements carry legal presumption if lawfully recorded.
- xv) Statements to police have no evidentiary value, even in a Magistrate's presence.
- xvi) Only confessions before a Magistrate or disclosing facts are admissible from custody.
- xvii) A valid, voluntary judicial confession is sufficient for conviction.
- xviii) A retracted judicial confession remains valid if made voluntarily and corroborated by other evidence; mere retraction does not nullify its value.
- xix) Juvenile confessions require special care and preferably guardian consultation.
- xx) Partial reliance on confessions is impermissible; courts must accept or reject entirely.
- xxi) Burden of proof lies on the prosecution, independent of any defence raised.
- xxii) Involuntary confessions influenced by authority figures are legally irrelevant.

9. Supreme Court of Pakistan.
1.Ameenullah s/o Saadullah 2. Khairullah s/o Abdul Khair Achakzai v. The State & another
Criminal Appeal No.525 OF 2022
Ms. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._525_2022.pdf

Facts: The appellants had challenged their convictions and sentences handed down by the trial court before the High Court and their appeals were dismissed vide the impugned judgment. They had sought leave and it was granted by this Court.

Issues: i) What is the evidentiary value of positive chemical examiner report, when safe custody and transmission of contraband is not proved?

- ii) What is the starting and last end of the principle of safe custody and how secured?
- iii) How the presumption of guilt of accused contained in section 29 of the Control of Narcotic Substances Act, 1997 would be taken?
- iv) Whether the trial court is obliged to allow request of prosecutor to give up the witness mechanically, or it has any power to record such witnesses?
- v) What are the guiding principles for the trial courts in dealing with the applications under section 540 CrPC?
- vi) Whether the Prosecutor General or District Public Prosecutor, under the Sindh Prosecution Service (Constitution, Function and Powers) Act, 2009; are competent to initiate or recommend disciplinary action against an public servant connected with the investigation or prosecution for any act committed prejudicial to the prosecution?

Analysis:

- i) The positive report of the chemical examiner loses its evidentiary value and cannot be relied upon unless the safe custody and transmission from the stage of recovery till its final transmission to the office of the chemical examiner has been established through unimpeachable evidence.
- ii) This chain of custody commences from the stage of the recovery of the alleged material and ends at the delivery of the samples to the chemical examiner's office. After the alleged material has been recovered, samples are separated and sealed in accordance with the principles and law enunciated by this Court in Ameer Zeb's case¹. Then the recovered material has to be taken to the Police Station and kept there in custody by the concerned law enforcement agency. The samples are then to be taken out from the place of storage and transmitted to the concerned government analyst for chemical analysis. The chain of safe custody, therefore, starts from the recovery till the samples have been received at the office of the government analyst. The integrity of this chain of custody at each stage is fundamental for proving that the material recovered and seized by the law enforcing agency is one of the narcotic drugs contemplated under the Act of 1997.
- iii) This Court, while interpreting this provision in the case of Ameer Zeb (supra), after examining its earlier judgments rendered in the cases of Kashif Amir and Muhammad Noor², has held that the initial onus to prove the offence of recovery of narcotic substance from the accused is always on the prosecution and, once it has discharged that onus to the satisfaction of the court, it is only then that the onus shifts to the accused person to establish falsity of the prosecution's allegation against him/her. It has been further observed that the initial onus on the prosecution in such cases includes the onus to prove that the entire substance allegedly recovered is in fact a narcotic substance and such onus can be discharged by the prosecution only if the samples of the recovered substance sent to the chemical examiner for analysis are representative samples of the entire quantity of the recovered substance.
- iv) Section 540 of the Cr.P.C. empowers a trial court to summon or examine a person as a witness. The provision has two distinct parts. The first part is discretionary and empowers any court and at any stage of the trial to summon any

person as a witness or to examine any person in attendance, though not summoned as a witness, or recall or re-examine any person already examined. The second part makes it a mandatory obligation of the court to summon and examine or recall or reexamine any person if the latter's evidence appears to the court to be essential to the just decision of the case...The court, in our opinion, was empowered under section 540 of the Cr.P.C. to decline the prosecution's request to give up the material witnesses or to summon them even if not cited in the calendar of witnesses. It would not have amounted to filling the lacunas of the prosecution's case but to exercise its powers vested under section 540 of the Cr.P.C to enable itself to reach a just decision.

v) The provisions of section 540 of the Cr.P.C. were examined by this Court in Nawabzada Shah Zain Bugti's case⁶, and it was held that it gives wide powers to the court to examine any witness as a court witness at any stage of the case, rather in certain situations it imposes a duty on the court to summon witnesses who could not otherwise be brought before the court. It was observed that the court cannot summarily dismiss an application for additional evidence by merely holding that either such witness was not mentioned in the challan or that it was a belated application or that it may have the effect of filling lacunas in the prosecution's case unless the totality of the material placed before the court is considered to find out whether examination of the witness is essential for a just decision of a case. It was emphasized that the court has to keep in mind that, while trying a case, it has to find out the truth to render a judgment in accordance with the canons of justice.

vi) Section 9-A (2) further empowers the Prosecutor General or the District Public Prosecutor to refer to the competent authority to initiate disciplinary proceedings or to take disciplinary action against any public servant working in connection with investigation or prosecution for any act committed by him or her that is prejudicial to the prosecution.

- Conclusion:**
- i) The positive report of the chemical examiner loses its evidentiary value when safe custody and transmission of contraband is not proved.
 - ii) This chain of custody commences from the stage of the recovery of the alleged material and ends at the delivery of the samples to the chemical examiner's office.
 - iii) The initial onus to prove the offence of recovery of narcotic substance from the accused is always on the prosecution and, once it has discharged that onus to the satisfaction of the court, it is only then that the onus shifts to the accused person to establish falsity of the prosecution's allegation.
 - iv) See above analysis No.iv.
 - v) The court cannot summarily dismiss an application for additional evidence by merely holding that either such witness was not mentioned in the challan or that it was a belated application or that it may have the effect of filling lacunas in the prosecution's case unless the totality of the material placed before the court is considered to find out whether examination of the witness is essential for a just decision of a case.
 - vi) See above analysis No.vi.

- 10. Supreme Court of Pakistan**
Sher Ahmed v. The State and another
Alam Khan v. The State and another
Criminal Appeal No.674 of 2020 and
Criminal Petition No.241 of 2025
Mr. Justice Athar Minallah, Mr. Justice Malik Shahzad Ahmad Khan, Mr.
Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._674_2020.pdf

Facts: Appellants were tried for committing offences under section 365-A/0302 PPC and section 7 of the Anti-Terrorism Act, 1997 and awarded capital punishment by trial court. Their appeals got dismissed from High Court and murder reference was answered in affirmative. The conviction was challenged before the Supreme Court of Pakistan

Issues:

- i) What is duty of police under section 154 Cr.P.C and when a case becomes “cognizable case”?
- ii) What is scope of section 156 Cr.P.C. and why the legislature has empowered Magistrate under section 156(3) Cr.P.C. to order investigation?
- iii) Can a Magistrate order investigation after he has taken cognizance by recording statement of complainant u/s 200 Cr.P.C.?
- iv) When an order for investigation passed under section 156(3) Cr.P.C. would take effect?
- v) Can an inquiry be ordered under section 156(3) Cr.P.C.?
- vi) How an entry as “madd” is against scheme mandated under the Criminal Procedure Code, 1898.?
- vii) Can a retracted judicial confession alone sustain a conviction if found voluntary and truthful?
- viii) What are the legal principles governing the use of a judicial confession as sole basis for conviction?

Analysis:

- i) It is settled law that under section 154 of the Cr.P.C it is the statutory duty of an officer of a police station to enter information relating to a cognizable offence in the book kept and prescribed for this purpose. The expressions 'cognizable offence' and 'cognizable case' have been defined in section 2(f) as meaning an offence or case in which a police officer may, in accordance with the second schedule or under any other law in force, arrest without a warrant. This is distinct from the procedure in case of a non-cognizable offence dealt with under section 155. Section 154 precedes section 156 and mandates that it is the statutory duty of an officer in charge of a police station to register the information and, once the information has been entered in the book prescribed for the purpose of section 154 of the Cr.P.C then it assumes the status of a 'cognizable case' as has been interpreted and held by this Court in the case of Sughran Bibi.
- ii) Section 156 follows section 154 with the heading 'Investigation into cognizable cases' It is, therefore, obvious that it explicitly relates to investigation which

ensues the registration of an FIR or a case under section 154. The section, therefore, becomes relevant in those cases where a case has been registered under section 154. Sub section 3 of section 156 provides that 'any Magistrate empowered under section 190 may order such an investigation as above mentioned'. Section 157 sets out fetters on the power of an officer of a police station relating to investigation, even if a case has been registered under section 154. The officer in charge of a police station, in order to proceed to investigate a case or to depute a person for this purpose, must satisfy the test of having 'reason to suspect' the commission of a cognizable offence. However, proviso (a) and (b) of section 157(1) empowers an officer in charge of a police station to dispense with or not to proceed with the investigation; (a) when the information is against any person by name and the case is not of a serious nature or (b) when it appears to an officer in charge of a police station that there is no sufficient ground to embark on an investigation. However, in such an eventuality there is a statutory duty to forthwith inform the Magistrate in the report required to be sent to the latter, the reasons for such a decision and also notify the informant. The Magistrate may, in exercise of powers vested under section 156(3), order an investigation. It is noted that the legislature has expressly empowered a Magistrate empowered under section 190' to order an investigation. This is significant because there could be eventualities in which information may not have been given or received under section 154 and the complainant may have approached a Magistrate empowered under section 190 to take cognizance under section 200 read with sections 201, 202 and 203 of the Cr.P.C. It is noted that Chapter XIV and Chapter XVI are distinct. In case of Chapter XIV the stage of taking cognizance by a Magistrate is after a report under section 173 has been filed upon conclusion of investigation pursuant to registration of an FIR under section 154. However, the scheme under Chapter XVI is different. The Magistrate has two options when a complaint has been received under section 200, either to entertain the complaint by taking cognizance and proceed under Chapter XVI or to pass an order under 156(3). In the former eventuality the Magistrate would be required to examine the complainant under oath under section 200 and then proceed to pass an order under section 202 of the Cr.P.C. However, if he chooses to pass an order under section 156 (3) then he may also direct the officer in charge of a police station to register the case under section 154 if it relates to the commission of a cognizable offence.

iii) But once the Magistrate has examined the complainant under oath under section 200 then he has to proceed under Chapter XVI and cannot pass an order under section 153(6). This Court, in Mohammad Ramzan's case, had considered the aforementioned provisions and it was held that once a Magistrate has taken cognizance by recording the statement of a complainant then the latter can only proceed under Chapter XVI in accordance with the mandate described under sections 202 to 204. However, if the Magistrate does not take cognizance in the aforementioned manner, then it will be open for him to pass an order under section 156(3) for investigation of the case after registration of a case under section 154. The Supreme Court of India has also interpreted the para materia provisions in a similar manner.

iv) It is, therefore, implicit in section 156(3) that the order of investigation contemplated therein is relatable to registration of a case under section 154 of the Cr.P.C if the crime relates to the commission of a cognizable offence. The order of investigation would be effective when a case is already registered or has been registered pursuant to the order of the Magistrate. The expression 'investigation' has been defined in section 2(l) and it includes all the proceedings under the Code for the collection of evidence, conducted by a police officer or by any authorized person other than a Magistrate. Inquiry has been defined under section 2(k) and it includes every inquiry other than a trial conducted under the Cr.P.C by a Magistrate or a court. The exceptions to carry out an investigation before the registration of a case have been explicitly mentioned in the Cr.P.C e.g in sections 54, 55, 57 or 151 etc. However, even in such eventualities the powers of the police officer are not unfettered. Section 60 and 61 make it mandatory for a police officer to notify the Magistrate or produce the arrested person before such Magistrate. The order of 'investigation', therefore, in the context of section 156(3) refers to investigation in a case which has already been registered or it would follow after the required entry under section 154 has been made pursuant to the order.

v) Moreover, an inquiry cannot be ordered by a Magistrate under section 156(3) because in that case one will have to read in the section something the legislature has not intended.

vi) The scheme of the Cr.P.C contemplates external supervision of a Magistrate over the executive functions of an officer in charge of a police station. As an example, even when it appears to an officer in charge of a police station or the investigation officer that sufficient evidence or reasonable grounds of suspicion exist, this does not justify the forwarding of an arrested accused to a Magistrate and such an accused has to be released, but in such an eventuality the mandatory provisions set out under section 169 have to be complied with. The investigation that follows the registration of a case under section 154 has to be conducted in accordance with the provisions of the Cr. P.C. This is crucial in order to uphold the integrity of the criminal justice system on the one hand and on the other to protect the accused as well as the victim from the abuse of the coercive powers vested in an officer in charge of a police station. The 'madd' is an entry in the daily or station diary. This enables an officer in charge of a police station to circumvent the scheme mandated under the Cr.P.C and to avoid the external supervision against abuse of the coercive police powers. This could have extreme debilitating effects on an accused.

vii) This Court, in Major (Retd.) Tariq Mehmood's case has observed that if the confession is not confidence-inspiring then it cannot be made a basis to convict a person without independent corroboration. It is a general trend of the courts to refrain from basing the convictions solely on the basis of a retracted confession. The rule of abundant caution is to look for independent corroboration in material particulars to ensure the safe administration of justice. However, a judicial confession does not always lose its evidentiary value if there is no independent corroboration. This Court has further held that it is for the court to be satisfied that

the retracted judicial confession was true and voluntary and that it can safely be made a basis for conviction. The true test to judge the evidentiary value of a retracted confession would be that it must be voluntary, truthful and free of any duress and coercion. The retraction of a judicial confession in itself is not a ground to discard it. This Court has, therefore, held that the retracted judicial confession, if found to be voluntary, true and confidence-inspiring, then it alone would be sufficient to sustain a conviction and, further, that the rule of corroboration being a rule of abundant caution is not an inflexible rule to be insisted in each case. If in particular circumstances of the case the court is satisfied that the judicial confession was voluntary, true and confidence-inspiring then it may also justify sustaining a conviction.

viii) In a recent judgment this Court, after surveying the precedent law, has summarized the principles; a solitary judicial confession, if it is made a basis for conviction, then it has to be relied upon in toto without any pick and choose; when there is no other evidence and the confessional statement is the only material for convicting an accused then it has to be either accepted as a whole or rejected accordingly; the exculpatory portion of a confession cannot be discarded while proceeding to rely upon the same for decision of the case; a confession has to be read as a whole and not by relying only on the inculpatory part of the statement; the confessional statement of a person can only inculcate himself and no other person can be inculpated merely because some other person has made any admission; the admission of occurrence by the accused with a different version is not a confession of guilt and the court, without splitting it, has either to accept or reject it as a whole. However, if the admission in parts or full is of a nature which supports the case of the prosecution which is proved through reliable evidence, only then such statement or confession can be used for the purpose of corroboration and supporting evidence. This Court has also held that a judicial confession made by a co-accused is a valid piece of evidence which could be taken into consideration and used as circumstantial evidence against a co-accused of such a confessing accused. Moreover, delay in recording a confessional statement by itself is not sufficient to adversely affect its validity. No hard and fast rule can be laid down to determine the period for recording such confessional statements during the investigation⁶. A delayed confessional statement loses its evidentiary value the longer an accused remains in the custody of the police.

- Conclusion:**
- i) Under section 154 of the Cr.P.C it is the statutory duty of an officer of a police station to register information relating to a cognizable offence and once the information has been entered in the book prescribed for the purpose of section 154 of the Cr.P.C then it assumes the status of a 'cognizable case.'
 - ii) Section 156 Cr.P.C. empowers police to investigate cognizable offences after registration of FIR, while section 156(3) enables a Magistrate to order such investigation—even without an FIR—to ensure that complaints (including those filed directly before the Magistrate under section 200) are properly investigated when warranted.
 - iii) Once a Magistrate takes cognizance by examining the complainant under

section 200, he must proceed under Chapter XVI, but if he has not taken cognizance, he may instead order investigation under section 156(3) Cr.P.C.

iv) An order under section 156(3) Cr.P.C. directs investigation only in respect of a cognizable offence after registration of a case under section 154, either already made or to be made pursuant to the Magistrate's order.

v) An inquiry cannot be ordered by a Magistrate under section 156(3) Cr.P.C.

vi) An entry as "madd" circumvents the Cr.P.C. scheme by avoiding mandatory registration, investigation procedures, and Magistrate's supervision, enabling unchecked police coercive powers.

vii) Yes, a retracted judicial confession alone can sustain a conviction if the court finds it voluntary, truthful, and confidence-inspiring.

viii) See above analysis No.viii.

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- 11. Supreme Court of Pakistan.**
Rahim Shah Mian v. Muhammad Iqbal
Civil Appeal N0.60-P/2016
Ms. Justice Musarrat Hilali, Mr. Justice Shakeel Ahmed, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/c.a._60_p_2016.pdf

Facts: This direct appeal is filed against the judgment passed by the Peshawar High Court, whereby the civil revision petition filed by the respondent was allowed, the concurrent judgments and decrees of the Courts below were set aside, and the appellant's suit for pre-emption was dismissed.

Issues: i) Whether the High Court can overturn the concurrent findings of lower courts, in Revisional Jurisdiction under section 115 CPC?
 ii) What is the effect of non-production of informer of alienation of property to the pre-emptor, in a suit for Pre-Emption?

Analysis: i) It is by now well settled that a revisional Court is fully empowered under Section 115 of the Code of Civil Procedure, 1908 ('the Code') to do so where such findings are based on misreading, non-reading, or misinterpretation of the evidence on record...Where findings suffer from misreading or non-reading of material evidence or are otherwise perverse, the High Court is fully empowered under section 115 of the Code to rectify such errors.
 ii) This Court has consistently held that non-production of the informer may be fatal and may result in an adverse inference being drawn against the pre-emptor. The requirement of Talb-i-Muwathibat under Section 13 of the Act, therefore, remained unproved.

Conclusion: i) Where findings suffer from misreading or non-reading of material evidence or are otherwise perverse, the High Court is fully empowered under section 115 of the Code to rectify such errors.
 ii) Non-production of informer, to pre-emptor about transaction of property, is fatal to plaintiff and the requirements of Talb-i-Muwathibat remains unproved.

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- 12. Supreme Court of Pakistan**
Abdul Sattar Khan v. Umar Ayar
Civil Appeal No.79-P/2016
Ms. Justice Musarrat Hilali, Mr. Justice Shakeel Ahmad, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/c.a_79_p_2016.pdf
- Facts:** Suit for Pre-emption was dismissed from the Trial Court but was decreed by the First Appellate Court. High Court reversed the findings of the First Appellate Court and dismissed the suit. Hence; this appeal.
- Issues:** i) In a suit for Pre-emption, whether it is essential to produce informer of sale transaction as a witness to prove Talb-i-Muwathibat?
 ii) Whether the High Court, in its revisional jurisdiction, is competent to interfere with and set aside concurrent findings of courts below?
- Analysis:** i) The omission to produce the person through whom knowledge of the sale was acquired is a significant shortcoming in the evidentiary chain. The requirement of Section 13 of the Act is not merely procedural but foundational to the enforceability of the right of pre-emption. It mandates that the first demand (Talb-i-Muwathibat) be made immediately upon acquiring knowledge of the sale and be proven through unimpeachable evidence. The appellant's version remained uncorroborated at the most critical point, how and when he came to know of the sale. The lapse of more than three months between the date of mutation (10.04.2010) and the claimed knowledge (25.07.2010) further undermines the promptness and credibility of the alleged Talb... This Court has consistently held that non-production of the informer may be fatal and may result in an adverse inference being drawn against the pre-emptor.
 ii) It is by now well settled that a revisional court is fully empowered under Section 115 of the Code of Civil Procedure, 1908 (the Code) to do so where such findings are based on misreading, non-reading, or misinterpretation of the evidence on record... The second aspect requiring further consideration is whether the High Court, in the exercise of its revisional jurisdiction, was competent to interfere with and set-aside the concurrent findings of the two Courts below on the issue of Talb-i-Muwathibat. The answer is in the affirmative. Where findings suffer from misreading or non-reading of material evidence or are otherwise perverse, the High Court is fully empowered under section 115 of the Code to rectify such errors.
- Conclusion:** i) Yes. It is essential to produce informer of sale transaction as a witness to prove Talb-i-Muwathibat
 ii) Yes. The High Court, in its revisional jurisdiction, is competent to interfere with and set aside concurrent findings of courts below.
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- 13. Supreme Court of Pakistan**
Muhammad Juman & Arab v. The State
Jail Petition No.50/2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._50_2023.pdf

Facts: The complainant alleged that his son was fatally attacked with deadly weapons by the accused following a dispute over passage on a public road. The incident was witnessed by the complainant and his relatives, and the victim succumbed to his injuries at the hospital. The trial and appellate courts convicted the accused and affirmed the sentences, while co-accused were acquitted on benefit of doubt.

Issues:

- i) Is delay in lodging the FIR fatal if reasonably explained by the prosecution?
- ii) Is the testimony of witnesses living near the scene of occurrence reliable if their presence is natural and remains unshaken under cross-examination?
- iii) Does forensic confirmation of human blood on recovered weapons support the prosecution case?
- iv) Can absence of premeditation and unproven motive be considered mitigating factors for reducing a capital sentence?

Analysis:

- i) Under the circumstances, the abovementioned delay in reporting the matter to the police has been plausibly explained by the prosecution and the same is not fatal to the prosecution case.
- ii) The said witnesses being residents of the houses situated near the place of incident were the natural eyewitnesses of the occurrence and their presence at the spot at the relevant time, i.e. 02:15 p.m., is neither unnatural nor improbable. Furthermore, they were cross-examined at length but their evidence could not be shaken. They corroborated each other on all material aspects of the case, and their evidence is reliable, trustworthy and confidence inspiring.
- iii) According to the report of chemical examiner and serologist, the above-mentioned weapons were stained with human blood. It is, therefore, evident that the prosecution case is further corroborated by the recovery of the weapons of offence from the possession of the petitioners, as well as, by the reports of the chemical examiner and serologist.
- iv) In the case of Muhammad Yasin and another vs. The State and others (2024 SCMR 128), while elaborating on the issue of motive, this court observed as under: "10. It is a well-settled proposition of the law that in the absence of premeditation to commit murder where motive is not proved by the prosecution, the same may be considered as the mitigating factor in order to reduce the quantum of sentence in cases involving the capital punishment.

Conclusion:

- i) The delay in lodging the FIR was satisfactorily explained and does not weaken the prosecution's case.
- ii) The eyewitnesses, being natural and reliable, provided consistent and unshaken testimony.

- iii) Recovery of blood-stained weapons, confirmed through forensic reports, corroborates the prosecution's version.
- iv) Absence of premeditation and failure to prove motive may serve as mitigating factors in reducing a capital sentence.

14. Supreme Court of Pakistan
Rajesh alias Rajoo v. The State
Jail Petition No.243 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._243_2023.pdf

Facts: This jail petition arose from the conviction and death sentence awarded by the Trial Court, upheld by the High Court, for the offence of setting the wife on fire resulting in her death. The accused challenged these findings, primarily contesting the reliance on the deceased's purported dying declaration.

Issues:

- i) Whether a conviction for murder can safely rest on a dying declaration not properly corroborated and surrounded by doubts regarding its voluntariness, authenticity, and admissibility under Article 46 of the Qanun-e-Shahadat Order, 1984?
- ii) Whether the failure to establish the authenticity of an electronic dying declaration through forensic examination (FSL) affects its admissibility and probative value in a criminal trial?

Analysis: i) Here it must be explained that a 'dying declaration' is the statement which is made by the victim of homicide offences as to the cause of their death. The rule relating to dying declaration and its admissibility is provided in Article 46 of the Qanun-e Shahadat Order, 1984, which explains that the statement of a dying person is relevant and admissible in evidence, however, for recording such declaration no particular mode has been provided. The principles laid down by this Court are that a dying declaration is a weaker type of evidence, which needs corroboration and that a conviction can be based on the basis of such a declaration when fully corroborated by the other reliable evidence. Thus, the facts and circumstances of each case, have to be kept in view and also the credibility, reliability and acceptability of such a declaration, by the Court... While such a statement may constitute an exception to the general rule of direct evidence, thereby permitting its admissibility in a criminal trial even in the absence of cross-examination of the declarant, the superior courts have consistently maintained that a dying declaration is, at best, a weaker type of evidence which requires cautious appraisal and must ordinarily be corroborated by other reliable and confidence-inspiring material... The video recording of the dying declaration shows the Mst. Radha deceased had not made any statement at her own rather she was being dictated and tutored by her relatives to make a statement against the petitioner... No certificate of the concerned Medical Officer has been produced... None from the Hospital staff appeared in the witness box to affirm that any dying declaration

was made by the deceased as claimed by the prosecution... If all these factors are read in conjunction with each other and in juxtaposition it would reveal that the instant case is not free from doubts and surmises... the dying declaration admittedly not being properly audible could not be relied upon keeping in view the principles elaborately discussed."

ii) Moreover, the video recording of the dying declaration of Mst. Radha-deceased was never sent to the office of the FSL to determine its genuineness, therefore, it is not safe to rely upon said recording.

Conclusion: i) The conviction cannot rest on such a dying declaration without sufficient corroboration under the law.
ii) In the absence of forensic verification, the admissibility and reliability of the video dying declaration is not safe to rely on and warranting benefit of doubt to the accused.

15. Supreme Court of Pakistan
Muhammad Sadiq (deceased) through LRs. v.
Additional District Judge, Toba Tek Singh etc.
C.A. No. 636-L of 2012 In C.P.L.A No.1637-L of 2010
Mr. Justice Shahid Bilal Hassan, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.a._636_1_2012.pdf

Facts: Suit for pre-emption was decreed from the District Court in view of conceding statement of defendant. The High Court, while deciding writ petition, set aside the order and remanded the case to the Trial Court. Hence; this appeal.

Issues: i) Whether principle of lis-pendens is applicable to suits for pre-emption and is there any exception to it?
 ii) What legal developments have, so far, taken place regarding section 52 of the Transfer of Property Act, 1882 and possible defence provided under section 41 of the Act?
 iii) What is the principle regarding applicability of doctrine of lis-pendens if a suit is dismissed and then restored?

Analysis: i) Considering the arguments advanced at bar and going through the record, it is observed that for the determination of this appeal it must be noted that the doctrine of lis pendens is fully applicable to suits for pre-emption as has been held by this Court in judgment reported as Basit Sibtain vs. Muhammad Sharif (2004 SCMR 578) that the validity of a pre-emption decree is not affected by any sale made during litigation and is binding on the purchaser. The only exception to the doctrine of lis pendens applicable to pre-emption claims is in one situation, where the sale by the vendee is to one who has a superior right of pre-emption provided that the sale is within the period of limitation when such right can be exercised.
 ii) ... , it will be appropriate to discuss this Court's position and the significant developments therein concerning Section 52 of the Transfer of Property Act, 1882, ("the Act") and possible defence to the Section 52 of the Act provided

under Section 41 of the Act through which the bona fide purchaser can claim protection... This Court's stance on Sections 41 and 52 of the Act is encapsulated in Muhammad Nawaz Khan vs. Muhammad Khan (2002 SCMR 2003) wherein it was held that a transfer by ostensible owner does not automatically become void simply because it was made pendente lite but such transfer cannot affect the rights of the other parties in the suit... In Muhammad Ashraf Butt v. Muhammad Asif Bhatti (PLD 2011 SC 905), this Court considered the ambit of the doctrine of lis pendens and held as under: The rule unambiguously prescribes that the rights of the party to the suit, who ultimately succeed in the matter are not affected in any manner whatsoever on account of the alienation, and the transferee of the property shall acquire the title to the property subject to the final outcome of the lis... In Tabassum Shaheen vs. Uzma Rahat (2012 SCMR 983), this Court placing reliance on Muhammad Ashraf Butt emphasised that even a bona fide purchaser without notice of litigation is bound by the result of the suit. This principle was reinforced in Aasia Jabeen vs. Liaqat Ali (2016 SCMR 1773), wherein the pre-emptor sold the land during pendency of proceedings before the Supreme Court. In light of this the Court held that any person who purchased the land during pendency of the proceedings before this Court or raised construction thereon did so at his own risk and cost.

iii) So far as the arguments that the petitioner(s) purchased the land during the period when the suit was dismissed, therefore, the principle of lis pendens does not apply to the case of the petitioner; the said argument has no force, because it a settled principle of law by now that if a suit is dismissed and then restored, the restoration order relates to back period and a transfer/sale after dismissal and before restoration is subjected to the principle of lis pendens embodied in Section 52 of the Transfer of Property Act, 1882.

- Conclusion:**
- i) The doctrine of lis pendens is fully applicable to suits for pre-emption. The only exception is the sale by the vendee to one who has a superior right of pre-emption.
 - ii) See above analysis No.ii.
 - iii) Transfer/sale after dismissal and before restoration is subjected to the principle of lis pendens embodied in section 52 of the Transfer of Property Act, 1882.

16. Supreme Court of Pakistan
Muhammad Amin Saqib v. Judge Family Court, Toba Tek Singh and others
CPLA No. 919-L of 2016
Mr. Justice Shahid Bilal Hassan, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.p._919_1_2016.pdf

Facts: The petitions are filed against the judgment of High Court, where the suit for maintenance of minor daughters of the petitioner was decreed and then enhanced by the Appellate Court and by the High Court as well. Now the minors approached this court for further enhancement through a connected petition and present petitioner against the enhancement made by High Court.

Issues: i) Whether Family Court can look into the enhancement of maintenance allowance already decreed by invoking section 151 of the CPC?

Analysis: i) Therefore, to keep the door open for the parties to further challenge and agitate, if aggrieved of the order of enhancement or otherwise, it seems appropriate that in view of the above development, the matter be remanded to the learned trial Court to consider the request of the respondent(s) for enhancement of the maintenance allowance, treating the same as an application under section 151, Code of Civil Procedure, 1908. Operative part of the referred judgment is reproduced infra:

'Family Court had exclusive jurisdiction relating to maintenance allowance and the matters connected therewith. Once the decree by the Family Court in a suit for maintenance (for minors) was granted, thereafter, if the granted rate for monthly allowance was insufficient and inadequate, in that case, institution of fresh suit was not necessary rather the Family Court may entertain any such application (under section 151, C.P.C.) and if necessary make alteration in the rate of maintenance allowance.'

Conclusion: i) The institution of fresh suit for enhancement of maintenance is not necessary; rather the Family Court may entertain any such application under section 151, C.P.C.

17. Supreme Court of Pakistan
Naseem Mai and another v. Malik Muhammad Shah Aalam and others
CPLA No.2872-L of 2022
Mr. Justice Shahid Bilal Hassan, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2872_1_2022.pdf

Facts: The petitioners instituted a suit for recovery of maintenance allowance along with a prayer for marriage expenses. The trial Court partly decreed the suit but the High Court set aside the decree to the extent of marriage expenses while deciding the writ petition. Hence, this petition.

Issues: i) Is there a statutory obligation for a father to pay advance marriage expenses?
 ii) Can courts grant relief based on hypothetical or premature claims not founded on existing rights?

Analysis: i) However, law does not create a statutory obligation on a father to bear advance or indefinite marriage expenses, especially when: no marriage date is fixed; no engagement or preparation is underway and, the claim is speculative and indeterminate in nature.
 ii) Courts are forums of law and not speculation as well as supposition. Relief may only be granted on the basis of existing rights and actual infringement thereof, not of imaginary and hypothetical causes. It has time and again been held by this Court that Courts must be cautious in entertaining claims which are

premature, uncertain or not ripe for adjudication.

- Conclusion:**
- i) Not a statutory obligation for a father to pay advance marriage expenses.
 - ii) Courts must be cautious in entertaining claims that are premature, uncertain, or not ripe for adjudication.

18. Supreme Court of Pakistan
Muhammad Ashraf Anjum v. Sabir Hussain & others
Civil Appeal No. 239-L of 2018
Mr. Justice Yahya Afridi, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/c.a._239_1_2018.pdf

Facts: The appellant filed a suit for specific performance of an agreement to sell immovable property. The suit was decreed by the Trial Court and the decree was upheld by the Appellate Court. Aggrieved by the concurrent findings, the respondents filed a civil revision before the Lahore High Court, which was allowed. Hence; this appeal.

Issues:

- i) Whether a party seeking specific performance must approach the Court with clean hands?
- ii) Whether time can be treated as the essence of the contract in agreements for sale of immovable property, particularly in commercial transactions, and what are the legal consequences of non-performance within the stipulated time?

Analysis:

- i) It is an admitted fact that vide the agreement to sell, the vendors had agreed to sell the suit shop on the terms and conditions mentioned therein. It was admitted during cross-examination by the vendee that no earnest money was paid to the vendors, which clearly demonstrates that he had misstated in the plaint about the factum of payment of earnest money. At this juncture, it is relevant to reiterate the settled equitable maxim that *'he who comes into equity must come with clean hands.'* In this regard, the Court, while applying the aforementioned principle laid down in Justice Khurshid's case, categorically held that relief cannot be extended to a party who approaches the Court with unclean hands or seeks to secure an unethical or un-merited advantage.
- ii) The vendee's failure to perform his obligations within the stipulated time raises the question whether the vendors can validly raise the defence that, since time was the essence of the contract, the Court cannot decree specific performance in favour of the vendee who failed to fulfil his part of the contract within the agreed timeframe (...) It is observed that in cases relating to specific performance, equity, which governs the rights of the parties, does not rigidly adhere to the express terms of the contract. Instead, the Court examines the substance of the agreement to ascertain whether the parties intended that performance be completed within a specific time period... A bare perusal of the terms of the agreement, which have been discussed earlier in this order, clearly reveals that time was the essence of the contract, and this was understood by both parties. (...) The present case obviously relates to a contract in commercial transaction and the

Court can take judicial notice of the fact that the price of real estate is constantly escalating. ... Exercise of jurisdiction, under these circumstances in favour of the vendee when character of the property or other circumstances would render such exercise likely to result in injustice, would be against the settled norms of justice.

- Conclusion:** i) Yes, a party seeking specific performance must approach the Court with clean hands.
ii) See above analysis No.ii.

19. Supreme Court of Pakistan, Ehsan-ul-Haq and others v. Muhammad Nawaz and others` C.A No. 184/2013 IN C.P.L.A.1297/2012 Mr. Justice Shahid Waheed, Mr. Justice Shakeel Ahmad, Mr. Justice Aamer Farooq.
https://www.supremecourt.gov.pk/downloads_judgements/c.a._184_2013.pdf

Facts: The dispute concerns inheritance of property initially owned by a deceased male ancestor and later transferred to his daughter through a Will. The appellants claim that she held the property as a limited owner under customary law, and upon her death, it should have devolved partly to her heirs and partly to the heirs of the original male owner's family. The suit was decreed by the trial court, but the appellate court set aside the judgment and dismissed the suit, which was later upheld by the revisional court, prompting the filing of the instant Civil Appeal.

Issues: i) What is the evidentiary value of a pedigree table?
ii) Whether customary law applies only to ancestral property only?
iii) Whether a Muslim under Hanafi law can validly make a Will for more than one-third of the surplus estate?
iv) Whether section 2-A of The Muslim Personal Law (Shariat) Application Act, 1962 recognizes male heirs who inherited land under customary law before 1948 as absolute owners under Islamic law?

Analysis: i) There is ample case law on the subject that pedigree table alone has little or no probative value and has to be corroborated through independent cogent evidence.
ii) It is also an admitted position that customary law applies only to ancestral property and not acquired land.
iii) The Will under the Hanafi Muslim Law may either be verbal or in writing, however a Muslim cannot, by Will, dispose of more than 3rd of surplus of his estate after payment of funeral expenses and debt.
iv) In a nut-shell, section 2-A clarifies that male heirs who inherited land under customary law before 1948 are recognised as full owners under Islamic law, ensuring absolute rights to the entire property.

Conclusion: i) Pedigree table alone carries little evidentiary value unless supported by independent and reliable evidence.

- ii) Customary law is applicable only to ancestral property, not to acquired land.
- iii) See above analysis No.iii.
- iv) Section 2-A affirms that male heirs who inherited land under customary law before 1948 are deemed absolute owners under Islamic law.

20. Supreme Court of Pakistan
Muhammad alias Ahmad v. The State
Criminal Appeal No. 499 of 2020
Mr. Justice Naeem Akhter Afghan, Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._499_2020.pdf

Facts: An FIR was registered against the appellant and a co-accused for murder. After trial, both were convicted by the Sessions Court under section 302(b) PPC; the appellant was sentenced to death and the co-accused to life imprisonment. On appeal, the High Court acquitted the co-accused but upheld the appellant's conviction, commuting the death sentence to life imprisonment. The appellant challenged this decision before the Supreme Court.

Issues:

- i) Whether conviction can be sustained solely on the basis of ocular testimony when it is contradicted by medical and forensic evidence?
- ii) Whether unexplained delay in lodging the FIR and shifting the deceased to the hospital can create doubt about the prosecution's version?

Analysis:

- i) The sole basis for the conviction of the appellant, as recorded by both courts below, rests upon the ocular testimony of complainant (PW.3) and witness (PW.6), who claimed to have witnessed the occurrence coupled with the medical evidence furnished by (PW.4), who conducted post-mortem examination on the dead body of the deceased. It is rather surprising that (PW.4) observed blackening around firearm entry wounds No.1 and No.2 on the body of the deceased, which strongly suggests a close-range between the appellant and the deceased. Such blackening is not possible from a distance of over 20 feet, thereby materially contradicting the prosecution's version. The eyewitnesses claim that the appellant fired upon the deceased with a 12-bore repeater, ordinarily discharging pellets, not bullets, which is inherently inconsistent with the recovery of intact bullets from the body of the deceased. This fundamental inconsistency further weakens the veracity of the ocular account.
- ii) The occurrence in this case was taken place on 24.04.2011 at 10:30 a.m. However, it was reported by the complainant with a delay of 2 hours and 10 minutes at 12:40 p.m. No explanation for this delay, much less a plausible or satisfactory one, has been offered by the complainant either in the FIR or in his deposition. The conduct of the alleged eyewitnesses in not shifting the deceased to the hospital or the Police Station immediately after the incident is inconsistent with normal human behaviour. In cases of homicidal assault, it is expected that

the kith and kin of the injured or deceased would make every effort to shift him to the nearest medical facility, particularly, with the hope that he may still be alive.

- Conclusion:**
- i) It is unsafe to maintain the conviction on the basis of contradictory medical and forensic evidence.
 - ii) The inordinate delay in the preparation and transmission of police papers coupled with the failure to shift the dead body of the deceased promptly to the hospital or police station, creates serious doubt about the presence of the alleged eyewitnesses at the scene at the relevant time.

21. Supreme Court of Pakistan
Suleman v. The State
Criminal Petition No. 297-L of 2025
**Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim,
 Mr. Justice Ali Baqar Najafi**
https://www.supremecourt.gov.pk/downloads_judgements/crl.p.297_1_2025.pdf

Facts: The petitioner, a 13-year-old juvenile, was tried under section 376 of the Pakistan Penal Code (PPC) for the alleged rape of a 10-year-old girl. He was convicted by the Trial Court, and sentenced to life imprisonment with a fine. The conviction and sentence were upheld by the High Court. Hence; this criminal petition.

- Issues:**
- i) Whether a child between 10 and 14 years of age can be held criminally liable without establishing sufficient maturity under section 83 PPC?
 - ii) Whether trial courts are required to conduct a meaningful inquiry into the maturity of juvenile accused under section 83 PPC?
 - iii) Whether juvenile accused can be subjected to adult punitive procedures in light of the Juvenile Justice System Act, 2018?
 - iv) Whether handcuffing and failing to record age of a juvenile accused violates statutory and constitutional safeguards?

Analysis:

- i) The statutory prerequisites encapsulated in Section 83 PPC may thus be bifurcated into two distinct elements: (i) The child's maturity of understanding to judge the 'nature' of the act; and (ii) The child's maturity of understanding to judge the 'consequences of the act committed'. It is manifest that mere understanding of the nature of an act, unaccompanied by an appreciation of its consequences, does not suffice to establish criminal liability (...) the term 'consequences of the act', as envisaged in Section 83 PPC, is to be interpreted not merely in terms of familial or societal effects but as encompassing knowledge that the act constitutes a criminal offence and may attract penal consequences prescribed by law (...) These considerations lie at the heart of the statutory presumption of *doli incapax* — a common law doctrine embedded within Section 83 PPC.
- ii) It is deeply alarming that in the instant case, no meaningful attempt was made by the learned trial Court, the prosecution, or even the defence to assess the petitioner's level of maturity or to determine whether he fell within the exception

provided by Section 83 PPC. No questions were posed to the petitioner to examine his cognitive awareness or comprehension of the consequences of his act. Despite the gravity of the offence (...) the learned trial Court proceeded in a casual and mechanical manner. (...) Age is a crucial factor in assessing the reliability, credibility, and maturity of a witness or accused, and its absence reflects a serious procedural lapse.

iii) The Juvenile Justice System Act, 2018 represents a vital legislative effort to bring into line Pakistan's juvenile justice framework with the aforementioned international standards. (...) It stipulates that no sentence of imprisonment may be imposed upon a juvenile unless it carries with it the possibility of release, thereby rejecting retributive punishment in favour of a reformative approach. Subjecting them to adult punitive procedures undermines the very philosophy of juvenile justice. It is paradoxical that a person deemed too immature to vote or contract civil obligations may, nevertheless, be exposed to the full rigor of criminal prosecution and sentencing without any assessment of his mental maturity.

(iv) It is also a disturbing and unfortunate revelation that the petitioner, a child of merely around 13 years, was handcuffed while in custody. The act of restraining a child in such a degrading manner not only undermines the legislative intent of affording dignity and care to minors in conflict with the law but also reflects a troubling disregard for the statutory safeguards specifically designed to protect their physical and psychological well-being. Astonishingly, the age of the petitioner was not recorded in the charge sheet. (...) We deem it essential to reiterate that the recording of age is not a discretionary matter or a juvenile-specific safeguard alone, but should be treated as a mandatory requirement that should be uniformly followed in all criminal proceedings.

- Conclusion:**
- i) No, a child between 10 and 14 years of age cannot be held criminally liable unless the prosecution proves that the child had sufficient maturity to understand both the nature and consequences of the act, as required under Section 83 PPC.
 - ii) Yes, trial courts are legally bound to conduct a meaningful inquiry into the cognitive maturity of the juvenile accused under Section 83 PPC, and failure to do so amounts to a serious procedural lapse.
 - iii) See above analysis No.iii.
 - iv) See above analysis No.iv.

22. Supreme Court of Pakistan
Faheem Arshad & others v. Manzoor-ul-Haq and others
C.P.L.A.55/2025
Mr. Justice Yahya Afridi (The Chief Justice), Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 55_2025.pdf

Facts: The directly inducted Tehsildars challenged the promotion call letters issued to promotee Tehsildars before the Service Tribunal, contesting the promotion process and demanding their inclusion in the seniority list with request that amendments be made in rules for equal treatment; Tribunal ordered the

preparation of a revised seniority list and suspended the promotion process pending the outcome of departmental representation, hence the instant petition.

Issues:

- i) Whether rules made or amended under section 23 of the Punjab Civil Servants Act, 1974 have the same legal force as the parent statute?
- ii) Whether sanctioned posts in public administration must be filled promptly to ensure institutional efficiency and service delivery?

Analysis:

- i) Section 23(i) of the Punjab Civil Servants Act, 1974 provides that the Governor, or any person authorized in this behalf may make such rules as appear to him to be necessary or expedient for carrying out the purposes of the said Act. The 2004 Rules have been made by the Governor in exercise of the powers conferred on him under Section 23, and so has the amendment in Schedule-I to the said Rules through notification dated 21.08.2019. These Rules have the same force as the provisions of the statute under which they are framed.
- ii) “Post” denotes the number of posts in the cadre, whether filled or vacant. “Vacancy” means a vacant post available for appointment, through recruitment / promotion, on the creation of new post(s) or retirement. working on death or resignation or removal of the incumbent the post. In public administration, every post in the organizational hierarchy is created after due deliberation and approval, taking into account the functional requirements of the department, the workload, and the efficient delivery of services to the public. This process ensures that each sanctioned post is essential for the functioning of public institutions.

Conclusion:

- i) Rules made or amended under section 23 of the Punjab Civil Servants Act, 1974 have the same legal force as the provisions of the statute under which they are framed.
- ii) Total sanctioned posts promptly is essential for proper functioning of public institutions.

23. Supreme Court of Pakistan
Muhammad Yaqoob (deceased) through legal heirs and others v. Saeeda Bibi (deceased) through legal heirs and Other
Civil Petition No.1841 of 2025
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1841_2025.pdf

Facts: The petitioners being legal heirs of one of the defendants have impugned the judgment of High Court, whereby the civil revision of the petitioners against the concurrent findings of the courts was dismissed.

Issue:

- i) What is the legal effect of section 3 of the West Pakistan Muslim Personal Law (Shariat) Application Act, 1962.
- ii) If the actual parties accept status of a party to a suit and the decrees in favour of plaintiff, whether same question can be agitated again before a higher forum?
- iii) Whether concurrent findings of facts recorded by three courts can be

questioned, if so under what circumstances?

- Analysis:**
- i) Her status as limited owner was terminated under Section 3 of the West Pakistan Muslim Personal Law (Shariat) Application Act, 1962. After termination of her status as limited owner, the property occupied by her would be considered as the property of last male -owner and in this case last male owner was her late husband Siraj Din and according to the Act of 1962, the property has to be reverted back to his legal heirs.
 - ii) Since the actual defendants (Respondents No.3-9) have accepted the decrees in favour of plaintiff (Respondent No.1) and the status of Defendant No. 10 (predecessor of the petitioners) is simply that of a purchaser who legally cannot challenge/question the legal and sharai status of Respondent No.1 or the other respondents. He, (the petitioners) for that matter, has no locus standi and cause of action to challenge the same.
 - iii) The concurrent findings of facts recorded by three Courts cannot be questioned in absence of any misreading or non-reading of material evidence or any other material irregularity or illegality.

- Conclusion:**
- i) See above analysis No. i
 - ii) See above analysis No.i
 - iii) See above analysis No.iii

24. Lahore High Court
Gharibwal Cement Limited & another v. The Province of Punjab & others
W.P No.7572 of 2024.
Mr. Justice Shahid Karim
<https://sys.lhc.gov.pk/appjudgments/2025LHC4940.pdf>

Facts: The petitioners, through writ petitions, challenged the orders of D.G Mines & Minerals as well as the orders of Secretary Mines & Minerals regarding imposition of markup under rule 68(2) and 73(3) of the Punjab Mining Concession Rules, 2002. The Court allowed the petitions, set aside the orders and also declared the rules ultra vires and struck down the same.

Issue:

- i) Whether section 2 of the Regulation of Mines and Oil-fields and Minerals Development (Government Control) Act, 1948 empowers the appropriate Government to frame rules to impose markup for non-payment of royalty or annual rental within stipulated time period?
- ii) What would be the status of delegated legislation when it goes beyond the rule making power conferred by the statute?
- iii) What are constituent elements of the cause of action on the basis of unjust enrichment?

Analysis:

- i) The rule-making power does not encompass the granting of power to levy mark up in the Rules. The making of Rules is a circumscribed and derived power. It can neither be expanded nor enlarged to impose additional burdens which are not

contained in the main enactment. The determination of rates only has been left to the Provincial Government owing to peculiar and varying nature of transactions in each case for which recourse to the legislature may be cumbersome. It is more efficient to do so by means of rule-making or by agreements as determined by the Government. Apart from determination of rates, the Provincial Government may prescribe conditions subject to which royalties, rentals and taxes shall be paid. The term conditions does not clothe the Provincial Government with power to amplify the amount of royalty etc. by levying mark up on any unpaid amount. The two concepts viz. determination of rates and the condition subject to which royalties etc. shall be paid, are distinct concepts and cannot be confused one with the other. If the legislature intended to include the imposition of mark up in the broader power to determine rates, a precise clause could have been added to section 2. It will be noticed that the various clauses of section 2 enjoin clear and specific powers which does not include the levy of mark up. Such a power, therefore, cannot be derived unilaterally to enrich the Provincial Government... There is no doubt in my mind that the term 'any matter ancillary or incidental to the matters set out in the forgoing clauses' will not cover the imposition of markup in case of failure to pay the principal amount of royalty or rentals. These matters would perhaps have connection with the powers of the Government to recover the amount of royalty, rentals and for this purpose provisions have been made in rules 70 and 71 which give power to the Provincial Government to recover the amount of royalty in case of failure by any person to make the payment. Clause (8) of section 2 cannot be extended or interpreted to mean that by rule-making power an additional levy of markup can be imposed on a person whereas the primary enactment does not authorize such a payment to be made.

ii) It is a rule vouched by respectable authority that delegated legislation is intended to advance the purpose of primary legislation and if a rule goes beyond the rulemaking power conferred by the statute or if a rule supplants any provision for which power has not been conferred it becomes invalid... So the rule is that a charge must be imposed by clear and unambiguous language in the statute itself. If there is none, then no power vests in the delegatee to do so by implication through Rules... In short, the delegated power to make rules is circumscribed by the strict periphery of powers defined in the statute itself which cannot be exceeded to assume more powers than granted by the delegator. In particular, no such power can be deemed to have been conferred on the delegatee which brings into existence additional obligations such as in the present case whereby substantial amount of markup is sought to be levied and recovered by the respondents on the misplaced notion that rule-making power included the power to enact such additional burdens.

iii) Another principle which flows out of the above rule against excessive delegation would be the concept of unjust enrichment. There is a substantial body of case law in our jurisprudence which has not only accepted but also applied this concept of unjust enrichment which is a species of the law of restitutionary remedies. There is a discussion regarding concept of unjust enrichment in Orient

Power Company (Pvt.) Ltd through Authorized Officer v. Sui Northern Gas Pipelines Limited through Managing Director (2021 SCMR 1728) and the recent decisions of the superior courts have also been referred. The judgment of the Canadian Supreme Court in the case *Garland v. Consumers Gas Co.* [2004] 1 S.C.R. 629 was referred which laid down that there were three elements to the cause of action on the basis of unjust enrichment; i) an enrichment of the defendant; ii) a corresponding deprivation of the plaintiff; and iii) an absence of juristic reason for the enrichment. On the basis of above criteria it was held by the Supreme Court that: “96. Upon analysis of the above cases, it must be seen that for a claim of unjust enrichment to succeed, there must be enrichment at the expense of the plaintiff and this enrichment must be unjust in such a way that there should be no lawful justification for the same...” Similarly, there is an erudite discussion regarding unjust enrichment in *Haider Industries through Managing Partner and others v. Federation of Pakistan through Secretary, Law Division at Islamabad and others* (2016 PTD 2004) and *Sui Northern Gas Pipelines v. Deputy Commissioner Inland Revenue and others* (2014 PTD 1939). The definition of unjust enrichment given in the American Restatement (Third) of Restitution & Enrichment (AM LAW INST.) 2011 states that: “Any unequal transfer of value without an adequate legal basis” The general principles can also be gleaned from a judgment of the Supreme Court of United Kingdom 2015 UKSC

- Conclusion:**
- i) Section 2 of the Regulation of Mines and Oil-fields and Minerals Development (Government Control) Act, 1948 does not empower the concerned Government to frame rules to impose markup for non-payment of royalty or annual rental.
 - ii) Delegated legislation, which goes beyond the rule making power conferred by the statute, is invalid.
 - iii) See above analysis No.iii.

25. Lahore High Court
Muhammad Imran v. Shahbaz Ali Khan and others
Writ Petition No.2913 of 2024
Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC4495.pdf>

Facts: Respondent No.1’s two eviction applications under section 19 of the Punjab Rented Premises Act, 2009 (hereinafter referred to as “Act, 2009”) were allowed upon completion of the prescribed procedure. Feeling aggrieved, the petitioners preferred their respective appeals before the appellate forum but the same were dismissed *in limine*, being barred by time. Resultantly, the instant constitutional petitions were preferred, which are being decided through this single judgment.

Issues:

- i) Which law governs the exclusion of time in legal proceedings for the purpose of computing the period of limitation for instituting a suit, appeal or application?
- ii) What types of period are excluded while computing the period of limitation?
- iii) Which period will be regarded as ‘*time requisite*’ for obtaining a copy of

decree, sentence, order, judgment or award?

iv) When was sub-section (5) incorporated into section 12 of the Limitation Act, 1908?

v) What is the period of limitation available to an aggrieved person for filing an appeal against a final order?

Analysis:

i) Section 12 of the Limitation Act, 1908 (hereinafter referred to as “Act, 1908”) provides a mechanism for exclusion of time in legal proceedings for the purpose of computing the period of limitation for instituting a suit, preferring an appeal or moving an application.

ii) From the perusal of Sub-Section (2) above, it is manifestly clear that in computing the period of limitation prescribed for an appeal, the day on which the judgment complained is pronounced, and the ‘*time requisite*’ for obtaining a copy of the decree, or order appealed from shall be excluded.

iii) Sub-Section (5), on the other hand, ordains that for the purposes of Sub-Sections (2), (3) and (4), the ‘requisite time’ for obtaining a copy of decree, sentence, order, judgment or award shall be deemed to be the time intervening between the day on which an application for the copy is made and the day actually intimated to the applicant to be the day on which the copy will be ready for delivery (...) Section 12 of the Act, 1908 more specifically Sub-Section (5) though mandates that for the purposes of Sub-Sections (2), (3) and (4), ‘*time requisite*’ for obtaining a copy of the decree, sentence, order, judgment or award shall be deemed to be the time intervening between the day on which an application for the copy is made and the day actually intimated to the application to be the day on which the copy will be ready but it does not say in clear words that limitation shall be counted from the dated of delivery of order or judgment.

iv) It would not be out of context to mention herein that initially Sub-Section (5) was not part of Section 12 of the Act, 1908 and it was introduced as part of the said provision in the year 1991 through Limitation (Amendment) Act, XIII of 1991, keeping in view the observations recorded by the Supreme Court of Pakistan in the case of *Ahmad Nawaz (supra)*.

v) As the ejectment applications were filed under the Provisions of the Act, 2009 so the order passed therein is appealable under Section 28 of the Act, 2009, which provides 30- days’ time period to an aggrieved person to prefer an appeal against the final order.

Conclusion:

i) Section 12 of the Limitation Act, 1908.

ii) The day of pronouncement of judgment and the time requisite for obtaining a copy of the decree, or order.

iii) See above analysis No. iii.

iv) In the year 1991.

v) 30- days.

26. Lahore High Court
Munir Ahmed, etc. v. District Judge Attock, etc.
W.P. No2157 of 2025
Mr. Justice Mirza Viqas Rauf.
<https://sys.lhc.gov.pk/appjudgments/2025LHC4882.pdf>

Facts: This constitutional petition arises from a judgment modifying a penalty imposed on the petitioners for unauthorized medical practice. The relevant authority inspected a clinic operated by the petitioners and found one of them engaged in allopathic treatment without the required qualifications or registration. This led to sealing of the premises and imposition of a fine by the regulatory body under the Punjab Healthcare Commission Act, 2010. On appeal, the fine was subsequently reduced by the appellate court.

Issues:

- i) What powers are conferred upon the Punjab Healthcare Commission under section 40 of the Act, 2010 regarding the framing of regulations?
- ii) What authority does the Punjab Healthcare Commission have under S.28 of the Act, 2010 to impose fines for contravention of its provisions, and what is the maximum limit prescribed?
- iii) What is the role of a Committee nominated by the Punjab Healthcare Commission under the Act, 2010, and how is it defined in terms of exercising the Commission's powers?

Analysis:

- i) Section 40 of the Act, 2010 empowers the Commission to make regulations for carrying out the purposes of the Act by notification in the official gazette.
- ii) There is no cavil from the bare reading of the above referred provision that in terms thereof, it is the Commission, who on contravention of any provision of the Act, 2010, rules or regulations, impose fine which may extend to five hundred thousand rupees in accordance with the provisions of the Act, 2010, keeping in view the gravity of the offence.
- iii) Any Committee nominated by the Commission is termed as 'Competent Authority' for the purposes mentioned therein which includes the exercise of all or any powers of the Commission as provided for in the Act, 2010.

Conclusion:

- i) Section 40 empowers the Commission to frame regulations through official gazette notifications for implementing the Act.
- ii) The Commission is authorized to impose fines up to Rs.500,000 for violations of the Act, rules, or regulations, considering the gravity of the offence.
- iii) A Committee nominated by the Commission is deemed the 'Competent Authority' empowered to exercise any or all powers of the Commission under the Act.

27. Lahore High Court
Mst. Nosheen Ali Nasir v. Additional Sessions Judge and others
Crl. Misc. No. 46048/M/2024
Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4430.pdf>

- Facts:** The Petitioner (who is the complainant of the case) moved an application before the Judicial Magistrate praying that witness be allowed to record his evidence through a video link which was declined. The revision petition was also dismissed. Both courts held that a “fugitive from law loses his normal rights.” Hence; this criminal miscellaneous petition.
- Issues**
- i) What is meaning and scope of term “fugitive”?
 - ii) What is meaning and scope of term “proclaimed offender”?
 - iii) What is meaning and scope of term “absconder”?
 - iv) What is video conferencing and its use in judicial proceedings?
 - v) Whether the testimony of a witness may be recorded through a video link in criminal proceedings?
 - vi) Who is competent to testify under Article 3 of Qanun-e-Shahadat Ordinance, 1984?
 - vii) Whether competency of witness is distinct from credibility of witness?
 - viii) Whether the testimony of witness may be recorded in one case even if the witness is a proclaimed offender in another case?
- Analysis:**
- i) A fugitive is a person who evades arrest, detention, or prosecution at any stage of the criminal process. The term is broad and may apply before or after indictment or even after conviction. The defining feature is the wilful evasion of lawful authority. A fugitive may forfeit certain rights, such as the right to appeal while at large, and courts may restrict access to legal remedies.
 - ii) A proclaimed offender is a person who has been formally declared as such by a court, typically under section 87 Cr.P.C. This occurs when a court has issued an arrest warrant, made repeated attempts to apprehend the person, and found that he is intentionally avoiding arrest or legal proceedings. This declaration entails more serious legal consequences than being a fugitive. Once someone is declared a proclaimed offender, his property may be attached under section 88 Cr.P.C., and he may face further restrictions in both criminal and civil matters. While absconding may precede proclamation, the latter requires formal judicial determination and results in broader procedural restrictions.
 - iii) An absconder is a person who deliberately avoids appearance after legal proceedings have been initiated, typically by failing to attend court after the process has been served. Although both fugitive and absconder describe evasion, the distinction lies in context. A fugitive refers to anyone attempting to escape justice at any stage, while an absconder refers explicitly to an individual who has already been summoned and then deliberately fails to comply with court orders. Legal consequences for absconding may include cancellation of bail and denial of certain procedural protections.
 - iv) Video conferencing is a technological development that enables real-time visual and auditory communication between individuals in different places. Its use in judicial proceedings, including criminal trials, has expanded considerably in recent years. Courts have adopted it to reduce delays, protect vulnerable witnesses, and address logistical or security challenges while maintaining

procedural fairness. However, its use is subject to each jurisdiction's legal framework and judicial discretion.

v) To sum up, the use of video conferencing for the recording of evidence is well established in comparative and domestic jurisprudence. The legal frameworks in various jurisdictions, including Pakistan, permit its use where appropriate, subject to judicial discretion and procedural safeguards.

vi) Article 3 of the QSO provides that all persons are competent to testify unless the court considers that they are prevented from understanding the questions put to them or from giving rational answers due to tender years, extreme old age, disease, or any similar cause. A person convicted of perjury or giving false evidence is not competent unless the court is satisfied that he has since repented and reformed. The court must also assess the competence of a witness in light of the qualifications prescribed by the Injunctions of Islam as laid down in the Holy Quran and Sunnah. However, where such a witness is not forthcoming, it may record the testimony of any available witness.

vii) It is necessary to emphasize that competency is distinct from credibility. Competence relates to a witness's legal capacity to testify, which is determined at the threshold. On the other hand, credibility concerns the weight attached to that testimony and is assessed by the court in light of the surrounding circumstances.

viii) Article 3 of the QSO sets out an exhaustive framework for determining the competence of a witness. It does not disqualify a fugitive, absconder, or proclaimed offender from testifying. Courts are bound to apply that provision as enacted and may not introduce new disqualifications or conditions, as the Supreme Court affirmed in Tahir Sadiq's case, *supra*. Accordingly, the mere fact that a person has been declared a proclaimed offender in one case does not render him incompetent to testify in another.

- Conclusion:**
- i) See above analysis No.i.
 - ii) See above analysis No.ii.
 - iii) See above analysis No.iii.
 - iv) See above analysis No.iv.
 - v) The legal frameworks in various jurisdictions, including Pakistan, permit its use where appropriate, subject to judicial discretion and procedural safeguards.
 - vi) See above analysis No.vi.
 - vii) See above analysis No.vii.
 - viii) The mere fact that a person has been declared a proclaimed offender in one case does not render him incompetent to testify in another.

28. Lahore High Court
Naseem Kousar v. The State and another
Criminal Appeal No. 351/2024
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4744.pdf>

Facts: The appellant through this appeal has challenged her conviction in a case FIR registered for the offences under section 9(1)-6(d) of the Control of Narcotic

Substances Act, 1997.

- Issues:**
- i) How the Ameer Zeb case (PLD 2012 SC 380) change the approach of courts in narcotics cases?
 - ii) What are the guiding principles in interpretation of statutes to know that a provision is mandatory or directory?
 - iii) What is the nature of registers no. II, XIX and XXI of the police station; which information must be incorporated in register no. II?
 - iv) What is the importance of registers no. II, XIX and XXI of the police station in trial of cases under Control of Narcotics Substances Act, 1997?
 - v) What are two important and necessary steps in proof of narcotics cases?
 - vi) Whether the judgments of august Supreme Court are prospective or have any retrospective application?
 - vii) In the light of Section 29 of the CNSA how and when the burden of proof would be shifted?

- Analysis:**
- i) In all criminal cases, the prosecution must prove the charge against the accused beyond a reasonable doubt. At the same time, the principle that “the harsher the sentence, the stricter the standard of proof”¹ must be kept in view. Until 2012, our courts generally held that procedural technicalities could be overlooked in cases involving possession or transportation of narcotics, and a conviction could be recorded if, upon consideration of the entire material, the court was satisfied that the charge had been proved. However, in *Ameer Zeb v. The State* (PLD 2012 SC 380), the Supreme Court of Pakistan ruled that courts must exercise greater care when trying offences under the CNSA due to the severity of the punishments prescribed.
 - ii) A provision is mandatory if non-compliance renders the related proceedings illegal or void; it is directory if substantial compliance is sufficient to preserve their validity. A key consideration is whether non-compliance causes inconvenience or injustice. The courts often apply three tests in this regard: (i) the scope and object of the enactment; (ii) considerations of justice and balance of convenience; and (iii) whether the provision relates to the performance of a public duty or the protection of an individual right. Provisions relating to public duties are generally considered directory, while those involving individual rights or privileges are treated as mandatory.
 - iii) The registers listed in Rule 22.45 of the Police Rules, inter alia, include the Station Diary/Daily Diary (Roznamcha) (Register No. II), the Store Room Registrar (Register No. XIX), and the Bound Book of Road Certificates (Register No. XXI). Register No. II (the Station Diary) is a complete record of all events that take place at the police station. Rules 22.48 and 22.49 of the Police Rules prescribe the procedure for maintaining Register No. II and the matters to be entered therein. Register No. II should record not only the movements and activities of all police officials and officers but also the visits of outsiders, whether officials or non-officials, coming or brought to the police station for any purpose whatsoever. In narcotics cases, Register No. II must reflect when the

police proceed for a raid or other proceedings. Thus, Register No. II is an authentic way to verify the genuineness of various prosecution claims and procedural steps of the case.

iv) Register Nos. II, XIX and Road Certificates greatly help foster public trust and provide credibility to the raid and recovery proceedings. They also help establish the chain of custody of case property and the transmission of sample parcels to the PFSA/Government Analyst, which is essential for convicting an offender under section 9 of the CNSA.

v) It is necessary to highlight two things: firstly, safe custody of the case property is pivotal in prosecutions based on the recovery of contraband material. The prosecution must establish that the chain of custody, including both the sample parcels and the remaining bulk, remained intact at every stage... Secondly, the prosecution must produce the recovered narcotics before the court during the trial and have them exhibited through a competent witness.

vi) The Deputy Prosecutor General referred us to some cases which seem to take the view that the Supreme Court's judgments are always prospective.¹⁴ However, the decision in Malik Asad Ali's case, which 10 Hon'ble Judges rendered, prevails over contrary rulings delivered by Benches of lesser strength... We may now refer to some cases which affirm the principle that the Supreme Court's interpretation and declaration of law applies to all pending cases, other than the one in which the ruling is delivered.

vii) Section 29 of the CNSA creates a statutory presumption of guilt and shifts the burden of proof onto the accused once the prosecution has established certain foundational facts. This principle of reverse burden is not unique to the CNSA. Similar provisions exist under the Offences in Respect of Banks (Special Courts) Ordinance, 1984,¹⁹ and previously under the National Accountability Ordinance, 1999.²⁰ However, this reverse burden does not absolve the prosecution of its initial duty. The Supreme Court has consistently held that such presumptions are not automatic but are triggered only after the prosecution establishes a *prima facie* case. Therefore, the ordinary burden of proof remains with the prosecution until that threshold is met.

Conclusion: i) Until 2012, our courts generally held that procedural technicalities could be overlooked in cases involving possession or transportation of narcotics. However, in *Ameer Zeb v. The State* (PLD 2012 SC 380), the Supreme Court of Pakistan ruled that courts must exercise greater care when trying offences under the CNSA due to the severity of the punishments prescribed.

ii) A provision is mandatory if non-compliance renders the related proceedings illegal or void; Provisions relating to public duties are generally considered directory, while those involving individual rights or privileges are treated as mandatory.

iii) Station Diary/Daily Diary (Roznamcha) (Register No. II), the Storeroom Registrar (Register No. XIX), and the Bound Book of Road Certificates (Register No. XXI). Register No. II (the Station Diary) is a complete record of all events that take place at the police station.

iv) See above analysis No.iv.

v) It is necessary to highlight two things: firstly, safe custody of the case property is pivotal in prosecutions based on the recovery of contraband material. Secondly, the prosecution must produce the recovered narcotics before the court during the trial and have them exhibited through a competent witness.

vi) See above analysis No.vi.

vii) The reverse burden does not absolve the prosecution of its initial duty. The Supreme Court has consistently held that such presumptions are not automatic but are triggered only after the prosecution establishes a prima facie case.

29.

Lahore High Court

Muhammad Azam v. The State

Criminal Appeal No.36927-J/2022

The State v. Muhammad Azam

Murder Reference No.145/2022

Shahid Hussain v. The State, etc

P.S.L.A. No.35019/2022

Mr. Justice Ali Zia Bajwa, Mr. Justice Farooq Haider

<https://sys.lhc.gov.pk/appjudgments/2025LHC4586.pdf>

Facts:

The appellant, along with others, was tried in a private complaint alleging he lured the deceased to a location where armed assailants opened fire, fatally shooting the deceased in a vehicle while his family members narrowly escaping injury. The trial court acquitted the co-accused but convicted the appellant, sentencing him to death with additional imprisonment and fines. The case reached this Court for sentence confirmation and review of the co-accused's acquittal.

Issues

- i) What is the legal effect of unexplained delay in registration of FIR on the credibility of the prosecution's case?
- ii) Can dishonest improvements in witness statements undermine their credibility?
- iii) What is the evidentiary value of medical evidence in establishing the identity of the assailant in a criminal case?
- iv) What is the legal effect of recovery made during the accused's illegal detention on the evidentiary value of forensic reports?
- v) Is a single flaw or circumstance in the prosecution's case sufficient to justify an acquittal?
- vi) Under what circumstances can an appellate court interfere with an order of acquittal?

Analysis:

- i) It is well settled that when there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay and failure to do that will badly reflect upon the credibility of prosecution version.
- ii) By now it is well settled that witness who introduces dishonest improvement or omission for strengthening the case, cannot be relied;
- iii) medical evidence is mere supportive/confirmatory type of evidence; it can tell about locale, nature, magnitude of injury, duration of the injury and kind of

weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury; therefore, same neither can provide any corroboration nor is of any help to the prosecution in peculiar facts and circumstances of the case

iv) empties were sent to Punjab Forensic Science Agency after arrest of the accused and it also goes without saying that if accused was arrested on 12.11.2020 then after the statutory period provided under Section: 61 read with Section: 167 Cr.P.C., further detention of the appellant with the police was illegal and so pistol was allegedly recovered on 04.12.2020 from the appellant when he was in illegal custody which also raises question mark about legal efficacy of the recovery and all these factors make the report of Punjab Forensic Science Agency as non-conclusive and recovery as inconsequential.

v) It is well established principle of law that single dent/ circumstance in case of prosecution is sufficient for acquittal;

vi) By now it is well settled that acquittal cannot be disturbed for the reason that another view was equally possible; (...) Furthermore, after acquittal, accused attains double presumption of innocence and same can only be disturbed/interfered with if it is capricious/fanciful/ perverse/speculative/ artificial or arbitrary, however, without these factors, order of acquittal cannot be interfered with

- Conclusion:**
- i) Unexplained delay in lodging the report undermines the credibility of the prosecution's version.
 - ii) Witnesses making dishonest improvements or omissions cannot be deemed reliable.
 - iii) Medical evidence cannot establish the identity of the assailant and is thus unhelpful.
 - iv) Recovery made during illegal detention renders forensic findings unreliable and legally ineffective.
 - v) Even a single flaw in the prosecution's case suffices to warrant acquittal.
 - vi) Acquittal cannot be overturned unless shown to be arbitrary or grossly unreasonable.

30.

Lahore High Court

Muhammad Gulzar v. The State, etc

Writ Petition No.2760/2025

Mr. Justice Farooq Haider, Mr. Justice Ch. Sultan Mahmood

<https://sys.lhc.gov.pk/appjudgments/2025LHC4983.pdf>

Facts:

The petitioner was convicted in two separate criminal cases and sentenced accordingly. In both cases, his death sentence was modified to life imprisonment on appeal, with other sentences maintained. He sought a direction from the High Court through this petition to treat the sentences in both cases as running concurrently, as the jail authorities were treating them consecutively.

- Issues:**
- i) Whether the High Court has jurisdiction to order that sentences awarded in separate trials may run concurrently?
 - ii) Under what provision of law can courts direct that sentences arising out of separate or subsequent trials run concurrently?
- Analysis:**
- i) By now it is well settled that this Court can order for running of the sentences awarded to the convict in a case or even in more cases concurrently;
 - ii) case of “Rahib Ali versus The State” (2018 SCMR 418) and relevant portion whereof is being reproduced below: - In the light of discussion made above, there remains no doubt that the High Court and so also this Court have jurisdiction under section 561-A read with section 35 and or section 397, Cr.P.C. as the case may to ordered such multiple sentences in same transaction/trial or in a separate and subsequent trial to run concurrently”
- Conclusion:**
- i) High Court can order that sentences in one or multiple cases may run concurrently.
 - ii) Sections 561-A, 35, and 397 Cr.P.C. confer jurisdiction on the High Court to order concurrent running of sentences from same or separate trials.

31. Lahore High Court
Criminal Appeal No. 39441-J/2022
Muhammad Arif v. The State.
Murder Reference No.163/2022
The State v. Muhammad Arif
Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC4602.pdf>

- Facts:** The appellant was tried for offences under sections 302 and 324 of the Pakistan Penal Code (PPC), with additional charges under sections 337 F(iii) and 337 F(vi) PPC added later. The trial court convicted and sentenced the appellant, leading to this appeal. This judgment addresses both the Criminal Appeal against the appellant's convictions and the Murder Reference from the trial court, as both arise from the same judgment.
- Issues:**
- i) Whether any weight can be given to minor discrepancies and trivial inconsistencies in the statements of the witnesses?
 - ii) Whether any discrepancy regarding number and locale of firearm injuries can be emphasized in stricto-sensu?
 - iii) Can ocular account be discarded/thrown away by the medical evidence”
- Analysis:**
- i) Minor discrepancies do appear with the passage of time, however, no weight can be given to said discrepancies and trivial inconsistencies in the statements of the witnesses as same neither have any adverse effect nor can demolish the case of prosecution.
 - ii) In the case of firearm injuries, photographic view of the occurrence neither can be captured by the human eye nor can be expected from the witness because speed of bullet is more than speed of sound i.e. bullet hits first and its sound is

heard subsequently by the witness, therefore, in the pandemonium situation at the time and place of occurrence, when bullets are being fired through firearm weapon at the deceased or injured/ victim, then any discrepancy regarding number and locale of injuries cannot be emphasized in stricto-sensu.

iii) If ocular account is confidence inspiring, then it cannot be discarded/thrown away by the medical evidence.

- Conclusion:**
- i) No weight can be given to said discrepancies and trivial inconsistencies.
 - ii) Any discrepancy regarding number and locale of firearm injuries cannot be emphasized in stricto-sensu.
 - iii) See Analysis No.iii.

32. Lahore High Court
Talib Hussain v. Muhammad Akram
Civil Revision No. 491-D of 2015
Mr. Justice Rasaal Hasan Syed
<https://sys.lhc.gov.pk/appjudgments/2025LHC4613.pdf>

Facts: Respondent filed a suit for pre-emption to challenge the sale of land. The suit was decreed in his favor by the trial court. Petitioner filed an appeal against the judgment, which was dismissed by the Appellate Court. Hence; this civil revision.

- Issues:**
- i) What is the legal effect of not producing the original informer (source) of sale in proving Talb-i-Muwathibat in a pre-emption suit?
 - ii) Whether Talb-i-Muwathibat can be deemed proved on the basis of hearsay evidence and without proving the time, date, and place of first knowledge of sale?
 - iii) What is the evidentiary requirement to prove Talb-i-Ishhad, and what is the consequence of not producing the scribe or the notice itself?

Analysis:

- i) The statement of PW2 was just hearsay which was inadmissible under Article 71 of Qanun-e-Shahadat Order, 1984 and that the production of patwari halqa was necessary to complete the chain of obtaining and passing of the first information of sale to respondent and that talb-i-muwathibat could not be claimed to have been proved on the basis of hearsay (...) It was, therefore, necessary for the preemptor to produce the patwari as a witness to complete the chain of source of information which having not been done, the adverse inference under Article 129(g) of Qanun-e-Shahadat Order, 1984 could be drawn to assume that the patwari halqa was withheld as he was not willing to support the respondent/preemptor or PW2 in this context.
- ii) Only the complete chain of the source of information of the sale can establish the essential elements of Talb-e-Muwathibat, which are: (i) the time, date and place when the preemptor obtained the first information of the sale and, (ii) the immediate declaration of his intention by the preemptor to exercise his right of preemption, then and there, on obtaining such information (...) In the present case, such chain of the source of passing on the information, as to the fact of sale of the suit land has not been proved and the entire case as to making of Talb-e-

Muwathibat is built on the hearsay evidence.

iii) The requirements of talb-i-ishhad that the preemptor shall declare that he had made talb-i-muwathibat and that he undertakes to enforce it, were not fulfilled as it was neither claimed in the plaint nor in the evidence that such a declaration was made by the respondent while the evidence is to the extent of preparation of notice by a learned counsel which was signed by respondent and his witnesses (...) So much the notice was not produced in evidence of PW1 nor was the scribe of the notice produced rather notice was tendered in the statement of learned counsel which was inadmissible in law.

Conclusion: i) Talb-i-Muwathibat cannot be held proved without producing the original source of information, as hearsay evidence is inadmissible.
 ii) Talb-i-Muwathibat is not valid unless the time, date, and place of first knowledge of the sale are proved through direct and credible evidence.
 iii) Talb-i-Ishhad cannot be sustained without a valid Talb-i-Muwathibat and without meeting the legal requirements of declaration and proper evidence.

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- 33. Lahore High Court**
Mst. Aarzoo Meena Khalid v. Learned Addl. District Judge, Rawalpindi and another.
W.P. No.2173 of 2022
Mr. Justice Rasaal Hasan Syed
<https://sys.lhc.gov.pk/appjudgments/2025LHC4628.pdf>
- Facts:** Through Constitutional petition, the petitioner challenged order of Appellate Court whereby appeal was allowed and the ejectment order was set aside and ejectment petition was declined.
- Issue:** What presumption is drawn, in the absence of any evidence to the contrary, about the person having title of property and the one having its possession?
- Analysis:** It is settled rule that in the absence of any admissible evidence to the contrary the title of landlord would be a strong presumption of existence of tenancy between the parties. Reference can be made to Shajar Islam v. Muhammad Siddique and 2 others (PLD 2007 SC 45) where it was observed to the effect that in the normal circumstances in absence of any evidence to the contrary, the owner of the property by virtue of title is presumed to be a landlord and person in possession of the premises is considered as tenant under the law or the tenancy may not be necessarily created by written instrument in express terms rather may be oral and implied. Reference can also be made to Ahmad Ali alias Ali Ahmad v. Nasar Ud Din and another (PLD 2009 SC 453) in this context.
- Conclusion:** The owner of the property by virtue of title is presumed to be a landlord and person in possession of the premises is considered as tenant.
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- 34. Lahore High Court**
Mirza Imtiaz Baig v. Mirza Hamayun Ashraf Baig and another
W.P. No.1684 of 2022
Mr. Justice Rasaal Hasan Syed
<https://sys.lhc.gov.pk/appjudgments/2025LHC4621.pdf>

Facts: The petitioner filed eviction petition under section 15 of the Punjab Rented Premises Act, 2009, seeking removal of the respondent from certain commercial premises on different grounds. It was asserted that the tenancy initially began with their respective predecessors and later continued orally. The respondent denied the landlord-tenant relationship, claiming ownership of the property through registered sale deeds executed by a co-owner. He contended that he was a co-sharer and could not be evicted except through a decree of partition. The Rent Controller ordered eviction, but the appellate court reversed the decision, accepting the respondent's claim. The petitioner challenged the appellate court's order through the present constitutional petition.

Issues:

- i) Can a tenant, after purchasing a share in the rented property, continue to be treated as a tenant for the purposes of eviction?
- ii) Whether a tenant can challenge the landlord's title on the ground that it was extinguished after the commencement of tenancy?
- iii) Whether utility bills in the name of a person can be relied upon as proof of ownership in property disputes?

Analysis:

- i) Ordinarily a tenant in possession of property cannot deny the title of landlord unless he vacates the premises. Such rule is, however, not absolute. If the tenant acquires title in the property which was held by him as a tenant his status will transform to co-sharer. He could not be ejected except through partition in such development. Reference can be made to Mst. Sanobar Sultan and others v. Obaidullah Khan and others (PLD 2009 SC 71) and Abdul Zahir v. Jaffar Khan (2010 SCMR 189).
- ii) In Syed Izhar Ul Hassan Rizvi v. Mian Abdur Rahman and others (1992 SCMR 1352) it was observed that the doctrine of estoppel was not exhaustive and tenant could plead that his landlord's title had come to an end or was extinguished subsequent to commencement of tenancy.
- iii) As regards the plea of electricity and sui gas bills being in name of father of the petitioner, these documents do not convey any title nor reflect as proof of title in the property and, therefore, no reliance can be placed thereupon.

Conclusion:

- i) If the tenant acquires title in the property which was held by him as a tenant his status will transform to co-sharer.
- ii) See above analysis No.ii.
- iii) Utility bills do not convey any title nor reflect as proof of title in the property.

35. Lahore High Court
M/s Azgard Nine Limited and others v. Government of Punjab, etc.
W.P. No. 30280 of 2025
Mr. Justice Asim Hafeez.
<https://sys.lhc.gov.pk/appjudgments/2025LHC4809.pdf>

Facts: The constitutional petitions challenge the validity of certain government notifications on the ground that they violate the scheme of the Provincial Employees' Social Security Ordinance, 1965, by directing contributions to be calculated based on revised minimum wage rates, thereby rendering core provisions of the Ordinance ineffective. The central issue is whether these notifications align with or deviate from the framework of the Ordinance?

Issues:

- i) Whether the minimum wage fixed under the Punjab Minimum Wage Act, 2019 can be used as a benchmark for computing contributions under the Provincial Employees' Social Security Ordinance, 1965 without disrupting its statutory scheme?
- ii) Whether the doctrine of *casus omissus* can be invoked when Section 71 of the Ordinance clearly provides the mechanism for determining benchmark wage?
- iii) Whether subordinate rules can override or extend beyond the scope of the parent statute?

Analysis:

- i) Minimum wage under the Punjab Minimum Wage Act, 2019 cannot be used as a benchmark for contribution under the Ordinance without disrupting its scheme.
- ii) No resort to the doctrine of *casus omissus* can be made when there is no ambiguity and enactment clearly provides mechanism for determination of benchmark wage in terms of Section 71 of the Ordinance.
- iii) Rules cannot claim to be taller than the parent statute and jurisprudence in this behalf is well settled.

Conclusion:

- i) Competent Authority must record reasons with supporting material evidence when enhancing the penalty under section 13 of PEEDA Act, 2006.
- ii) Doctrine of *casus omissus* is inapplicable where section 71 of the Ordinance clearly provides the mechanism for determining benchmark wage.
- iii) Subordinate rules cannot override or extend beyond the provisions of the parent statute.

36. Lahore High Court
Muhammad Nadeem Anjum v. Senior Member/Member (Revenue) Board of Revenue Punjab Lahore & others
Writ Petition No.7193 of 2023
Mr. Justice Ahmad Nadeem Arshad
<https://sys.lhc.gov.pk/appjudgments/2025LHC4554.pdf>

Facts: The revenue hierarchy, vides two separate orders, appointed a female respondent as permanent *Lambardar* and declared her entitled to get the state land as

Lambardari grant. Hence, these two orders have been challenged by the petitioner before the High Court through the constitutional Writ petition.

- Issues:**
- i) Whether any person has vested right to be appointed as Lambardar?
 - ii) What are the pre-requisites for appointment of a Lambardar?
 - iii) What factors and points are to be considered for appointment of a Lambardar?
 - iv) Whether a female is eligible for the office of Lambardar?
 - v) Whether the provision of rule 19(2)(d) of The West Pakistan Land Revenue Rules, 1968 ultra vires to the Constitution of Pakistan?
 - vi) What is the importance of a decision taken by the collector in appointment of a Lambardar?
 - vii) Whether the High Court in constitutional jurisdiction is supposed to sit as a Court of appeal?

- Analysis:**
- i) No one has a vested right to be appointed as a Lambardar, rather Revenue Authorities make a selection for the post as per criteria set out in Rule 17 of the West Pakistan Land Revenue Rules, 1968 and have to find the most suitable candidate for the job who may be capable to discharge the duties inter-alia in terms of Rule 22 of the Rules.
 - ii) Personal influence, character, ability and freedom from indebtedness are prerequisite for the appointment of the Lambardar.
 - iii) The factor and the points to be considered by the competent authorities are the fitness or the competence of a person to act as a Lambardar as well as strength or character, education knowledge and engagements in nation building activities and capacity to discharge the rights and obligations towards his fellow beings alongwith the disqualifications prescribed by the competent authority in rule 18(2) of the Rules.
 - iv) Although Rule 19 (2)(d) of the Rules lays down that female is not ordinarily eligible for the office but may be appointed where the special reasons existed for her appointment.(---) it is clearly against the command of Article 25(2) of the Constitution of Islamic Republic of Pakistan, 1973 for non-appointment of a female as a Lambardar merely on the basis of her gender.(---) Respondent No.7 could not be ignored for her appointment as Lambardar only on the ground of her being a female, if she was otherwise most suitable for such appointment. Appointment of such lady as a Lambardar was not in contravention of any law or the rules.
 - v) Refusal to appoint a female as Lambardar merely on account of her gender would amount to deprivation of the property reserved for Lambardari grant. Provision of Rule 19(2)(d) of the Rules is thus ultra-vires to the Constitution and therefore, of no legal effect.
 - vi) It is settled principle that in Lambardari cases due weight is given to the choice of the Collector unless it is perverse, foolish or illegal. The choice of the Collector which is reasonable and appropriate should not be interfered. If the collector exercises its discretion in a reasonable manner taking into consideration all matters which may be relevant to the suitability of an appointment, his

decision should be allowed to stand. Where the Collector has applied his mind giving due thought to all the considerations germane to the case and has exercised his discretion in a reasonable manner, and the selection is not perverse or contrary to law then the decision made by him should be upheld.

vii) In Constitutional jurisdiction, this Court while considering cases of appointment of Lambardar is not supposed to sit as a Court of appeal but only has to examine if there was any jurisdictional error in the orders under challenge and whether such orders are patently against the express provision of law or the law laid down by the august Supreme Court of Pakistan and/or are perverse, arbitrary, capricious, illogical and against the record.

- Conclusion:**
- i) No one has a vested right to be appointed as a Lambardar.
 - ii) See above analysis No.ii.
 - iii) See above analysis No.iii.
 - iv) A female is eligible for the office of Lambardar.
 - v) The provision of rule 19(2)(d) of The West Pakistan Land Revenue Rules, 1968 ultra vires to the Constitution of Pakistan, 1973.
 - vi) See above analysis No.vi.
 - vii) See above analysis No.vii.

37. Lahore High Court
Saghir Hussain v. The State, etc.
Writ Petition No.13501 of 2024.
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC4892.pdf>

Facts: The petitioner seeks his lawful release from the prison on the ground that he is behind the bars for more than three decades and after earning remissions he has completed the period of his imprisonment of 100 years, but bureaucratic delays and wrong legal advice are the major obstacles clutching him to remain incarcerated in the jail.

- Issues:**
- i) What is the introduction and evolution of section 382B CrPC?
 - ii) In what manner the Prisons Rules identify the imprisonment for life and how it is counted?
 - iii) What is the maximum extent of remissions under the Pakistan Prison Rules, 1978?
 - iv) How the remissions of prisoner would be counted, who have been sentenced to cumulative period of imprisonment?
 - v) What is the nature of the remissions awarded under section 401 CrPC?
 - vi) How the imprisonment of a prisoner would be calculated upon conversion of his sentence to imprisonment for life from death and he is already serving imprisonment in another offence?
 - vii) How the aggregate of consecutive sentences shall be calculated for a prisoner who is awarded four counts life imprisonment, and in what manner benefit of section 382B CrPC would be extended?

- Analysis:**
- i) Section 382B was inserted in the Code of Criminal Procedure 1898, through Law Reforms Ordinance 1972 as per entry No.128 of the Schedule wherein it was directed that Court „may“ take into consideration the under trial detention period while passing a sentence on an accused, later the word „may“ through the Code of Criminal Procedure (Second Amendment) Ordinance, 1979 (LXXI of 1979), (s. 2.) was replaced with „shall“.
 - ii) Rule 140 of the Pakistan Prisons Rules 1978 explains that an imprisonment for life shall be rigorous imprisonment of twenty-five years, thus entitles the prisoner to obtain benefit of remission system under the Prisons Rules which consists of ordinary and special remissions, and further when the death sentence is commuted to imprisonment for life, such remissions are counted from the date of sentence of death as explained in Rule 205 (iii) of the Prisons Rules.
 - iii) As per Rule 217 of the Prisons Rules, remission cannot exceed one third of total sentence, that is why it is mentioned in above rule [Rule 205(iii)] and Rule 217 that lifer prisoner shall undergo a minimum of fifteen years substantive imprisonment.
 - iv) The prisoners who have been sentenced to cumulative period of imprisonment, they have their remedy for remission under Rule 140(iii) of the Prisons Rules, which is as under;
 - (iii) *The of all prisoners sentenced to cumulative periods of imprisonment aggregating twenty-five years or more shall also be submitted to Government, through the Inspector General, when they have served fifteen years substantive sentence for orders of the Government.*
- It means if the aggregate sentence is twenty-five years or more, then after serving out of 15 years substantive sentence, Inspector General of Prison must refer the case of prisoner to the Government for relief under section 401 of Cr.P.C.
- v) Rule 218 of the Prisons Rules says that remission under section 401 of Criminal Procedure Code is a special remission which is awarded by Government on occasions of public rejoicing. It is granted unconditionally under section 401 (i) of the Criminal Procedure Code, 1898, and is not governed by these rules.
 - vi) As per facts of the case, petitioner and others though were sentenced to death on three counts yet they were primarily serving out sentence of imprisonment for life under section 460 of PPC when from the Supreme Court their sentence of death under section 302/34 PPC was altered to imprisonment for life on three counts which by all means would be construed that they were sentenced to further imprisonment later.
 - vii) Section 35 (3) of Cr.P.C. says that aggregate of consecutive sentence shall be deemed to be a single sentence for the purpose of appeal... Similarly, Rule 40 of Prisons Rules explains the date of release when two or more sentences are running consecutively;
 - Rule 40. When a prisoner is sentenced two or more terms of imprisonment to be served consecutively, the date of release shall be calculated as if the sum of the terms was awarded in one sentence.*

From the above discussion, it is clear that sentence of imprisonment for life on four counts passed against the petitioner and other accused, aggregate whereof is 100 years, would be considered as single sentence, for which benefit of section 382B of Cr.P.C. shall be counted only once which is logical and in accordance with scheme of consecutive running of sentences.

- Conclusion:**
- i) Section 382B CrPC was inserted through Law Reforms Ordinance 1972; while passing a sentence of imprisonment Court “may” take into consideration the under trial detention period, which was later replaced with “shall” through the Code of Criminal Procedure (Second Amendment) Ordinance, 1979.
 - ii) Rule 140 of the Pakistan Prisons Rules 1978 explains that an imprisonment for life shall be rigorous imprisonment of twenty-five years. A prisoner shall be entitled to all special and ordinary remissions. As per Rule 205 (iii) of the Prisons Rules when death sentence is commuted to imprisonment for life, such remissions are counted from the date of sentence of death.
 - iii) As per Rule 217 of the Prisons Rules, remission cannot exceed one third of total sentence that is why lifer prisoner shall undergo a minimum of fifteen years substantive imprisonment.
 - iv) If the aggregate sentence is twenty-five years or more, then after serving out of 15 years substantive sentence, Inspector General of Prison must refer the case of prisoner to the Government for relief under section 401 of Cr.P.C.
 - v) The remission under section 401 of Criminal Procedure Code is a special remission which is awarded by Government on occasions of public rejoicing and granted unconditionally and is not governed by Prison Rules.
 - vi) When a prisoner’s sentence was commuted to life imprisonment from death and is already serving imprisonment in another offence, which by all means would be construed that he was sentenced to further imprisonment later.
 - vii) The sentence of imprisonment for life on four counts aggregate whereof is 100 years, would be considered as single sentence, for which benefit of section 382B of Cr.P.C. shall be counted only once.

38. Lahore High Court
Rao Omar Hashim Khan v. Ahmad Raza Maneka etc.
Election Petition No.23259/2024
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC4421.pdf>

Facts: The respondent filed C.M petition to dismiss the Election petition by the petitioner being non-compliant of mandatory provisions of Election Act, 2017.

- Issues:**
- i) Whether the physical presence of petitioner is necessary at the time of presentation of petition under section 142(2)(a) of the Election Act, 2017?
 - ii) Whether the presentation of petition through the advocate/lawyer is competent?
 - iii) Whether any typing mistake or default to attach affidavit of all witnesses u/s 144(2) of the Election Act, 2017 leads to automatic rejection of the petition?
 - iv) What is doctrine of substantial compliance?

- Analysis:**
- i) I am of the opinion that above quoted provision of the Act does not envisage requirement of physical presence of the petitioner at the time of presentation of the election petition, more so when sub-Section (3) of Section 142 is kept in sight which permits presentation of petition through the post. Therefore, it is erroneous to consider the date of presentation as the day when this Tribunal took cognizance of the matter and issued notice as opposed to the date (i.e. 30.03.2024) when the petition was filed with the Office of Registrar of this Tribunal. The date when the judicial cognizance was taken by this Tribunal is distinct from the date of presentation envisaged under the Rules.
 - ii) The presentation of the petition through an advocate is also valid...the power of attorney executed by the petitioner in favour of Mr. Sameer Khosa, advocate and his associate expressly authorized them to file pleadings including the election petition, which satisfies the requirement of 'authorization in writing'. I am not persuaded by the argument that the vakalatnama does not constitute an authorization in writing. There is neither requirement of a separate letter of authority, nor is there any prescribed form under the Act or the Rules mandating separate authority letter to be executed by a petitioner for the purpose of filing of the petition.
 - iii) I am of the opinion that the term 'complete' must be construed in a practical and purposive manner. The petitioner has provided names of all the witnesses — private as also officials. Even if the affidavits of some of the witnesses are missing or particulars in respect of few others contain clerical errors, the overall compliance is substantial. The law does not prescribe automatic rejection of the election petition for such lapses inasmuch as the petitioner may elect not to rely on any of the listed witnesses whether his affidavit is available or not. The list of witnesses and their respective affidavits are duly annexed with the petition. The witnesses are individually named and their affidavits clearly disclose the nature and scope of their proposed deposition and any minor typographic discrepancy, such as inconsistency in the parentage of the witnesses or the CNICs, does not obstruct the identification of the witnesses or the understanding of their proposed evidence.
 - iv) The doctrine of substantial compliance is squarely attracted in this case. The Hon'ble Supreme Court in case of Ali Madad Jattak supra held that technical deficiencies, which do not affect the core of the petition or cause no prejudice, should not defeat the right to trial and this doctrine applies with equal force in present case.

- Conclusion:**
- i) The physical presence of petitioner is not necessary at the time of presentation of petition under section 142(2)(a) of the Election Act, 2017. The same may be presented through post or through the lawyer.
 - ii) The presentation of the petition through an advocate is also valid. The Rules does not require separate specific authorization in writing, rather the vakalatnama authorizing to initiate pleadings is sufficient to meet the requirement.
 - iii) The law does not prescribe automatic rejection of the election petition for such

lapses inasmuch as the petitioner may elect not to rely on any of the listed witnesses whether his affidavit is available or not.

iv) Under the doctrine of substantial compliance technical deficiencies, should not defeat the right to trial.

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- 39. Lahore High Court**
Muhammad Naseem etc. v. Asghar Ali Tabassum
C.R No.55105/2023
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC4724.pdf>
- Facts:** The petitioners challenged judgments/ decrees of Trial court and First Appellate Court through which suit filed by the petitioners challenging gift mutations in favor of the respondents was dismissed.
- Issue:** Whether a gift made by father to one child, excluding others, is valid under Islamic law and law of the land when motivated by care and filial duty rather than malice or bias?
- Analysis:** Suffice to observe that, if a legal heir is deliberately and unjustifiably deprived of inheritance through a gift motivated solely by malice or bias, particularly, where the donee is one among several sons or daughters, such a transaction may fall within the mischief of zarar and be liable to be declared invalid. It would be a manifest error in such cases to uphold a gift that serves no purpose (love and affection) but the exclusion of others. However, when some children (the petitioners) have distanced themselves from their father, embroiled him in unwarranted litigation, and effectively severed familial ties, while another child (the respondent) remains devoted, provides companionship and support, and shoulders the responsibilities of care in old age, it is only natural that a father may incline towards the one who stood by him. In such circumstances, Islamic law does not restrain a Muslim owner from gifting his property to the child who has earned his trust and affection through personal service and care. Prima facie, it appears that the deceased, impressed by the conduct and care extended by the respondent (donee), chose to transfer his entire estate to him during his lifetime and the disobedience of the petitioners and their distancing from the donor in his life was only an ancillary aspect of the matter. Hence, such a transaction reflects not malice, but recognition of filial duty, and falls squarely within the autonomy of an owner preserved under Islamic jurisprudence as well as law of land.
- Conclusion:** Gift made by father to one child, excluding others, is valid under Islamic law and law of the land when motivated by care and filial duty rather than malice or bias.
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- 40. Lahore High Court**
Muhammad Yar v. Naveed Aslam Khan Lodhi, etc.
Election Petition No.65282 of 2024
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC4571.pdf>

- Facts:** An election petition was dismissed for non-prosecution. The petitioner sought restoration of the petition, arguing sufficient cause for earlier non-appearance.
- Issues:**
- i) Whether under section 155 of the Elections Act, 2017, only a “final decision” of the Election Tribunal is appealable to the Supreme Court, thereby excluding orders that do not terminate the lis with judicial determination.
 - ii) Whether the dismissal of an election petition for non-prosecution constitutes a “final decision” under section 155 of the Elections Act, 2017.
 - iii) Whether the absence of an express statutory provision prohibiting restoration precludes the Tribunal from exercising inherent powers to restore a petition dismissed for non-prosecution in furtherance of procedural fairness and justice.
- Analysis:**
- i) It is to be kept in sight that under Section 155 of Act 2017 an appeal will lie to the Supreme Court against a “final decision” of the Tribunal. In contrast, Section 67(3) of ROPA stated that any person aggrieved by a “decision” of the Tribunal may challenge it by way of an appeal to the Supreme Court. Significantly, Section 67(3) of the ROPA did not use the term “final decision” that has been used in Section 155 of the Act 2017.”
 - ii) Therefore, the scheme of the Act 2017 is to be kept in sight that reveals three distinct modalities for the disposal of an election petition: (i) by a decision under Section 154 after trial, which includes dismissal, declaration of void election, or declaration of another candidate as elected — all of which are explicitly appealable under Section 155; (ii) by summary rejection under Section 145(1), where the petition is found to be deficient in form or substance at the threshold; and (iii) by dismissal in default of prosecution... While Section 145(1) does not expressly provide a right of appeal, this Tribunal is of the view that such a rejection — having been made after application of judicial mind — constitutes a “final decision” and thus attracts the appellate mechanism under Section 155. ... In contrast, dismissals in default are procedural termination/disposals of the matter without the application of judicial mind, leaving room for the petitioner to revert back and seek restoration of the petition by invoking inherent powers of the Tribunal, as discussed above, subject to show of sufficient cause. Therefore, such procedural terminations do not constitute a final decision. The deliberate use of the term “final decision” in Section 155 of the Act 2017 reinforces and supports this interpretation.”
 - iii) Suffice to observe that the Act 2017 aims at ensuring expeditious and effective adjudication of the election disputes and this legislative objective is advanced—not defeated—by recognizing the Tribunal’s authority to restore petitions dismissed for non-prosecution, provided sufficient cause is shown. Such an approach facilitates adjudication on merits rather than encouraging dismissal on procedural technicalities. To imply a prohibition from the silence of the statute would yield a result contrary to the principles of justice and procedural fairness.
- Conclusion:** i) Under section 155 of the Elections Act, 2017, only a “final decision” of the

Election Tribunal is appealable to the Supreme Court, thereby excluding procedural orders that do not terminate the lis with judicial determination.

ii) The dismissal of an election petition for non-prosecution does not constitute a “final decision” under section 155 of the Elections Act, 2017.

iii) The absence of an express statutory prohibition does not preclude the Tribunal from exercising its inherent powers to restore a petition dismissed for non-prosecution in the interest of justice and procedural fairness.

41. Lahore High Court
Nadeem Aslam etc. v. Shahid Mehmood etc.
W.P No.13156/2025
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC4965.pdf>

Facts: The petitioner being the subsequent purchaser of the property moved an application under order 1 rule 10 of CPC to be arrayed as party in suit already pending. The application of the petitioner was dismissed by the learned court of revision below.

Issues:

- i) What is the effect of section 52 of the Transfer of Property Act, 1882 upon the rights of litigating parties?
- ii) Whether the person who acquired the possession or rights of the party is entitled to be made as a party in pending litigation?
- iii) Whether the Revisional court is competent to step into the merits of the case?

Analysis:

- i) Perusal of Section 52 of the Act clearly envisages that any transfer of immovable property made by a party to a pending suit concerning the said property is subject to the outcome of that suit. In this manner, this provision safeguards the litigating parties (the respondent in present case) against transfers designed to frustrate or circumvent the Court’s adjudication.
- ii) where the actual possessor or transferee (the petitioners in present case), who acquired possession or title during the pendency of the suit, is excluded from the proceedings, such omission may constitute a fundamental procedural and substantive defect inasmuch as non-joinder of such a necessary party not only violates the principles of natural justice but it also exposes any decree passed in such suit to vulnerability. The decree, in the absence of such a party, cannot conclusively bind the transferee and remains open to challenge on grounds of fraud or collusion, particularly through recourse to Section 12(2), CPC or by way of objections in the execution proceedings.
- iii) It is also pertinent to note that the Revisional Court below, while upsetting the findings of the Trial Court, overstepped the permissible limits of its jurisdiction by delving into the merits of the case and undertaking an appraisal of the evidence available on record while the trial is still pending...It is settled law that the function of a Revisional Court is supervisory and not appellate in nature. It cannot substitute its own findings of fact in place of those rendered by the Trial Court, unless there is a manifest error of law or jurisdiction more particularly when the

trial has not been concluded and the Trial Court has yet to appraise the evidence. Such remarks on part of the Revisional Court below amount to a premature determination of facts, which defeats the rights of the parties to fair trial.

- Conclusion:**
- i) The section 52 of the Transfer of Property Act, 1882 safeguards the litigating parties against transfers designed to frustrate or circumvent the Court's adjudication.
 - ii) The inclusion of the actual possessor as a party is indispensable for the proper and final adjudication of rights and to prevent multiplicity of litigation.
 - iii) A Revisional Court is supervisory and not appellate in nature. It cannot substitute its own findings of fact in place of those rendered by the Trial Court, unless there is a manifest error of law or jurisdiction

42. Lahore High Court
Province of the Punjab etc. v. Mirza Waseem Baig
I.C.A No.65839/2024
Mr. Justice Shahid Karim, Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC5021.pdf>

Facts: The appellant department through this appeal has assailed the judgment of the learned single Bench of Hon'ble High Court; wherein, the writ of the respondent was allowed and restored to service.

- Issues:**
- i) Whether a probationer is civil servant under the Punjab Service Tribunals Act, 1974?
 - ii) What is difference between service appeal and departmental appeal?
 - iii) What are the exceptions to the filing of appeal under section 4 of the Punjab Service Tribunals Act, 1974?
 - iv) When a service rule prohibits a remedy of departmental appeal, then whether a remedy of appeal under section 4 of the Punjab Service Tribunals Act, 1974 is also ousted or not?

- Analysis:**
- i) Section 2(b) of the Act, defines civil servant as a person who is or who has been a member of a civil service of the Province or holds or has held a civil post in connection with the affairs of the Province and the exclusion does not include a probationer.
 - ii) At the heart of the issue lies a nuanced distinction between a departmental appeal and a service appeal. Rule 12.21 of the (Police) Rules, operates within the administrative framework of the departmental proceedings and explicitly bars an internal or departmental appeal against a discharge order made thereunder. This form of appeal constitutes administrative adjudication, wherein senior functionaries of the department exercise revisional or the appellate authority within the service hierarchy. Such appeals, though essential to the administrative discipline and internal efficiency, are not judicial in nature, and the limitation on them does not extinguish a civil servant's right to pursue a remedy before an

independent judicial forum. By contrast, a service appeal before the Tribunal is a judicial proceeding under a special statutory mechanism enacted through the Act, which forum is created pursuant to the mandate of Article 212 of the Constitution. Article 212 envisages the creation of special Tribunals to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants, thereby ousting the ordinary jurisdiction of civil courts and even the High Court.

iii) The two provisos to Section 4 of the Act, restrict the right to file statutory appeal only where (a) a departmental appeal has not been availed, or (b) the matter concerns the fitness of a person to be appointed or promoted.

iv) Therefore, the prohibition contained in (Police) Rule 12.21 does not extend to the judicial remedy available under the Act. To hold otherwise would be to allow a service Rule (i.e., 12.21) to override a statutory and constitutional mechanism of judicial redress. The Tribunal's jurisdiction, being grounded in legislation enacted under a constitutional mandate, cannot be ousted by departmental rules, which are subordinate in legal status.

- Conclusion:**
- i) A probationer is civil servant under the Punjab Service Tribunals Act, 1974.
 - ii) A departmental appeal is administrative adjudication, wherein senior functionaries of the department exercise revisional or the appellate authority within the service hierarchy. a service appeal before the Tribunal is a judicial proceeding under a special statutory mechanism enacted through the Punjab Civil Servants Act, which forum is created pursuant to the mandate of Article 212 of the Constitution.
 - iii) See above analysis No.iii.
 - iv) When a service rule prohibits a remedy of departmental appeal, even then a remedy of appeal under section 4 of the Punjab Service Tribunals Act, 1974 is not ousted.

43. Lahore High Court
M/s Pakmaco (Pvt) Ltd. v. Federation of Pakistan etc.
W.P. No.3362/2023
Mr. Justice Anwaar Hussain.
<https://sys.lhc.gov.pk/appjudgments/2025LHC4972.pdf>

Facts: The petitioner company, after participating in the procurement process initiated by Sui Northern Gas Pipelines Limited (SNGPL), challenged the condition requiring deposit of an appeal fee under Schedule-II of the Redressal of Grievance Regulations, 2021, which govern the complaint and appeal mechanism for procurement-related matters.

Issues:

- i) Whether the authenticity of judicial orders merely is a procedural requirement, or does it form the foundation of the rule of law??
- ii) What role do courts play beyond resolving disputes in maintaining public confidence in the justice system?

iii) How does tampering with judicial orders undermine the rule of law and institutional integrity?

Analysis:

- i) The authenticity of judicial orders is not a matter of procedural formality—it is the very essence of rule of law.
- ii) The Courts are not mere dispute-resolution forums; they are vested with the solemn duty to uphold the public confidence in the administration of justice.
- iii) Judicial orders carry the imprimatur of the rule of law, and any tampering therewith strikes at the very heart of the institutional integrity.

Conclusion:

- i) See above analysis No.i.
- ii) Courts have a solemn duty to uphold public confidence in justice, beyond merely resolving disputes.
- iii) Tampering with judicial orders undermines the rule of law and strikes at the core of institutional integrity.

44. Lahore High Court
Bilal Siddique v. Muhammad Naeem
FAO No.46205 of 2024
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC5028.pdf>

Facts: The appellant and the respondent, alongwith two others, were partners under a registered partnership deed for fixed period that stood expired. The respondent filed an application under section 20 of the Arbitration Act 1940 with an averment that the respondent continued as partner with the appellant under another agreement. Conversely the appellant alleged that no partnership subsisted between the parties after expiry and the respondent was only engaged as an employee thereafter. The trial court accepted the application treating as under section 8, appointed an arbitrator to decide matter and deliver award.

Issues:

- i) Whether a reference to arbitration is competent where the arbitration clause is contained in an unregistered partnership agreement, in view of the section 69 of the Partnership Act, 1932?
- ii) Whether an order appointing an arbitrator, without first directing the filing of the arbitration agreement, is appealable under section 39(1)(iv) of the Arbitration Act, 1940?
- iii) Whether the Court can appoint an arbitrator under section 20 of the Arbitration Act, 1940 without first directing the filing of the arbitration agreement and satisfying itself as to its existence?
- iv) Whether a party can invoke section 20 of the Arbitration Act, 1940 after having already initiated arbitration proceedings under section 8 without the Court's intervention?
- v) Whether statutory requirements must be strictly complied with in the manner prescribed by law?

vi) Whether the Court becomes *functus officio* after acting under section 8 of the Arbitration Act, 1940?

- Analysis:**
- i) Section 69 of the Act 1932 does not bar recourse to the arbitration proceedings based on an arbitration clause contained in an unregistered partnership deed. This is primarily because the arbitration proceedings are neither, *stricto sensu*, a “suit,” nor do they fall within the ambit of the phrase “other proceedings” within the meaning of Section 69(3) of the Act 1932,
 - ii) Section 39 of the Act 1940 governs the right of appeal against certain orders passed under the Act 1940 (...) A plain reading of the above provision makes it clear that an order either directing the filing of an arbitration agreement or refusing to do so is appealable in terms of Section 39(1)(iv) of the Act 1940. (...) In such a situation, the impugned order in essence falls within the scope of clause (iv) of subSection (1) of Section 39 of the Act 1940 as the Trial Court refused to pass order of filing of the agreement (...) is therefore, appealable.
 - iii) In contrast, a petition under Section 20—falling within Chapter III—is initiated precisely because judicial intervention is necessary to commence the arbitration, more so when one side is denying the existence of agreement or an arbitrable dispute. (...) Here, the role of the Court is not limited to the appointment of an arbitrator; rather, the Court first determines whether there exists an arbitration agreement and then, under sub-Section (4), orders the filing of the agreement and makes the reference. Section 20 of the Act 1940, provides a procedural mechanism for initiating arbitration through judicial intervention where no arbitration proceedings have commenced independently. (...) The act of filing, accompanied by judicial satisfaction under Section 20(3), constitutes a jurisdictional condition precedent to the making of any reference or the appointment of an arbitrator.
 - iv) where a party seeks to initiate arbitration through judicial intervention by invoking Section 20 of the Act 1940, it must not have already set the arbitral process in motion under Chapter II of the Act, particularly Section 8. The underlying principle drawn from these precedents is that Section 20 proceedings are predicated upon the party approaching the Court before any reference or appointment is made privately. In other words, a party cannot be permitted to bypass the structured procedure of Chapter III by treating the Court merely as a forum for validation of a process it has already unilaterally undertaken.
 - v) It is well-settled that an act required to be done by statute in a particular manner must be done in that manner alone or not at all.
 - vi) Once the Court acts under Section 8 of the Act 1940 — a provision governing arbitration without the intervention of the Court — it exhausts its jurisdiction and becomes *functus officio*

- Conclusion:**
- i) Arbitration is not barred under section 69 of the Partnership Act, 1932 for unregistered partnership deeds.
 - ii) Refusal to file an arbitration agreement is appealable under section 39(1)(iv) of the Arbitration Act, 1940.

- iii) Court must verify and file the arbitration agreement before referring under section 20 of the Arbitration Act, 1940.
- iv) Section 20 cannot be invoked if arbitration already started under Section 8.
- v) Legal acts must be done strictly as prescribed by statute.
- vi) After acting under section 8, the Court becomes functus officio.

45. Lahore High Court

Khadim Hussain Sandhu v. Muslim Commercial Bank Limited and 2 others
Writ Petition No. 14083 of 2025

Mr. Justice Sultan Tanvir Ahmad, Mr. Justice Hassan Nawaz Makhdoom

<https://sys.lhc.gov.pk/appjudgments/2025LHC4677.pdf>

- Facts:** Through this petition the petitioner has sought to set-aside auction conducted by the Banking Court for satisfaction of the judgment and decree passed under section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001.
- Issues:**
- i) Whether the substance of an application or document determines its legal nature, irrespective of its caption or title?
 - ii) Can the Court adjudicate on the merits of an application under Order XXI rule 90 of the CPC without the deposit being made?
 - iii) Whether section 5 of the Limitation Act, 1908 applies to special law prescribing their own limitation period?
- Analysis:**
- i) Merely captioning an application or a document is not always material rather it is the instrument, application or the document which determines its nature.
 - ii) It has been ruled that the Court cannot proceed to consider and adjudicate upon merits of an application, under Order XXI rule 90 of CPC, until the deposit of amount or security and when the applicant fails to make deposit, despite specific direction in this regard, the Court is to dismiss the application without proceeding to consider and adjudicate upon its merit.
 - iii) Limitation period has been prescribed by the Ordinance which is a special law to which the provisions of section 5 of the Limitation Act-1908 are not applicable.
- Conclusion:**
- i) Substance of a document, not its caption, determines its legal nature.
 - ii) No, the Court cannot adjudicate on the merits of the application until the deposit or security has been made as per the Court's direction.
 - iii) Section 5 does not apply to special law with their own Limitation period.

46. Lahore High Court

Usama Zahoor v. District & Sessions Judge, Multan, etc.

W.P. No.1601 of 2025

Mr. Justice Raheel Kamran

<https://sys.lhc.gov.pk/appjudgments/2025LHC4566.pdf>

- Facts:** The petitioner's father served as a Naib Qasid in the Sessions Courts, and was retired on medical grounds. The petitioner applied for appointment under Rule 17-

A of the Punjab Civil Servants (Appointment & Conditions of Service) Rules, 1974. However, the Recruitment & Promotion Committee concluded that the benefit of Rule 17-A is restricted to families of civil servants who die during service. In light of this, the petitioner's application for appointment was declined, which has been impugned through instant Writ Petition.

Issues: i) Whether appointment of a deceased or permanently disabled civil servant's family member without open competition violates the principles of merit and equality under the Constitution?

Analysis: i) The Supreme Court of Pakistan in the case of *General Post Office, Islamabad and others v. Muhammad Jalal* (PLD 2024 SC 1276) has declared any rule, policy, or memorandum that allows for appointments of a deceased or permanently disabled civil servant's widow/widower, spouse, or child without open advertisement, competition, and merit to be discriminatory and unconstitutional.

Conclusion: i) Appointments of a deceased or disabled civil servant's family member without open merit are discriminatory and unconstitutional.

47. Lahore High Court
Mushtaq Ahmad and another v. Saiqa Ch., etc.
Civil Revision No.1077 of 2024
Justice Raheel Kamran
<https://sys.lhc.gov.pk/appjudgments/2025LHC4649.pdf>

Facts: The petitioners through this Civil Revision have assailed order passed by the Appellate Court. During pendency of the appeal, the petitioners moved an application under Order XLI Rule 27 read with section 151 of CPC for permission to produce additional evidence. The application was listed for arguments on multiple dates and ultimately, the impugned order was passed.

Issues

- i) Whether an application must be decided prior to the final judgment in the main appeal through a separate order?
- ii) Whether the court has discretion to decide the appeal along with the application for additional evidence conjointly?
- iii) What are factors to be considered to decide an application to produce additional evidence conjointly or separately?

Analysis: i) Under the law, particularly concerning application for additional evidence, there is no specific rule that mandates such an application must be decided prior to the final judgment in the main appeal through a separate order. The appropriate course of action, whether to decide the application first or conjointly with the appeal, is entirely dependent on the specific facts and circumstances of each case and the court's assessment of what is necessary to achieve a just and holistic adjudication. The paramount consideration remains the ability of the court to

pronounce a satisfactory and complete judgment, which may, in certain circumstances, be best achieved by integrating the consideration of additional evidence with the overall merits of the appeal.

ii) The Appellate Court in view of the factual context of the case rightly observed that the adjudication of the application for additional evidence is intrinsically linked to and dependent upon a comprehensive consideration of the arguments from both sides, in conjunction with the evidence already available on record and the pleadings of the parties. Therefore, the Appellate Court's choice to decide the appeal along with the application for additional evidence conjointly is a sound exercise of discretion, aimed at efficient and holistic adjudication, and does not result in any miscarriage of justice or prejudice to the petitioners' rights. This approach by the appellate court aligns with the ratio decidendi in the case of Sultan Ali alias Sultan through L.Rs. and others v. Rasheed Ahmad and 45 others (2005 SCMR 1444)

iii) Additionally, an important consideration in such matters is the content and potential impact of the intended additional evidence. If the appellate court determines that the evidence sought to be produced is of such a nature that its inclusion on the record could fundamentally alter the decision of the main case, then it might indeed be prudent to decide the application separately through a distinct order. This would allow for proper consideration of its admissibility and relevance before proceeding to the merits of the appeal. However, if the appellate court, after initial assessment, forms the view that the proposed evidence, even if admitted, would likely have no material impact on the outcome of the main case, then there is no compelling need to decide the application for additional evidence separately. In such a scenario, a conjoint decision of the application and the main appeal becomes a matter of judicial economy and efficiency. Such approach significantly contributes to the sound administration of justice by streamlining proceedings, preventing unnecessary delays, and ensuring the expeditious dispensation of justice.

- Conclusion:**
- i) There is no specific rule that mandates such an application must be decided prior to the final judgment in the main appeal through a separate order.
 - ii) The Appellate Court's choice to decide the appeal along with the application for additional evidence conjointly is a sound exercise of discretion
 - iii) See above analysis No.iii.

48. Lahore High Court
Tahir Javed v. Muhammad Sharif
R.F.A No.23970 of 2025
Mr. Justice Sultan Tanvir Ahmad & Mr. Justice Hassan Nawaz Makhdoom
<https://sys.lhc.gov.pk/appjudgments/2025LHC4635.pdf>

Facts: A summary suit under Order XXXVII of CPC filed by respondent, on the basis of a cheque, was decreed by the trial Court. An appeal was preferred by the appellant before the High Court.

- Issues:**
- i) When does the presumption under section 118 of The Negotiable Instruments Act, 1881 arise?
 - ii) Upon which party the initial burden of proof of due execution of a negotiable instrument rest, and when this burden shifts?
 - iii) What is the standard of proof for rebuttal of presumption of S.118 of the Act?
 - iv) Whether the defendant can be considered ‘principal debtor’ not the ‘guarantor’ When he admits the execution of a cheque?
 - v) Whether in absence of third party, the defence of the defendant of issuing the cheque as ‘guarantee’ is tenable under S.126 of the Contract Act?
 - vi) What the issuance of a cheque constitutes, and how a presumption attached to a cheque can be rebutted?
 - vii) Whether delivery of a signed cheque, especially in presence of a financial obligation, carries any sort of presumption?
 - viii) What demonstrates that the cheque has been issued voluntarily?

- Analysis:**
- i) This presumption shall arise every time when the execution of negotiable instrument is admitted by a defendant.
 - ii) The initial proof of due execution of a negotiable instrument by the defendant shall rest on the plaintiff and upon such discharge the onus shall shift to the defendant perforce of the presumption under section 118 of the Act. It is then for the defendant to prove that the negotiable instrument is not supported by a consideration.
 - iii) Such presumption in favour of a cheque ought to be rebutted strongly by issuer of a cheque. It is a trite law when the execution is not denied, the burden and standard of rebuttal is much more heavier.
 - iv) The aforesaid section (S.126 of the Contract Act,1872) contemplates three distinct parties in a contract of guarantee: the “surety,” the “principal debtor,” and the “creditor.” In the present case, the appellant/defendant does not qualify either as a surety or a third-party guarantor, but he squarely falls within the definition of the “principal debtor.” He, being the direct recipient of the funds and issuer of the cheque, remains liable in the capacity of a principal debtor.
 - v) The mere assertion that the cheque was issued as a guarantee fails to fulfill the essential requirements of a valid contract of guarantee under Section 126 of the Act, 1872, which contemplates a third-party obligation, but not a direct liability. The absence of any third person, whose default was to be secured, renders the defence untenable.
 - vi) The issuance of the cheque constitutes an independent acknowledgment of liability, and such issuance is presumed to have been for consideration under section 118 of the Act, unless rebutted by strong and convincing evidence.(---) It is well-settled that the presumption under section 118 of the Act can only be displaced by producing cogent and reliable evidence.
 - vii) Mere delivery of a cheque, even if allegedly incomplete, after the express or implied acknowledgment of liability does not absolve the drawer from the consequences arising from such issuance. The act of handing over a signed

cheque, especially in the presence of an admitted financial obligation, inherently carries the presumption of a lawful authority for its completion and presentment.

viii) In the present case, the appellant/defendant's own admission regarding the execution of the cheque, his failure to challenge the reconciliation proceedings, and his acknowledgment of prior financial dealings with the respondent/plaintiff, clearly demonstrate that the subject cheque was not only issued voluntarily, but was also enforceable under the law.

- Conclusion:**
- i) Such presumption shall arise every time when the defendant admits the execution of negotiable instrument.
 - ii) See above analysis No.ii.
 - iii) See above analysis No.iii.
 - iv) See above analysis No.iv.
 - v) The absence of any third person, whose default was to be secured, renders the defence untenable.
 - vi) See above analysis No.vi.
 - vii) See above analysis No.vii.
 - viii) See above analysis No.viii.

49. Lahore High Court
Sheikh Anwar ul Haq v. Abdul Ghaffar etc.
Civil Revision No. 31213/2021
Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC4441.pdf>

Facts: Petitioner filed a suit for declaration and recovery of possession of a shop. The defendants contested the suit and raised the plea that the petitioner was a benami allottee, asserting that the shop was actually obtained by respondent No.1 who also allegedly provided another shop to the petitioner. The courts below dismissed the petitioner's suit. Hence; the present civil revision.

Issues

- i) What is the legal significance of "title" and "entitlement" in the context of a suit for declaration under section 42 of the Specific Relief Act, 1877?
- ii) What is the impact of admitted facts on the requirement of proof under Qanun-e-Shahadat Order (QSO), 1984?
- iii) What is the legal status of possession and utility bills in name of a person in determining ownership?
- iv) What is the evidentiary value of entries in the Revenue Record and oral versus documentary evidence in establishing title?

Analysis: i) To understand the meanings of "title" and "entitled" in the context of facts of instant case which have not been exclusively defined in the Act 1877, ordinary and legal meaning is to be taken into consideration with reference to Section 42 of the Act 1877. "Title" refers to a legal right of ownership or entitlement to property which indicates who has the lawful authority or claim over the property

in question amongst the contesting parties qua their entitlement.

“Entitlement” is to be construed in a broader meaning and cannot be restricted to ownership only.

ii) it could be said with certainty that both the learned courts below failed to read the pleadings as well as evidence of parties and also flopped to apply Article 113 of the Order which provides “admitted facts need not to be proved”.

iii) in *Amjad Ali and others v. Anwar Shah and others* (2025 SCMR 211) where it has been inter alia held as under:- The argument of the learned counsel for the respondents is that they are in possession of the suit house and the electricity consumption meter is also in their name will not bear any fruit for them and also will not affect the merits of the case. Such entries can never be termed as equivalent to ownership.

iv) in *Hassanally and others v. Noor Muhammad through his Legal Heirs and another* (1995 MLD 1458), relevant portion of which is reproduced hereunder:- Entries in the Revenue Record are prima facie good evidence of title unless rebutted by some better evidence by the other side. In the present case oral evidence has been produced by the respondents as against the documentary evidence coming from public record produced by the applicants. Entries in the Revenue Records since 1933 in favour of the applicants remain unrebutted and could not be ignored.

- Conclusion:**
- i) Title denotes lawful ownership or authority over property, while entitlement encompasses a broader legal interest, not confined to ownership alone.
 - ii) Failure to apply Article 113 QSO, 1984, which exempts admitted facts from proof, led to misreading of pleadings and evidence.
 - iii) Possession and utility bills in a person’s name do not confer ownership and cannot substitute for legal title.
 - iv) Revenue Record entries are prima facie proof of title and outweigh oral evidence unless effectively rebutted.

50. Lahore High Court
Arshad Iqbal Rana v. Salman Sajjad etc.
Writ Petition No. 42046/2025
Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC4850.pdf>

Facts: A petitioner challenged orders of the trial and appellate court that refused his request for ad interim injunction in a civil suit. Hence; this Constitutional Petition.

- Issues:**
- i) Whether a constitutional petition under Article 199 is maintainable to challenge an interlocutory order refusing ad interim injunction when an efficacious remedy exists?
 - ii) Whether the High Court, while exercising constitutional jurisdiction under Article 199, can adjudicate upon matters involving disputed questions of fact requiring recording of evidence?
 - ii) Whether the High Court can interfere in constitutional jurisdiction where the

matter is still pending decision on an application for temporary injunction before the trial court?

- Analysis:**
- i) First of all, it would be expedient to throw light on the case-law cited by learned counsel for petitioner on the point of maintainability of this petition. In the case of Pioneer Pakistan Seed Ltd. (supra), this Court held that against any order of granting or refusing injunction, ad interim or otherwise, First Appeal against order under Order XLIII Rule 1(r) CPC is maintainable whereas in the instant case, petitioner has invoked the constitutional jurisdiction of this Court, thus the afore-referred case-law is not applicable. The case of Hafiz Muhammad Owais (supra) would also not be helpful for petitioner for the reason that in the instant case, learned trial court has declined the request of ad interim injunction meaning thereby application under Order XXXIX Rules 1 and 2 CPC filed by petitioner is still pending adjudication before learned trial court.
 - ii) As regards rest of the arguments advanced by learned counsel for the petitioner, the same pertain to factual controversy, resolution of which requires recording of evidence which this Court in its constitutional jurisdiction exercised under Article 199 of the Constitution cannot undertake
 - iii) The grant of ad interim injunction by this Court would tantamount to step into the shoes of learned trial court which is not mandated by law. As discussed above, the constitutional jurisdiction of this Court is supervisory and extraordinary which can only be exercised in exceptional circumstances such as violation of fundamental rights, lack of jurisdiction by lower court, gross miscarriage of justice and if the orders passed by lower courts are in violation of natural justice. In the instant case, situation is otherwise, therefore, in my considered view, the impugned orders are unexceptionable and do not call for any interference by this Court... It is unequivocally clear that invoking the constitutional jurisdiction of this Court by challenging grant or refusal of ad interim injunction by learned courts below is not an adequate remedy as application for grant of temporary injunction is yet to be decided... In the light of above discussion, it can safely be concluded that constitutional jurisdiction being an extraordinary jurisdiction cannot be invoked to challenge interlocutory orders that are not final or conclusive in nature.

- Conclusion:**
- i) A constitutional petition under Article 199 is not maintainable to challenge an interlocutory order refusing ad interim injunction when an efficacious statutory remedy exists.
 - ii) The High Court cannot adjudicate upon disputed questions of fact requiring recording of evidence while exercising constitutional jurisdiction under Article 199.
 - iii) The High Court will not interfere in constitutional jurisdiction where the matter is still pending decision on an application for temporary injunction before the trial court.

51. Lahore High Court
Mst. Samina Khalid v. Tariq Bashir etc.
C.R. No.65969 of 2022
Mr. Justice Malik Waqar Haider Awan.
<https://sys.lhc.gov.pk/appjudgments/2025LHC4920.pdf>

Facts: The petitioner has challenged concurrent judgments and decrees passed by the trial and appellate courts, whereby a suit for possession through specific performance filed by the respondent was decreed. The respondent alleged that the petitioner entered into an agreement to sell a residential plot for a fixed consideration, part of which was paid in advance. Despite repeated demands, the petitioner failed to transfer the property, ultimately refusing to perform the agreement, which led to the filing of the suit. The petitioner initially contested the suit but was later proceeded against ex parte due to non-appearance. Although an earlier ex parte decree was set aside and the matter remanded for fresh decision, the petitioner again failed to produce evidence, resulting in closure of her evidence and decree of the suit, which was upheld in appeal.

Issues:

- i) Whether the interim order closing evidence could merge into the final judgment after an unsuccessful and unpursued challenge?
- ii) Whether the law obliges the court to secure the presence of witnesses when a party fails to act with due diligence?
- iii) Whether the Specific Relief Act, 1877 mandates deposit of sale consideration at filing, admission, or pre-summons stage?
- iv) Whether deposit of sale consideration in court is automatic or requires a specific court order with timeline and consequences?
- v) Whether revisional jurisdiction under section 115 CPC allows interference without perversity, arbitrariness, or jurisdictional defect?

Analysis:

- i) The argument of learned counsel that interim order qua closure of her right to lead evidence could be challenged along with final judgment and decree passed by learned trial court on the premises that interim order merged into final order. I am afraid this concession and facility of law was not available to her as she challenged the order of closure before revisional court but remained unsuccessful and did not challenge the same any further.
- ii) The law does not oblige the Court to secure presence of witnesses once the party fails to act with due diligence.
- iii) There is no strict rule in the Specific Relief Act, 1877 that forces the plaintiffs to submit the outstanding payment when filing the case during its admission or before issuing summons to the defendants.
- iv) The deposit of the sale consideration or balance sale consideration in the Court is not an automatic or precondition by fiction of law but there must be an order of the Court for deposit with certain timeline with repercussions of non-compliance.
- v) It is trite law that revisional jurisdiction under Section 115 CPC does not permit re-appraisal of evidence or substitution of a concurrent finding of fact, unless it is perverse, arbitrary, or without jurisdiction.

- Conclusion:**
- i) Interim order of closing evidence could not be challenged with final judgment if already unsuccessfully assailed in revision and not pursued further.
 - ii) See above analysis No.ii.
 - iii) The Specific Relief Act, 1877 does not mandate plaintiffs to deposit outstanding payment at filing, admission, or pre-summons stage.
 - iv) Deposit of sale consideration in court is not automatic; it requires a specific court order with a timeline and consequences for non-compliance.
 - v) Revisional jurisdiction under section 115 CPC cannot be used to re-appraise evidence or disturb concurrent findings unless they are perverse, arbitrary, or without jurisdiction.

52. Lahore High Court
M/s. BBJ Steel Limited v. M/s. Cargill International Trading Pte. Ltd.
Intra Court Appeal No. 6601 of 2024
Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC4959.pdf>

Facts: The respondent-company initiated arbitration proceedings against the appellant-company under an arbitration clause governed by Singapore law. A sole arbitrator was appointed by the Singapore International Arbitration Centre, who rendered an award in favor of the respondent. The respondent-company sought recognition and enforcement of the award through a civil original suit before the Lahore High Court, which was allowed by the learned Single Judge. The appellant challenged that decision through an Intra Court Appeal.

Issues:

- i) Whether Pakistani courts, while enforcing a foreign arbitral award, can examine its merits or invoke public policy broadly, or are limited to acting as executing courts under the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 and the New York Convention (1958)?
- ii) Whether international arbitration agreements and foreign arbitral awards are binding in Pakistan, and to what extent domestic courts are restricted from interfering with such awards under the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011?

Analysis:

i) Recognition and enforcement of a foreign arbitral award may be refused by the courts of Pakistan on the public policy ground only where it would violate the ‘most basic notions of morality and justice’ prevailing in Pakistan (...) The public policy ground cannot be used to examine the merits of a foreign arbitral award or to create more grounds of defence that are not provided for in the Convention, such as misapplication of the law of Pakistan by the arbitrator in making the award or the arbitrator’s decision being contrary to the law of Pakistan (...) the court which passed the impugned judgment was simply performing the role of an ‘executing court,’ meaning thereby that its duty was to implement the award, not to review it (...) These objectives sought to be achieved by the New York Convention underscore the ‘pro-enforcement bias’ informing the Convention,

guiding the Courts towards a ‘narrow reading’ of the grounds of defence listed in the Convention, particularly, the public policy ground.

ii) The intention of legislation is very much evident from the Act, 2011 whereby minimal interference by Pakistani Courts in International Commercial Arbitration is ensured. (...) Since Pakistan is a signatory to the Arbitral Award, 1958 and the country has promulgated Act, 2011 to implement it. Section 8 of the Act, 2011 provides that in the event of any inconsistency between this Act and the convention (Arbitral Awards, 1958), the convention shall prevail to the extent of the inconsistency.

Conclusion: i) See above analysis No.i.
ii) Foreign arbitral awards and international arbitration agreements are binding in Pakistan, and courts have a minimal role, limited strictly by the provisions of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 and the New York Convention.

53. Lahore High Court
Saeed Akhtar v. The State.
Crl. Appeal No.1096 of 2024
Mr. Justice Sardar Akbar Ali
<https://sys.lhc.gov.pk/appjudgments/2025LHC4871.pdf>

Facts: The appellant filed appeal to challenge judgment of Trial Court through which he was sentenced under section 302(b) PPC to imprisonment for life and was also ordered to pay compensation to legal heirs of deceased.

Issue: i) What inference can be drawn from delay in registration of FIR?
 ii) What are pre-requisites for believing statement of a chance witness?
 iii) What is presumed about presence of eye witnesses if eyes and mouth of deceased remain open?
 iv) Can positive report of PFSA regarding weapon of offence be relied if chain of safe custody is missing?
 v) Whether allegation of abscondence is sufficient to maintain conviction?

Analysis: i) ... the matter was reported to the police on the same day at 08:25 p.m. i.e. with delay of about nine hours and twenty-five minutes, despite the fact that police station was just fifteen kilometers from the place of occurrence. In such a situation if these witnesses were present at the place of occurrence and also witnessed the scene of occurrence then such an inordinate and unexplained delay in lodging the FIR would never have occurred... Thus, in the facts and circumstances of the instant case, the element of delayed registration of FIR (Ex.PA) is clear indicator of the fact that in fact it was a blind murder and inference can be drawn that the intervening period was consumed in fabricating the prosecution story after the preliminary investigation and the delay was result of deliberation and consultation thus false involvement of the appellant cannot be ruled out.

- ii) Both these witnesses of ocular account are residents of District Mansehra. Therefore, these witnesses can safely be termed as chance witnesses and there is plethora of case law on the point that statements of such witnesses may be believed but only when convincing explanation about their presence at the place of occurrence at the relevant time is brought on the record, otherwise, their testimonies would remain as suspect evidence
- iii) ...the presence of the eye witnesses becomes doubtful on perusal of the postmortem report (Ex.PM) as well. The post mortem report (Ex.PM) transpires that the eyes of the deceased were found half open, which cannot happen in the presence of eye witnesses. This fact is also mentioned in inquest report (Ex.PP) that the eyes and mouth were half opened. Had the eye witnesses present at the crime scene, they would have shut the eyes of the deceased, while taking them to the hospital and thereafter.
- iv) the positive report received from the PFSA is of no use to the prosecution because the chain of safe custody is missing, which creates serious doubt about the recovery of the .12 bore gun/rifle alleged to be used as a weapon at the crime scene. Reference in this context may be made to the case reported as Kamal Din alias Kamala v. The State (2018 SCMR 577) wherein the Supreme Court of Pakistan discarded the positive report of FSL.
- v) Although it has been argued by learned District Public Prosecutor that Saeed Akhtar (appellant), remained an absconder in this case for a considerable period and his abscondance corroborates the prosecution case against him but it is by now well settled that when a person is named as a murderer, whether rightly or wrongly, he usually becomes scared and tries to conceal himself in order to avoid possible police torture and detention, therefore, mere abscondence of an accused by itself is not sufficient to maintain his conviction and sentence in absence of other reliable evidence.

- Conclusion:**
- i) From delay in registration of FIR, inference can be drawn that the intervening period was consumed in fabricating the prosecution story.
 - ii) Statements of chance witnesses may be believed but only when convincing explanation about their presence at the place of occurrence at the relevant time is brought on the record.
 - iii) Open eyes and mouth of deceased indicate absence of witnesses from the place of occurrence.
 - iv) Positive report of PFSA regarding weapon of offence is of no use when the chain of safe custody is missing.
 - v) Abscondence of an accused by itself is not sufficient to maintain his conviction and sentence in absence of other reliable evidence.

54.

Lahore High Court**Zulfiqar Khan etc. v. The State, etc.****Criminal Appeal No. 702 of 2024****Criminal Revision No. 315 of 2024****Ms. Justice Sardar Akbar Ali**<https://sys.lhc.gov.pk/appjudgments/2025LHC4928.pdf>

Facts: The appellants were tried and convicted by the Trial Court under sections 302/ 324/ 34/ 109 PPC. The appellants filed Criminal Appeal, while the complainant filed Criminal Revision seeking enhancement of sentence.

Issues:

- i) Whether unexplained delay in lodging the FIR adversely affects the credibility of the prosecution case?
- ii) Whether a delayed statement under section 161 Cr.P.C. without plausible explanation is reliable?
- iii) Whether dishonest improvements by prosecution witnesses during trial render their testimony untrustworthy and unreliable?
- iv) Whether withholding the most natural or best available witnesses permits drawing an adverse inference under Article 129(g) of Qanun-e-Shahadat Order, (QSO)1984?

Analysis:

- i) The matter was reported to the police on the same day at 05.05 p.m. i.e. with the delay of about four hours, despite the fact that police station was 4.5 kilometers from the place of occurrence (...) Therefore, I hold that this inordinate delay in setting the machinery of law in motion speaks volumes against the veracity of prosecution version.
- ii) The delay of three days in recording the statement of injured (PW-15) under Section 161 Cr.P.C. has also not been explained by the prosecution when he was fully conscious and oriented at the time of medical examination. Furthermore, it is settled law that credibility of a witness is looked with serious suspicion if his statement under section 161, Cr.P.C. is recorded with delay without offering any plausible explanation. This statement also reduces its value to nil until and unless it is explained rendering justiciable reasoning.
- iii) The flaws, contradictions and improvements in the statements of aforesaid PWs create doubts in the prosecution story. It is settled by now that dishonest improvements made by a witness in his statement to strengthen the prosecution case casts serious doubt about veracity of his statement and makes the same untrustworthy and unreliable.
- iv) According to the contents of FIR the other most natural witnesses of the occurrence in whose presence the occurrence took place but they were not produced by the prosecution during the trial. (...) Therefore, the prosecution withheld best available evidence and in view of Article 129(g) of Qanoon-e-Shahadat Order, 1984, adverse inference, that had this witness been produced before the learned trial court he would not have supported the prosecution case, can safely be drawn against the prosecution.

Conclusion:

- i) See above analysis No.i.
- ii) See above analysis No.ii.
- iii) The dishonest improvements made by the prosecution witnesses during trial rendered their testimony untrustworthy and unreliable, thereby creating serious doubts in the prosecution's version and making it unsafe to base conviction on

such evidence.

iv) The prosecution's failure to produce the most natural and best available witnesses justifies drawing an adverse inference under Article 129(g) of the QSO, 1984, that their testimony would not have supported the prosecution's case.

55. Lahore High Court
Malik Hamid Raza v. Additional District Judge, etc.
Civil Revision No. 719 of 2025
Mr. Justice Syed Ahsan Raza Kazmi
<https://sys.lhc.gov.pk/appjudgments/2025LHC4664.pdf>

Facts: The petitioner filed a suit for declaration of non-paternity and submitted an application requesting a DNA test of the minor child. Defendant in the suit did not oppose the application and even gave her consent for the DNA test. However, the trial court dismissed the application. The petitioner challenged this decision through an appeal, which was also dismissed by the appellate court. As a result, the petitioner filed the present civil revision before the High Court.

Issue: Whether a court should order a DNA test of a minor to determine paternity when both parties have given their consent in order to determine the paternity?

Analysis: The petitioner has challenged paternity and sought DNA testing of the minor child, citing prolonged absence of cohabitation with the mother. While both parents have expressed willingness for the test, the learned courts below have rightly held that at this preliminary stage, the application is premature, particularly when evidence of the parties is yet to be recorded. Furthermore, it has, by now, well-settled that DNA evidence is not conclusive rather it serves as corroborative evidence (...) The use of DNA testing in legal proceedings, particularly in matters of paternity, is a serious judicial act, not to be undertaken lightly or on mere request. It is not the availability of technology or the consent of parties that alone justifies such testing, but whether its purpose truly serves the ends of justice. DNA test may have value, but not at the cost of a child's mental and emotional well-being (...) Though the parents, as natural guardians, can generally provide consent on behalf of a minor, this principle is not absolute. This Court as well as Supreme Court of Pakistan in number of cases has held that when a minor's interests are at stake in litigation, the court may override parental consent if it observes that such consent is not in the best interest of the minor. The court's primary consideration is the welfare of minor, and it may intervene to protect the rights of minor even if it means setting aside parental decisions/wishes.

Conclusion: A court should not order a DNA test of a minor to determine paternity merely on the basis of consent by both parents; instead, it must independently assess whether such a test is in the best interest of the minor, and may defer the decision until sufficient evidence is available to justify such an order.

56. Lahore High Court
Asif Kamran & 02 others v. The State & 04 others
Writ Petition No.15471 of 2011
Mr. Justice Malik Javid Iqbal Wains
<https://sys.lhc.gov.pk/appjudgments/2025LHC4802.pdf>

Facts: Petitioners challenged the summoning order passed by the Drug Court under the Drugs Act, 1976, after the District Quality Control Board had previously concluded the matter by issuing them only a warning.

Issues:

- i) Whether the learned Assistant District Public Prosecutor (ADPP) was legally competent to file an application for summoning the petitioners in the absence of a statutory complaint filed by a designated Inspector under section 30 of the Drugs Act, 1976;
- ii) Whether the learned Drug Court could assume jurisdiction to entertain such an application, bypassing the statutory mechanism laid down in Sections 19 and 30 of the Drugs Act, 1976, and the Punjab Drug Rules, 2007;
- iii) Whether the impugned proceedings and order offend the fundamental rights of the petitioners guaranteed under Articles 4 and 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter “the Constitution”).

Analysis:

- i) The Act, 1976, being a special statute, prescribes a complete procedural framework, which must be strictly adhered to. Section 19(6) of the ‘Act ibid’ clearly mandates that no prosecution shall be instituted unless the matter is first referred to the relevant Board and a decision is made thereon. Section 30 of the “Act, 1976” is explicit that only a Federal or Provincial Inspector is competent to institute a prosecution under the “Act”. This section prohibits institution of prosecution by any person except by a Federal Inspector or the Provincial Inspector. This statutory scheme overrides general criminal procedure and binds all authorities acting under the Act... In view of above provision of law, it is clear that learned ADPP is not vested with any power under the Act, 1976 to initiate or revive prosecution. Bare reading of the Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006, reveals that the role of Prosecutor is restricted to represent the Government, scrutinizing investigation reports, advising law enforcement, and conducting prosecution where lawfully instituted. The ADPP cannot override a concluded administrative decision made by the competent authority under the Act, 1976.
- ii) The trial court was equally bound to examine the maintainability of the application and its own jurisdiction before passing the impugned summoning order. By ignoring the statutory bar, the trial court acted without lawful authority. The Supreme Court of Pakistan has time and again held that when the law requires a particular procedure to be followed, any deviation renders the action void ab-initio.
- iii) It must be underscored that this procedural irregularity strikes at the very root of due process. Article 4 of the Constitution guarantees that no action detrimental to the life, liberty, body, reputation or property of any person shall be taken,

except in accordance with law. Here, the petitioners were deprived of the statutory safeguards guaranteed by the Act, 1976 and the Punjab Drug Rules, 2007. The ADPP's unilateral act of filing an application and the trial Court's acceptance amounts to an arbitrary exercise of power, in clear derogation of Article 4 of the Constitution.

- Conclusion:**
- i) The ADPP was not legally competent to initiate such proceedings.
 - ii) The Drug Court lacked jurisdiction in bypassing the statutory mechanism.
 - iii) The proceedings violated the petitioners' fundamental rights under Articles 4 and 10A of the Constitution.

57.

Lahore High Court

Commissioner Inland Revenue v. M/S D-Watson & another
S.T.R.No. 07 of 2022.

Mr. Justice Jawad Hassan, Mr. Justice Malik Javid Iqbal Wains

<https://sys.lhc.gov.pk/appjudgments/2025LHC4654.pdf>

Facts:

The registered persons, being Tier-1 retailers, failed to fully integrate their retail outlets with the FBR's computerized system for real-time reporting of sales, resulting in imposition of penalty and disallowance of input tax under the Sales Tax Act, 1990, which was ultimately set aside by the Appellate Tribunal.

Issues:

- i) Whether under the facts and in the circumstances of the case, the Learned ATIR has failed to appreciate that the Registered Person has committed willful default of the provisions of section 2(43A), 3(9A) & 40C of the Sales Tax Act, 1990 by not integrated his retail outlet with Board's Computerized System for real time reporting of Sales?
- ii) Whether the Learned Appellate Tribunal has not failed to appreciate that the provisions of section 11 of the Sales Tax Act, 1990 could be pressed into service for the purpose of imposition of penalty/default surcharge, in accordance with the schedule prescribed under the provisions of section 33 of the Sales Act, 1990, on committing of an offense of willful default by a Registered Person?
- iii) Whether the Learned ATIR has failed to appreciate that the provision of section 11 of the Sales Tax, 1990 confers the powers upon an Officer of Inland Revenue to issue a Show Cause Notice and pass order thereon to impose penalty/default surcharge, in accordance with schedule as prescribed under section 33 of the Sales Tax Act, 1990 on a Tax Defaulter?
- iv) Whether under the facts and in the circumstances of the case, the Learned ATIR has failed to appreciate that the penalties/default surcharge, as prescribed at serial No 24 & 25 of the section 33 of the Sales Tax Act, 1990 are imposed after commitment of an offense, as prescribed at column No.1 of the schedule, by the Registered Persons?
- v) Whether under the facts and in the circumstances of the case, the Learned ATIR has failed to appreciate that the Appellant (Respondent No.1) has committed willful default of the provisions of section 2(43A), 3(9A) & 40C of the Sales Tax Act, 1990 by not integrated his retail outlet with Board's Computerized

System for real time reporting of Sales?

vi) Whether under the facts and in the circumstances of the case, the Learned ATIR has not failed to appreciate that the amount of Tax involved and the amount of Penalties/Default Surcharge is levied under the schedule provided in section 33 of the Sales Tax Act, 1990, after issuance of Show Cause Notice upon the Registered Person and adjudication of the case, strictly in accordance with law?

Analysis:

i) The said provision is silent regarding the creation of offences or the independent imposition of penalties for regulatory breaches that do not necessarily result in a quantifiable tax default. Its scope is not punitive but compensatory and restorative in nature, to protect the exchequer from actual revenue loss. Conversely, the offences for failure to integrate a retail outlet fully or partially with the Board's Computerized System for real-time reporting are distinctly prescribed under Sections 2(43A), 3(9A), and 40C of the "Act", while the penal consequences for such breaches are codified under Section 33 of the "Act", particularly at Serial 24 & 25... The Table appended to Section 33 of the "Act...prescribes various statutory offences along with the corresponding penalties for each specific breach... Any attempt to rely on Section 11 of the "Act" to sidestep this procedural requirement is legally untenable, as Section 11 of the "Act" neither creates the offence nor provides the jurisdictional foundation for penal proceedings that are not tied to a tax shortfall.

ii) Section 11 of the "Act" is a machinery provision. Its statutory object is to empower the Officer of Inland Revenue to detect, assess, and recover any tax, which has either escaped assessment, has not been paid, or has been erroneously refunded... It addresses tax revenue shortfall and its recovery, not regulatory penalties imposed for stand-alone statutory breaches unrelated to any deficit in the tax payable... To hold otherwise would blur the line between tax assessment and regulatory adjudication, which the Act keeps separate by design.

iii) The applicant-Department is under a statutory obligation to ensure strict compliance with the legislative framework to prevent any jurisdictional defect and to secure that every Show Cause Notice and any resulting adjudication order is legally tenable. It is a settled principle that the jurisdiction of an administrative adjudicating officer must be exercised strictly in accordance with the enabling statute... Although Section 33 of the "Act", prescribes various offences and their corresponding penalties, it does not itself provide any independent procedural mechanism for the issuance, adjudication, or recovery of such penalties... Therefore, in the absence of such procedure, reliance cannot be placed on a general provision like Section 11 of the "Act", which is confined to tax assessment and recovery, to fill that gap by implication.

iv) ... Failure to fully or partially integrate their retail outlet does not, ipso facto, result in a quantifiable shortfall of sales tax that can be brought within the ambit of Section 11 of the "Act". Instead, this default constitutes an independent regulatory offence for which a specific penalty is prescribed under Serial Nos.24 and 25 of Section 33 of the "Act".The statutory design is deliberate: the Legislature has distinguished between revenue shortfalls, which require recovery

through assessment under Section 11 of the “Act”, and compliance-related breaches, which attract stand-alone penalties under the schedule to Section 33 of the “Act... the imposition of any penalty that carries civil or quasi-criminal consequences demands adherence to the principles of due process, as enshrined under Articles 4 and 10A of the Constitution...

v) Where the statute does not itself prescribe an explicit procedure for enforcing the penalty (as is the case with Section 33 of the “Act”), the Department must follow the procedure laid down under the general adjudication framework of the “Rules”, or other delegated legislation validly made under Section 50 of the “Act”. Any attempt to rely on Section 11 of the “Act” to sidestep this procedural requirement is legally untenable...

vi) Any penal action taken without strict adherence to the proper statutory procedure risks being rendered without lawful authority. Additionally, the scheme of the Sales Tax Act makes a conceptual distinction between tax liability and penal liability. Section 11 of the “Act” addresses the former, Section 33 of the “Act” the latter.

- Conclusion:**
- i) The ATIR did not fail; the Registered Person’s non-integration falls under regulatory breaches separately governed by section 33.
 - ii Section 11 cannot be invoked for penalties/default surcharge prescribed under Section 33.
 - iii) Section 11 does not confer power to issue SCN or impose penalties for purely regulatory defaults not tied to tax shortfall.
 - iv) Penalties under serial Nos. 24 & 25 must be imposed only after due process under specific provisions.
 - v) ATIR correctly appreciated that wilful default must be pursued under section 33 procedure.
 - vi) Penalties and default surcharge under section 33 require show cause notice and adjudication strictly as per law, not under section 11.

58.

Lahore High Court

Muhammad Akhtar. v. Deputy Commissioner, Khushab & 03 others
Writ Petition No. 25654 of 2025

Mr. Justice Khalid Ishaq

<https://sys.lhc.gov.pk/appjudgments/2025LHC4708.pdf>

Facts:

A vacancy for the appointment of Village Headman occurred due to the death of the then incumbent. The petitioner and Respondents No. 3 & 4 applied for the vacancy. The Tehsildar submitted the 1st Report, wherein the petitioner secured highest marks (95/100). The Assistant Commissioner endorsed the evaluation and forwarded the 2nd Report. However, the Deputy Commissioner passed the Impugned Order seeking fresh reports. The petitioner challenged the Impugned Order through this constitutional petition.

Issues:

- i) Whether a High Court can set aside administrative orders based on arbitrary discretion and mala fide exercise of authority under Article 199 of the

Constitution?

- ii) Whether a mere registration of an FIR disqualifies a candidate from appointment to a public office under Rule 18(2)(e) of the Land Revenue Rules, 1968?
- iii) Whether the High Court's intervention amounts to 'suo motu' jurisdiction where the original relief is within the scope of the petition?

Analysis:

- i) It is for these patently illegal executive's actions that the power of judicial review has been conferred upon this Court under Article 199 of the Constitution. Obligation to act fairly on the part of administrative authority has been evolved to ensure the rule of law and to prevent failure of justice (...) Considering the Impugned Order and the Appointment Order on very basic standards of fairness and administration of justice, the same are grossly illegal and unlawful and if allowed to sustain, it amounts to militate against rule of law. Judicial review of the Impugned Order and consequent Appointment Order, is well within the scope of exercise of power of judicial review of this Court under Article 199 of the Constitution.
- ii) It is also trite that mere registration of a case does not attract disqualification of an office bearer and only a conviction entails the crystallization of disqualification (...) The disqualification provisions will only trigger once an appointed Village Headman indulges into illegal activities enumerated in rule 18(2)(e) of the Rules.
- iii) Considering the well settled law on the subject viz the bar or exercise of suo motu jurisdiction by the High Court while juxtaposing the prayer made in this petition (...) the contention of the learned Counsel for the Respondent No. 3 that further proceeding in this case is in the nature of suo motu exercise of jurisdiction, is not only misconceived and ill-founded but also an attempt to defend inchoate, arbitrary and illegal actions of the respondents. This petition was taken up for hearing on 30.04.2025 (...) when the notices were issued to the respondents to explain as to how a candidate securing 95/100 marks, has not been appointed.

Conclusion:

- i) Yes, the High Court can set aside arbitrary and mala fide administrative orders under Article 199 of the Constitution.
- ii) See above analysis No.ii.
- iii) No, the Court's intervention does not amount to suo motu jurisdiction when the relief sought falls within the scope of the petition.

59. Lahore High Court
Muhammad Shafique v. Chief Secretary, Government of the Punjab, Lahore and 4 others etc.
Writ Petition No.7108 of 2022
Mr. Justice Malik Muhammad Awais Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC4692.pdf>

Facts: Through the instant Constitutional petition, the petitioner has challenged the legality of the orders whereby he was dismissed from service following disciplinary proceedings under the Punjab Employees (Efficiency, Discipline &

Accountability) Act, 2006, (PEEDA Act, 2006) despite initially being penalized with lesser punishments after a regular inquiry, and his departmental appeal against the dismissal was also rejected.

Issues:

- i) What are the requirements under section 13 of the Punjab Employees (Efficiency, Discipline & Accountability) Act, 2006 when the Competent Authority seeks to enhance the penalty?
- ii) What obligations does section 13(1) of the Act place on the Competent Authority upon receiving the Inquiry Officer's report?
- iii) What does the principle of proportionality require the Court to assess when reviewing an administrative action?

Analysis:

- i) A bare perusal of Section 13, reveals that if the Competent Authority disagrees with the quantum of punishment then reasons must be given while containing material evidence which urged the competent authority for imposition of enhancement of the penalty.
- ii) From the language used in the Section 13(1) of the Act, it is necessary that once the Competent Authority receives a report from the Inquiry Officer, it shall examine the (i) report and (ii) relevant case material.
- iii) Proportionality requires the Court to judge whether action taken was really needed as well as whether it was within the range of courses of action which could reasonably be followed.

Conclusion:

- i) Competent Authority must record reasons with supporting material evidence when enhancing the penalty under Section 13 of PEEDA Act, 2006.
- ii) Under section 13(1), of PEEDA Act, 2006 the Competent Authority must examine both the inquiry report and relevant case material before making a decision.
- iii) The principle of proportionality requires judicial assessment of both necessity and reasonableness of the action taken.

60. Lahore High Court
T.L.C. Institute of Nursing & other Allied Sciences through its Chief Executive Officer, Old Kahna Nau, Lahore v. The Higher Education Commission (H.E.C), Islamabad and 6 others
W.P. No.9961 of 2024
Mr. Justice Malik Muhammad Awais Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC4837.pdf>

Facts: The petitioner has assailed the orders passed by the syndicate of a public university, blacklisting the petitioner and canceling its affiliation. It also moved before the organization after filing this petition.

Issues:

- i) Who is competent revisional authority under the Islamia University of Bahawalpur Act, 1975?
- ii) What is the scope of doctrine of election?

Analysis: i) Now matter is pending before Chancellor for its final determination who is exercising power under Section 11-A of the IUB Act having the revisional authority to scrutinize the validity of impugned order. Section 11-A of the IUB Act is reproduced below:-

“11-A. Revisional Power of the Chancellor:- The Chancellor may, of his own motion or otherwise, call for and examine the record of any proceedings in which an order has been passed by any Authority for the purpose of satisfying himself as to the correctness, legality or propriety of any finding or order and may pass such orders as he may deem fit.

Provided that no order under this section shall be passed unless the person to be affected thereby is afforded an opportunity of being heard.”

ii) The scope of doctrine of election is elaborated in the case of Chief Executive Officer NPGCL, GENCO-III, TPS Muzaffargarh vs. Khalid Umar Tariq Imran and others (2024 SCMR 518), the relevant portion of which is as under:-

“11. It is a well-settled proposition of law that when an aggrieved person intends to commence any legal action to enforce any right and or invoke a remedy to set right a wrong or to vindicate an injury, he has to elect and or choose from amongst the actions or remedies available under the law. The choice to initiate and pursue one out of the available concurrent or co-existent actions or remedy from a forum of competent jurisdiction vest with the aggrieved person. Once the choice is exercised and the election is made then the aggrieved person is prohibited from launching another proceeding to seek relief or remedy contrary to what could be claimed and or achieved by adopting other proceeding/ action and or remedy, which in legal parlance is recognized as doctrine of election, which doctrine is culled by the courts of law from the well-recognized principles of waiver and or abandonment of a known right, claim, privilege or relief as contained in Order II, rule (2), C.P.C., principles of estoppel as embodied in Article 114 of the Qanun-e-Shahadat Order 1984 and principles of res judicata as articulated in section 11, C.P.C. and its explanations. Reference in this regard may be made to the case of Trading Corporation of Pakistan v. Devan Sugar Mills Limited and others (PLD 2018 Supreme Court 828).”

Conclusion: i) Chancellor is the competent authority exercising revisional powers to scrutinize the validity of orders passed by the Syndicate of Islamia University of Bahawalpur.

ii) Doctrine of election of remedies prohibit to move before two forums simultaneously, it is also hit by the principle of estoppel, res judicata, Order 2 rule II of the CPC.

- 61. Lahore High Court**
Advocate Muhammad Waseem Mukhtar Khan v. Govt. of the Punjab etc.
Writ Petition No.1612 of 2025
Mr. Justice Malik Muhammad Awais Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC5001.pdf>

Facts: The petitioner, a local resident, challenged the disposal of untreated sewerage effluent into a canal which serves as the primary source of drinking and irrigation water for nearby villages, contending that it violated fundamental and legal rights under the Constitution and applicable environmental laws.

Issues:

- i) Whether Article 9A of the Constitution confers an enforceable fundamental right to a clean and healthy environment?
- ii) Whether constitutional right provided in Article 9-A of the Constitution entails a duty to prevent pollution of water bodies by industrial, urban, and agricultural waste?
- iii) Whether discharging untreated sewerage into a primary water source violates constitutional and environmental safeguards?

Analysis:

- i) Through the Constitutional amendment, vide 21st October 2024 and a new Article 9A has been inserted therein,... “Every person shall be entitled to clean and healthy sustainable environment.” Raising the status of the environment to that of a Fundamental Right in the Constitution, manifest its significance. Pakistan is now one of very few countries which bring up the environment specifically in their Constitution. Now it is the responsibility of everyone here to ensure that this country must be free from pollution with clean healthy environment.
- ii) Water is sustenance of the life cycle. It must be protected from all types of pollutants. Water, the elixir of life, is essential for all living beings and ecosystems. Water sustains life, enabling bodily functions, supporting agriculture, and facilitating industrial processes. However, increasing water scarcity, pollution, and mismanagement threaten this vital resource. It should be our collective responsibility to preserve the water through responsible usage and waste reduction in our daily lives. The human body and other living organisms require it, but in its pure form, free from any type of contamination. But man is disturbing water bodies, viz. rivers, wells, streams, seas. On land, the natural water system is being polluted by the addition of industrial wastes, urban wastes, pesticides and related pollutants. Resultantly the whole environment has been severely effected.
- iii) Biodiversity is collapsing at an unprecedented rate; thousands of animal and plant species face complete destruction within a decade, because of human activities. Notwithstanding extensive domestic regulation, global standards of air, land and water pollution remain stubbornly high. Khanpur minor Canal is a vital water source used for both irrigation and drinking purposes by humans and animals, and also for agriculture. The ground water of the locality is highly brine and unfit for consumption, leaving the canal as the primary source of potable

water and discharging untreated sewerage waste into the canal, leading to the contamination of water and posing severe health risks to the residents of the area.

- Conclusion:**
- i) Article 9A of the Constitution confers an enforceable fundamental right to a clean and healthy environment.
 - ii) The constitutional right as provided under Article 9A imposes a duty to prevent pollution of water bodies by industrial, urban, and agricultural waste.
 - iii) Discharging untreated sewerage into a primary water source violates constitutional and environmental laws.

62. Lahore High Court
Muhammad Talha Ammar Khan & 18 others v. Board of Governors, Sadiq Public School Bahawalpur and others.
W.P. No.6337 of 2024
Mr. Justice Malik Muhammad Awais Khalid.
<https://sys.lhc.gov.pk/appjudgments/2025LHC4989.pdf>

Facts: The petitioners, who are students of a private school, contend that after paying the tuition and allied charges for the first academic term, the school management arbitrarily issued demand notices for the next term requiring over 50% increase in fees and additional facility charges, despite the students not availing such facilities. They also objected to enhanced adjustment bills related to class changes. The petitioners argue that these revisions were made without approval from the competent authority—the Board of Governors—and thus lack legal justification, rendering the actions irrational, excessive, and an abuse of discretion.

Issues:

- i) Whether any rule or regulation exists under the Punjab Educational Institutions (Reconstitution) Act, 2021 that governs the timing and quantum of fee and allied educational expense increases during the academic year?
- ii) What is the purpose of the Punjab Educational Institutions (Reconstitution) Act, 2021 regarding the governance and financial administration of educational institutions in the province?

Analysis:

- i) There is no Rule and Regulations which deal with ‘time to time’ and ‘quantum’ to increase the fee fixation during the academic year and the same does not describe quantum for such increase of the fee and other allied educational expenditures for the students during the academic session.
- ii) The Courts are not mere dispute-resolution forums; they are vested with the solemn duty to uphold the public confidence in the administration of justice.

Conclusion:

- i) See above analysis No.i.
- ii) See above analysis No.ii.

63. Lahore High Court
Syed Nazir Hussain Shah v. Deputy Commissioner, etc.
W.P. No. 7256 of 2025
Mr. Justice Ch. Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC4449.pdf>

Facts: The petitioner has filed the present constitutional petition challenging the judgments of the Guardian Judge and the Appellate Court, whereby custody of the minor, daughter, was granted to her biological mother (respondent No.3). The minor, youngest of three daughters, was initially handed over to her paternal uncle (respondent No.4) and his wife, the petitioner, through an adoption deed. Following the couple's separation, the petitioner retained custody of the minor. Later, the real mother initiated custody proceedings under section 25 of the Guardian and Wards Act, 1890, in which the minor's biological parents supported the claim. The petition was allowed, and the appeal filed by the petitioner was dismissed.

Issues:

- i) What are the compelling circumstances that must be established for adoption to be considered permissible under the principles of Islamic law?
- ii) Whether real parents have a preferential right to the custody of their child, and what exceptional circumstances can justify a departure from this right in the interest of the minor's welfare?
- iii) Whether the principle that biological parentage, particularly the mother's right to *hizanat*, should be prioritized in custody disputes unless extremely exceptional circumstances exist?

Analysis:

- i) There is no cavil to the proposition that adoption is permitted under principle of Islamic Laws but compelling circumstances, under which adoption was imperative, are required to be established.
- ii) It is well settled that real parents have a preferential right regarding custody of their child unless exception exists warranting to hold otherwise in respect of welfare of the minor.
- iii) The principle that biological parentage, particularly the mother's right to *hizanat*, is to be prioritized in custody disputes unless extremely exceptional circumstances exist.

Conclusion:

- i) Adoption is permissible under Islamic law, but must be justified by compelling circumstances.
- ii) Real parents hold a preferential custody right unless overridden by the minor's welfare in exceptional cases.
- iii) Biological parentage, especially the mother's right to *hizanat*, prevails in custody matters unless exceptional circumstances justify otherwise.

64. Lahore High Court
Syed Sajid Raza v. Muhammad Ali Din
C.R. No.1147-D of 2021.
Mr. Justice Ch. Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC4668.pdf>

Facts: Being dissatisfied with the judgments and decrees of the Trial court and the Appellate Court passed in suit for declaration to challenge a mutation for mortgage with conditional sale, the petitioner filed instant Civil Revision.

Issue: i) What are the parameters to prove mortgage by conditional sale?
 ii) Whether agricultural land can be subject matter of mortgage by way of conditional sale?

Analysis: i) To prove a case of sale by mortgage, it is imperative that plaintiff should prove his case on the test popularly known as Butler's Test . The definition of a mortgage by conditional sale itself contemplates an ostensible sale of the property...The test has been approved by the Supreme Court of Pakistan and thus, it would be advantageous to reproduce the same and evaluate the document under question on its basis: - (1) The existence of a debt; (2) The period of repayment, a short period being indicative of a sale and a long period of mortgage; (3) Continuance of the grantor in possession indicates a mortgage; (4) A stipulation for payment of interest indicates a mortgage; (5) A price below the true value is indicative of mortgage; (6) A contemporaneous deed stipulating for re-conveyance in the case of a mortgage, but one executed after a lapse of time points to a sale; (7) Purchase of stamps and payment of registration costs if done by the transferor, is indicative of a sale. To me Butler's test a good criterion for ascertaining whether the parties intended the transaction to be a mortgage or a sale.

ii) The Section 10 of the Punjab Land Alienation Act, 1900 reads as under: 10. Future mortgage by way of conditional sale not permitted.— In any mortgage of land made after the commencement of this Act any condition which is intended to operate by way of conditional sale shall be null and void. In Allah Din v. Fateh Din⁵ , Punjab Chief Court gave effect to section 10 of Punjab Alienation of Land Act, though the point was not taken in the lower Courts. Mr. Justice Shadi Lal of the Punjab Chief Court commenting on the applicability of section 10 of the above Act observed...Somewhat similar views were expressed in Debi Sahai v. Ramji Lal No. 56 Punjab Record 1918 and Chhaju Ram v. Muzaffar Ahmad (AIR 1936 Lahore 845) by a Division Bench of this Court. However, it does not invalidate mortgage of the land altogether but deems mortgage to be void qua the condition of conditional sale . It is trite law that prescription does not operate against law, the Punjab Land Alienation Act 1900 is part of the statute book and rights contained therein are enforceable.

Conclusion: i) To prove a case of sale by mortgage, the plaintiff should prove his case on the test popularly known as Butler's Test.

ii) See above analysis No.ii.

65. Lahore High Court
Muhammad Tanveer Tannu v. The State
Criminal Appeal No. 571 of 2024
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4537.pdf>

Facts: The appellant was convicted under the Control of Narcotic Substances Act, (CNSA) 1997 as amended by the Control of Narcotic Substances (Amendment) Act, 2022 on the allegation of possessing narcotics recovered during a police operation. He challenged the conviction on the ground that the prosecution failed to establish safe custody of the recovered substance and did not timely transmit the samples to the forensic agency.

Issues:

- i) Whether the prosecution's failure to prove safe custody and timely dispatch of samples renders the chemical analysis report unreliable under the CNSA, 1997?
- ii) Whether non-compliance with the procedure prescribed by law leads to the presumption that the required act was not performed in accordance with law?
- iii) Whether reliance can be placed on the chemical report when the prosecution fails to prove the safe transmission of the recovered narcotic substance from the place of recovery to the forensic agency?
- iv) Whether a break in the chain of custody affects the conclusiveness and reliability of the chemical report?

Analysis:

- i) No explanation for said delay in handing over the sealed parcels, said to contain the samples, drawn and separated from the recovered pieces of Charas, much less plausible, has been furnished by the prosecution. Such an inordinate delay in handing over the sealed parcels of the samples, drawn and separated from the two pieces of Charas to the Punjab Forensic Science Agency inevitably casts a deep shadow of doubt on the integrity and the authenticity of the safe custody of the said parcels and then makes the report of the Punjab Forensic Science Agency highly doubtful, as under the law it is necessary that the said report of Punjab Forensic Science Agency not only be produced before the learned trial court but also be duly proved and term 'duly proved' means that the safe custody and transmission of a parcel, whereby the items are sent for analysis to the Punjab Forensic Science Agency, is also proved, which in this case the prosecution has not been able to.
- ii) It is a well-established principle of law that when law requires a thing to be done in a particular manner, the same must be done accordingly and if the prescribed procedure is not followed, it would be presumed that the same has not been done in accordance with law.
- iii) The whole prosecution case is dependent upon the report of the Punjab Forensic Science Agency and reliance upon the same can only be placed in the circumstances when safe transmission of the recovered narcotic substance from the place of recovery to Police Station and from Police Station to Punjab Forensic

Science Agency, is proved, however, in this case for the above reasons, statements made by the prosecution witnesses, the said safe transmission of the recovered narcotic substance from the place of recovery to Police Station and from Police Station to Punjab Forensic Science Agency could not be proved.

iv) This portion of the prosecution evidence proves that there are missing links in the chain relating to taking into possession of the case property from the place of occurrence and its submission to the Punjab Forensic Science Agency and its production before the learned trial court. (...) The break in the chain of custody and lapse in the control of possession of the recovered narcotic substance casts doubts on the safe custody and safe transmission of the articles and impairs and vitiates the conclusiveness and reliability of the report of the Punjab Forensic Science Agency, thus, rendering it incapable of sustaining conviction.

- Conclusion:**
- i) The failure to prove safe custody and timely dispatch of samples rendered the chemical report unreliable under the narcotics law.
 - ii) Failure to follow the prescribed legal procedure raises a presumption that the act was not done in accordance with law.
 - iii) Reliance could not be placed on the chemical report due to the prosecution's failure to prove the safe transmission of the recovered narcotic substance.
 - iv) The break in the chain of custody undermined the conclusiveness and reliability of the chemical report.

66. Lahore High Court
Muhammad Ramzan v. The State
Criminal Appeal No. 979-J of 2023
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4524.pdf>

Facts: The appellant was apprehended with a specified quantity of Charas, which was seized and documented through a recovery memo. Following the registration and formal investigation of the case, he was formally charged and proceeded to trial. Upon conclusion of the trial proceedings, the appellant was convicted and sentenced to undergo rigorous imprisonment for ten years along with a fine.

Issues

- i) What is the requirement under Rule 22.48 of the Police Rules, 1934, regarding the documentation of police official's movements and events occurring at the police station in Register No.II?
- ii) What is the effect of an unexplained delay in sending a narcotic sample to the forensic agency?
- iii) What is the legal consequence of not following the procedure prescribed by law?
- iv) What is the impact of a broken chain of custody on the reliability of the forensic report in narcotics cases?

- v) What is the significance of proving safe custody and transmission of recovered narcotics under the Control of Narcotic Substances Act, (CNSA) 1997 and the Control of Narcotic Substances (Government Analysts) Rules, 2001?
- vi) What is the effect of doubt on the prosecution's case in criminal trials?

Analysis:

- i) Now according to the Police Rules, it is necessary that the arrival and departure of every police official be entered in the Register No.II, as maintained under Rule 22.48 of the Police Rules, 1934, and the entries to be made in Register No.II specifically provide that in the said Register the record of all the events which take place at the Police Station on that particular day including the movements of the police officers and visitors are to be recorded and the names of the persons in custody have to be mentioned and the offence for which they have been arrested are also to be mentioned and in the last entry of each day the balance of cash in hand and the balance of the cattle-pound account is to be mentioned.
- ii) Moreover, it is also a fact that though the alleged narcotic substance was recovered on 10.02.2023, however, the sealed parcel, said to contain the sample, drawn and separated from the recovered narcotic substance was shown to be sent to the Punjab Forensic Science Agency only on 05.03.2023, without any explanation for said delay in the transmission, which also creates a doubt with regard to the safe transmission of the said sealed parcel, said to contain the sample, drawn and separated from the recovered narcotic substance.
- iii) It is a well-established principle of law that when law requires a thing to be done in a particular manner, the same must be done accordingly and if the prescribed procedure is not followed, it would be presumed that the same has not been done in accordance with law.
- iv) The break in the chain of custody and lapse in the control of possession of the recovered narcotic substances casts doubts on the safe custody and safe transmission of the articles and impairs and vitiates the conclusiveness and reliability of the report of the Punjab Forensic Science Agency, Lahore, thus, rendering it incapable of sustaining conviction. To prove the safe custody of the recovered narcotic substances was pivotal for the prosecution, as the entire construct of the Control of Narcotic Substances Act, 1997, and the Control of Narcotic Substances (Government Analysts) Rules, 2001 rested on the report of the Punjab Forensic Science Agency, Lahore, which in turn rested on the process of sampling and its safe and secure custody.
- v) Though there is a slight difference by virtue of section 29 of the Control of Narcotic Substances Act, 1997 in the manner and standard of proof in cases registered under the said Act but the prosecution is always bound to discharge the initial onus of proof.
- vi) This is now a settled principle of law that in every case, the burden to prove the guilt of the accused always lies on the prosecution. Even the slightest doubt results in the failure of the case of the prosecution. Benefit of doubt is not to be granted as a concession but as of right to the accused.

- Conclusion:**
- i) Failure to record police movements in Register No.II breaches mandatory procedure provided under Rule 22.48.
 - ii) Unexplained delay in sending the sample casts doubt on its safe transmission.
 - iii) Non-compliance with mandatory legal procedures renders the action legally invalid.
 - iv) A break in the chain of custody invalidates the forensic report's credibility, thereby weakening the prosecution's case under the CNSA and its Rules.
 - v) Prosecution must prove the case despite section 29 of CNSA.
 - vi) Any doubt entitles the accused to acquittal as a right.

67. Lahore High Court
Mian Haseeb Madni v. The State and another
Crl. Misc. No.3505-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4767.pdf>

Facts: The petitioner was nominated in a criminal case for uploading and sharing a false and defamatory video on social media, alleging immoral conduct by a police official/complainant, which was later found to be baseless during an official inquiry. The content caused reputational harm and psychological distress. The trial court had declined the accused's request for post-arrest bail.

Issues

- i) Does the mere fact that the offences are not falling within the prohibitory clause of section 497 Cr.P.C. make the offences bailable as of right?
- ii) Can bail be refused in cases not falling within the prohibitory clause if exceptional circumstances exist?
- iii) What is the legal stance regarding the treatment of offences that cause psychological harm and affect public morality?

Analysis:

- i) The mere fact that the offences were not falling within embargo contained in Section 497 of Cr.P.C. does not mean that the offences have become bailable, as such concession of the bail could not be claimed as a right and bail could be refused where the offences are heinous in nature and are affecting the whole of the society.
- ii) The Honourable superior Courts were pleased to decline the bail to the accused even in cases not hit by prohibitory clause, where exceptional circumstances of the case so require
- iii) Such like incidents cause depression, frustration and death anxiety to its victims. It is duty of all the concerned organs of the state to come forward and gear up their sources in order to meet such like offences with an iron hand. If such like matters are dealt with in lighter mode, whole of the country would be unsafe at the hands of such like mafia.

Conclusion:

- i) Bail isn't a right for non-prohibitory offences if they are serious and impact society.
- ii) Bail can be denied in exceptional non-prohibitory cases.

iii) Grave offences need strict state action to protect society.

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- 68. Lahore High Court**
Muhammad Kabeer Tahir v. The State and another
Crl. Misc. No. 75736-B of 2024
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4791.pdf>
- Facts:** The petitioners are seeking their pre-arrest bail in a case FIR registered for the offence under section 461-I and 322 PPC; for the death of a child due to electric shock caused to him/her for touching a cable. The TV network cable fell on electricity transmission HT lines and got electrified.
- Issues:** i) Whether the conduct of post-mortem examination is compulsory in every case of unnatural death?
 ii) Whether a fact visible to whole public is judicially noticeable under Article 111 of the Qnaun-e-Shahadat Order, (QSO) 1984?
- Analysis:** i) Post mortem examination of the deceased is not necessary in each and every case. Where prosecution is in a position to prove factum of the death by convincing material, non-conducting of post mortem report would not be fatal to the case of prosecution. If any reference in this regard was required that can be had from ‘Abdul Rehman v. The State.’ (1998 SCMR 1778), ‘Muhammad Riaz v. The State’ (1986 P.Cr.LJ 2233), ‘Reheem Ullah v. The State’ (1985 P.Cr.LJ 463).
 ii) In our country cable network operators are using the electricity poles for the supply of their services. The said fact, being visible to whole of the public, is judicially noticeable by the Courts under Article 111 of Qanun-e-Shahadat Order and there is no need to prove the same independently.
- Conclusion:** i) Post mortem examination of the deceased is not necessary in each and every case. Where prosecution is in a position to prove factum of the death by convincing material, non-conducting of post mortem report would not be fatal to the case of prosecution.
 ii) A fact visible to whole public is judicially noticeable under Article 111 of QSO, 1984 and there is no need to prove the same independently.
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- 69. Lahore High Court**
Majid Ali. v. The State and another.
Crl. Misc. No. 12913-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4548.pdf>

Facts: An accused sought post-arrest bail after being implicated for allegedly failing to pay for goods purchased. His bail had earlier been declined by the Additional Sessions Judge.

- Issues:**
- i) What are the essential ingredients to attract the offence under section 406 PPC?
 - ii) Whether in the absence of entrustment, the dispute amounted to a civil liability not attracting Section 406 PPC?
- Analysis:**
- i) In the light of supra mentioned reproduced penal provision, it appears to be clear that to attract the offence of criminal breach of trust punishable under section 406 PPC, the essential ingredients are:-
 - i) There should be an entrustment by a person who reposes confidence in the other, to whom property is entrusted.
 - ii) The person in whom the confidence is placed, dishonestly misappropriates or converts to his own use, the property entrusted.
 - iii) He dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged.
 - iv) He dishonestly uses or disposes of that property in violation of any legal contract, express or implied, which he has made touching the discharge of such trust.
 - ii) In the case in hand accused/petitioner allegedly purchased goods as business dealer from complainant and others, who were doing the business at Misery Shah, Lahore. Nothing was entrusted to him. If petitioner/accused failed to make payment to complainant and others, that might give rise only to civil liability. Mere mention of the words 'that goods purchased by accused/petitioner were lying as trust with him' in the F.I.R was not sufficient to change the character of transaction.iii. In this regard it is observed that not taking the blood-stained clothes of witnesses into possession can be an act of lethargy by the Investigating Officer of the case, however, can never be considered as proof of the absence of the prosecution witnesses.
- Conclusion:**
- i) The ingredients of section 406 PPC were not made out as there was no entrustment.
 - ii) In absence of entrustment, the matter amounted only to civil liability, not constituting an offence under section 406 PPC.

70. Lahore High Court
Shahbaz Mustafa and another v. The State and another.
CrI. Misc. No.15084-B/2025.
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4778.pdf>

- Facts:** Two individuals sought post-arrest bail in a case involving armed robbery and recovery of stolen cash, after their bail applications were declined by the courts below.
- Issues:**
- i) Whether identification parade is a mandatory legal requirement when the accused are identified through CCTV footage admissible under the Qanun-e-Shahadat Order, (QSO) 1984?

Analysis: i) According to the dictums laid down by Honourable Superior Courts holding of identification parade is not a legal requirement in each and every case. Any fact in any form, which establishes the identity of accused is relevant under Article 22 of Qanun-e-Shahadat. In the case in hand accused/petitioners were visible on CCTV camera recorded clips. The said piece of evidence was admissible under Article 22 of Qanun-e-Shahadat. It was also to be considered under Article 164 of Qanun-e-Shahadat Order being an evidence through modern device subject to its genuineness and authenticity. In my humble view there was no need of holding of identification parade in the present case in the light of availability of said piece of evidence.

Conclusion: i) identification parade is not a mandatory legal requirement where identity of the accused is established through admissible CCTV footage under the QSO, 1984.

71. Lahore High Court
Abida Siddique v. The State and 02 others.
Criminal Revision No. 6881 of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4772.pdf>

Facts: Through the criminal revision petition, an order passed by Special Judge, Anti-Corruption was assailed whereby request of petitioner, one of the accused of criminal case, for the stay of the criminal proceedings, was declined.

Issue: i) Whether the criminal proceedings should be stayed when the subject matter of the FIR (a disputed Nikah Nama) is already pending adjudication before a civil/family court?

Analysis: i) There is no bar to the simultaneous institution of both civil as well as criminal proceedings regarding the same matter. According to the guiding principles laid down by august Supreme Court of Pakistan in number of the judgments, where criminal liability is dependent upon or connected with the result of civil proceedings and it is difficult to draw a line between a bonafide claim and criminal act alleged, the trial court may postpone the criminal proceedings till the conclusion of civil proceedings. The court should exercise the discretion in this regard keeping in view the circumstances of the case. The court should see as to whether the accused was likely to be prejudiced in case criminal proceedings are not stayed. Nikah Nama was subject matter of civil litigation between the parties. Genuineness or otherwise of the Nikah Nama has to be determined by the learned civil court, as such fate of the criminal case depends upon the fate of civil cases, therefore, propriety demands that the learned trial court should not finalize the proceedings till the disposal of the civil/family cases between the parties.

Conclusion: i) See above analysis No.i.

72. Lahore High Court
Qari Shahid v. The State and others
Crl. Misc. No. 2481-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4763.pdf>

Facts: The petitioner filed application for post arrest bail in case registered against him for offence under section 377-B PPC.

Issue:

- i) Whether delay in reporting offence of “sexual abuse” gives any benefit to accused?
- ii) Whether FIRs of similar nature, previously registered against the accused, are a relevant and admissible evidence against him?
- iii) Whether medico-legal examination is essential to establish offence of “sexual abuse”?

Analysis:

- i) Such like occurrence involve family honour, as such these are not disclosed by the victim of tender age due to the fear, as such delay in reporting the such like matter to police normally happens in our society. Said delay cannot be resolved in favour of petitioner/accused.
- ii) Seven F.I.R(s) stood registered against the petitioner containing similar allegation. Modus operandi adopted by petitioner was almost identical in all the above cases. Involvement of petitioner in crimes of similar nature was admissible against him as evidence of the similar facts, which was relevant under Article 27 of the Qanun-eShahadat, 1984, ... Said fact of involvement of petitioner in the similar crime was showing his particular state of mind towards the children, who were his pupil and used to come to the mosque for learning of Holy Quran. Such like allegation, which would otherwise expose the family of complainant/victim to public humiliation, is not leveled normally unless the same is true.
- iii) Even otherwise, provision of Section 377-B of PPC was very comprehensive in its application. Act of “sexual abuse” has been defined in Section 377-A of PPC. It is appropriate to have a look of the above provision, which is being produced below for the facility of reference....The word “sexual abuse” used by legislature therein, is capable of being given extensive and comprehensive meaning catering multiple obscene activities. Said provision does not require the consummation of sexual intercourse of any sort. Mere persuasion, inducement, or enticement to engage a person in fondling, stroking, caressing, exhibitionism, voyeurism, or any obscene or sexually expressive conduct, or simulation of such conduct is also covered squarely by the above said definition

Conclusion:

- i) Delay in reporting offence of “sexual abuse” cannot be resolved in favour of accused.
- ii) Yes. FIRs of similar nature, previously registered against the accused, are a relevant and admissible evidence against him.
- iii) Medico-legal examination is not essential to establish offence of “sexual abuse.”

73. Lahore High Court
Majid Javed alias Javed Ali v. The State etc.
Criminal Revision No.242 of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4548.pdf>

Facts: The petitioner filed Revision petition to challenge order of Trial Court through which application for summoning of Control Room Wireless Operator / Moharrar as Court witness was declined.

Issue: i) What is scope of section 94, 265(F) and 540 Cr.P.C.
 ii) Whether statement of Control Room Wireless Operator / Moharrar is relevant under Article 24 of Qanun e Shahadat, (QSO) 1984?

Analysis: i) Section 94 of Cr.P.C. relates to the procedure for the production of any document or other thing necessary or desirable for the purpose of investigation, inquiry or trial or other proceedings. It empowers the Investigating Officer or the Court to issue a summon or the order requiring a person, in whose possession the document was lying, to produce the same at any stage of investigation, inquiry or trial. 9. Section 265-F (7) of Cr.P.C. envisages that an accused after entering into his defence, may apply to the Court for procuring the attendance of any witness for examination or any document or thing and the Court shall issue such process unless it appears to the Court that the application has been made for causing the delay or for defeating the ends of justice. 10. The word “shall” used in the said provision implies mandate meaning thereby that summoning of witnesses as suggested by accused is a rule, whereas its refusal under the circumstances shall be an exception. Violation of the said provision of law is an irregularity not curable under the law and the order shall be liable to be set-aside. 11. So far as Section 540 of Cr.P.C. is concerned, it empowers the Court to summon any person as a witness at any stage of inquiry, trial or other proceeding, if his evidence appears to be essential for the just decision of the case. It is well-established that this provision is intended to advance the cause of justice and enable the Court to prevent failure of justice by bringing every relevant piece of evidence on record.

ii) Petitioner/accused claimed that according to calls made to Rescue 15 on 18.05.2023, no person was mentioned as accused, as such its production is necessary for the just decision of the case. In my humble view, above said documents/Rapts were relevant under Article 24 of Qanun-e-Shahadat, 1984, which reads as under... Summoning, production and use of the above said documents may make the existence or non-existence of a fact highly probable or improbable, as such was essential for the just decision of the case. The “just” means right, fair and well founded. It is always duty of the Court to make every effort that no aspect of the case should be left unattended,...

Conclusion: i) See above analysis No.i.

ii) Statement of Control Room Wireless Operator / Moharrar is relevant under Article 24 of QSO, 1984.

74. Lahore High Court
Shoukat Babar Virk. v. The State and another.
Crl. Misc. No.74609-B/2024
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4784.pdf>

Facts: The petitioner, who has been named as an accused in a case concerning the offence under section 406 of PPC in conjunction with sections 5 and 23 of the Foreign Exchange Regulation Act, 1947, is seeking post-arrest bail. This request follows the denial of the same relief by the Court of the learned Additional Sessions Judge.

Issues: i) What would be the effect of the non-cognizable offence upon a case, when the main offence is cognizable?
 ii) whether the grant of bail in offences of non-prohibited clause is an absolute rule or has any exception?

Analysis: i) In the case in hand offence under Section 406 of PPC was main and controlling offence and was carrying the penalty of longest term of imprisonment amongst the offences applied upon F.I.R., whereas offences under Section 5 and 23 of Foreign Exchange Regulation Act, 1947 are subservient. Offence under Section 406 of PPC is a cognizable offence, which does not require any such like condition precedent for the lodgment of prosecution, as such by virtue of said main and controlling offence, the above said condition precedent required for subservient offence shall become redundant and the F.I.R. shall be considered legal and valid for all the purposes.
 ii) According to the dictum laid down by August Supreme Court it is not a rule of universal application that bail should be allowed in each and every not falling within embargo of Section 497 of Cr.P.C. Each case has to be seen in the light of its own peculiar fact and circumstances and the Court not exercise the discretion in arbitrary, fanciful and perverse manner. The Court may refuse to grant the bail, where exceptional circumstances exist. If any reference in this regard is required, that can be had from ‘Shameel Ahmad v. The State’ (2009 SCMR 174), ‘Muhammad Siddique v. Imtiaz Begum and 02 others’(2002 SCMR 422) and ‘Muhammad Nawaz v. The State and another’ (2011 MLD 299).

Conclusion: i) When main and controlling offence is a cognizable offence, condition precedent for the lodgment of prosecution required for subservient offence shall become redundant.
 ii) in exceptions circumstances bail in an offence following in non-prohibited clause of section 497 Cr.P.C could be declined.

75. Lahore High Court
Muhammad Mudasar Syed. v. The State and another.
Crl. Misc. No. 15581-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4781.pdf>

Facts: The petitioner, who is currently facing charges as an accused in a case involving an offence under section 489-F of PPC, seeks post-arrest bail following the refusal of such bail by the learned Additional Sessions Judge.

Issues: i) Whether it is a rule of universal application that bail should be allowed in each and every case not falling within prohibitory clause?

Analysis: i) It is not a rule of universal application that bail should be allowed in each and every case not falling within prohibitory clause. Each case has to be seen in the light of its own peculiar circumstances. The Court may refuse the bail to an accused even in the cases not falling within the embargo, if exceptional circumstances of the case so require.

Conclusion: i) See above analysis No.i.

76. Lahore High Court
Muhammad Sajid and 04 others. v. The State and another.
Crl. Misc. No. 3762-M of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC4520.pdf>

Facts: The order issued by the learned Additional Sessions Judge has been challenged in the present petition. In this case, a criminal revision filed by respondent No. 2/complainant against the order of the learned Magistrate, which framed the formal charge, was accepted. Consequently, the order of the learned Magistrate was set aside, and the request for amendment in the charge was granted.

Issues: i) What is the basis for framing charges in a criminal case?
 ii) When should a court frame a charge for a grave and more serious offence as opposed to a lesser offence?

Analysis: i) Charge has always to be framed on the prima facie averments of allegations leveled in the F.I.R, statement of the witnesses under Section 161 of Cr.P.C. and report under Section 173 of Cr.P.C.
 ii) If the charge is framed for less serious offence, the accused cannot be convicted for graver and more serious offences unless charge is amended and parties are issued the notice and given opportunity of adducing the evidence again, but where the charge is framed for graver and more serious offence and after recording the evidence trial court comes to the conclusion that accused is liable to be convicted for less serious offence of the same family of offences, the court may convict the accused without having a resort to the above lengthy exercise.

- Conclusion:** i) See above analysis No.i.
ii) Courts must frame grave charges if prima facie evidence permits.

77. Lahore High Court
Muhammad Afzal v. The State and another
Criminal Revision No. 63117 of 2024
Mr. Justice Tariq Mahmood Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC4795.pdf>

Facts: Through the present criminal revision filed under sections 435 and 439 of Cr.P.C. in conjunction with section 9 of the Illegal Dispossession Act, 2005, the petitioner challenges the order issued by the learned Additional Sessions Judge. In this order, the petitioner has been directed to hand over the possession of one room within the subject property to the respondent No. 2, who is the complainant.

Issues: i) What are the conditions precedents for grant of interim relief, according to section 7(1) of the Illegal Dispossession Act, 2005?
ii) Can an act be performed in a different manner if the law specifies a particular way?

Analysis: i) Bare perusal of section 7(1) of the Act reveals three principal considerations/conditions; Firstly, the jurisdiction conferred thereby is exercisable during the trial only. Thus, interim relief can be granted by the court when trial is still in progress even when the guilt of accused has not been established; Secondly, the use of expression "prima facie" indicates that court has to only form a prima facie opinion and must be satisfied that accused is "not in lawful possession" of the property. This requirement is less onerous and distinct from reaching a conclusive finding or determination that the accused has entered the property without lawful authority with intent to dispossess, grab, or control the immovable property as specified in the third and fourth elements of section 3 of the Act. The use of the expression "not in lawful possession by the Legislature appears to be a deliberate choice reflecting a less stringent criterion to enable interim relief during the trial this is because the offence under section 3 can only be proved/otherwise at the conclusion of the trial, and Finally, if the court finds that section 7 is applicable then it is duty bound to provide interim relief specified therein.
ii) It is a well-settled principle in the administration of justice that when the law prescribes a specific manner for performing a particular act, it must be carried out in that prescribed manner alone and not otherwise.

Conclusion: i) Interim relief can only be granted during the trial.
ii) No, if the law specifies a particular manner for performing an act, it must be carried out in that manner alone.

78. Lahore High Court
Muhammad Arshad v. The State & another
Criminal Appeal No.78244 of 2023
Mohammad Wazir v. Muhammad Hayat & 2 others
Criminal PSLA No.19066 of 2022
The State v. Muhammad Arshad
Murder Reference No.53 of 2022
Ms. Justice Aalia Neelum (The Chief Justice), Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC4821.pdf>

Facts: The complainant and others witnessed an armed assault on deceased by three individuals. One fired multiple shots, hitting deceased on the chest and elbow, another shot him in the abdomen, and the third fired at his buttock. The deceased succumbed to the injuries on the spot. The trial was conducted on the basis of a private complaint after two of the accused were not found involved during investigation. The trial court acquitted those two accused, while the third was convicted and sentenced to death.

Issues

- i) Does delayed registration of FIR after arrival at the crime scene indicate deliberation and fabrication of facts?
- ii) Can absence of official emergency call records affect the credibility of the prosecution's version of events?
- iii) Does failure of eyewitnesses to identify the dead body cast doubt on their presence at the crime scene?
- iv) Can a conviction be sustained solely on medical evidence when the prosecution's case and the roles of co-accused have been disbelieved?
- v) Can medical evidence alone establish the identity of the accused in a criminal case?
- vi) Can motive support the prosecution case and lead to false accusation?
- vii) Does a forensic report lose value if the inquest report shows no crime empties were recovered from the scene?
- viii) Does delay in sending forensic parcels make the recovery doubtful?
- ix) Can a plea taken at the time of arrest create doubt in the prosecution's case?
- x) Should the premium of every reasonable doubt be extended to the accused?
- xi) Under what circumstances can a court interfere with a judgment of acquittal, and when is such interference not warranted?

Analysis:

- i) No doubt, in our criminal judicial system, FIR is a crucial document and its prompt registration is generally considered more reliable which is less likely to be influenced by embellishments or afterthoughts. (...) Thus, we feel no reluctance in holding that one hour time was spent to arrange witnesses who got registered FIR after deliberation while specifying the role of each accused as per their choice.
- ii) Had the record pertaining to 15-Call Centre been placed on record, the actual facts of the prosecution case would have easily been brought on the file.
- iii) The non-identifying the dead body by the eyewitnesses, leads this Court to the conclusion that had they been present at the place of occurrence or accompanied

the deceased to the hospital, they would have definitely identified him and such aspect makes the case of the prosecution highly doubtful.

iv) Since the prosecution case was disbelieved to the extent of two co-accused to whom the effective role in the incident had been assigned and the reasons given by this Court in the preceding paras also create a reasonable doubt qua the guilt of the appellant therefore depending on the medical evidence alone to maintain appellant's conviction would be unsafe.

v) It is also an established principle of law that medical evidence serves as a form of corroborative evidence, which can validate the prosecution's account concerning the location and type of injury, the weapon involved in the incident, and the time elapsed between death and postmortem, but does not reveal the identity of the murderer.

vi) It goes without saying that the motive sometimes supports the prosecution's case and frequently serves as a major reason for the false implication of an accused, making it consistently regarded as a double-edged sword.

vii) However, positive report of PFSA loses its importance when seen in the context that columns No.22 & 23 of inquest report according to which no crime empty was recovered from the place of occurrence.

viii) A one-day delay in depositing the afore-mentioned parcels, indicates that their secure handling has been jeopardized, rendering the recovery inconsequential.

ix) Needless to mention here that the plea so taken by the appellant at the time of his arrest being admissible in evidence in terms of Article 27 of Qanun-e-Shahadat Order, 1984, also creates a reasonable doubt in the credibility of the prosecution case.

x) Based on established principles for evaluating evidence, the premium of every reasonable doubt is to be extended to the accused which can best be extended via verdict of acquittal.

xi) it is well settled proposition of law that when a court of competent jurisdiction passes the judgment of acquittal on the basis of cogent grounds, the same is not to be disturbed in a mechanical manner. In order to set-aside the judgment of acquittal, it is to be proved that the judgment of acquittal is arbitrary, fanciful, perverse and contrary to record. An accused on the judgment of acquittal acquires a verdict of innocence hence it is to be disturbed in exceptional and extraordinary circumstances.

- Conclusion:**
- i) FIR was delayed and crafted after deliberation, reducing its credibility.
 - ii) Missing 15-Call record weakens the prosecution's case.
 - iii) Eyewitnesses failed to identify the body, casting doubt on their presence.
 - iv) Medical evidence alone is unsafe for conviction amid co-accused acquittal.
 - v) Medical evidence cannot identify the murderer.
 - vi) Motive is a double-edged sword and may indicate false implication.
 - vii) Forensic report lacks value due to no crime empties recorded at scene.
 - viii) Delay in submitting evidence renders recovery unreliable.
 - ix) Appellant's admissible plea creates reasonable doubt.

- x) Doubt must favour the accused and lead to acquittal.
- xi) Acquittal stands unless shown to be perverse or arbitrary.

79. Lahore High Court
Afshan Hussain, etc. v. Muhammad Shahzad, etc.
Crl. Misc. No.24743-M of 2024
Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC4867.pdf>

Facts: Three cheques were allegedly issued by the petitioner, on the basis of which two criminal cases were registered but later cancelled as the allegations were found false. A complaint was subsequently filed by the respondent implicating the petitioners, including individuals unrelated to the matter. The judicial magistrate admitted the complaint with the observation that sufficient incriminating material was available on record, which was subsequently affirmed by the appellate court.

Issues i) What essential elements must a complaint disclose to justify the initiation of criminal proceedings by the Court?
 ii) What duty does the Court have before issuing process on a complaint under section 200 Cr.P.C.?

Analysis: i) As per law, the complaint is to state the facts to satisfy the Court of the existence of every ingredient of alleged offence, otherwise, complainant would not be entitled to invoke aid of the Court and to foist travails of criminal trial on a person, accused by him. In order to constitute offence, complainant must disclose existence of both basic ingredients namely unlawful act “actus rea” and criminal intent “mens rea” on the part of accused.
 ii) Before issuing process, the Court is under obligation to satisfy itself for the purpose of ascertaining the truth or falsehood of the complaint as to the existence or nonexistence of sufficient grounds to issue process against the accused. Main object of dealing with the examination of complaint under Section 200 Cr.P.C. is to protect the public from false, frivolous and vexatious complaints filed against them. Court cannot proceed to issue process against accused until and unless, it is satisfied that prima facie case has been made out against those who are accused of the alleged criminal offence.

Conclusion: i) Complaint must disclose ingredients of alleged offence alongwith actus rea and mens rea.
 ii) Court cannot issue process without a prima facie case and existence of reasonable grounds.

80. Lahore High Court
Fayyaz Ahmad, etc. v. The State., etc.
Criminal Revision No.1439 of 2025
Hassan Ali v. The State., etc.
Criminal Misc. No.12887-M of 2025
Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC4859.pdf>

Facts: The appellants through this appeal have challenged their conviction in a case FIR registered for the offences under section 324, 337F(i), 337F(iii), 337F(v), 337F(vi), 337A(i), 337A(ii), 427, 447, 511, 334, 336, 337F(ii), 337L(2), 148 & 149 PPC and the complainant through criminal revision seeks the enhancement of punishment awarded to the appellants.

Issues:

- i) What is the effect of delay in reporting the occurrence to the police and what approach should be adopted by the courts in dealing such evidence?
- ii) How the evidence of the witnesses would be treated, when they have not attribute specific roles to the accused persons in FIR and statement u/s 161 CrPC?
- iii) How the prosecution evidence be looked into, when co-accused acquitted on the same set of evidence in the same trial?

Analysis:

- i) It is noted that in view of the serious nature of accusations of firing the matter should have been reported to the police immediately by the complainant but no such effort was made in this regard. It is also not proved from record that investigating officer received any information about the occurrence from wireless or any source. I feel no hesitation in holding that the information regarding the incident was imparted to the police by the complainant after a considerable delay and that too after due consultation and deliberation. Thus, a cautious approach ought to be adopted by the Courts for evaluating the evidence.
- ii) Another blatant lacuna in this case noticed is to the effect that neither in the F.I.R. nor the witnesses while recording their statements under section 161 Cr.P.C. attributed specific role to any of the accused rather they were burdened with the general allegations of firing and giving torture to the injured PWs without specifying the role of each accused performed during the occurrence. Statements of complainant, eye-witnesses and the injured witness are suffering from dishonest improvements and material contradictions rendering their testimony doubtful. Even during the course of evidence, no such material was brought on record by the prosecution in order to pinpoint the role performed by each of the accused, at the spot, however, the witnesses made dishonest improvements in their statements and assigned specific role to convicted accused / petitioners as per their choice.
- iii) The pivotal questions arises that whether it would be safe to rely conviction of present petitioners on the basis of same set of witnesses who were disbelieved to the extent of acquitted co-accused. The answer to this query is found divulges in the case reported as MUHAMMAD NAWAZ and another vs. The STATE and others (2024 SCMR 1731), wherein Hon'ble Supreme Court held as under :-
It was a fact that except the petitioner, rest of the accused were acquitted of the charge by the High Court and one of them by the Trial Court on the same set of evidence. Complainant has ascribed injuries jointly to all the accused and did not single out the petitioner. Under such circumstances, it would not be safe to hold him alone responsible for causing death of the deceased

- Conclusion:** i) Delayed in lodging of FIR would be taken as a result of due consultation and deliberation.
- ii) When a witness does not attribute a specific role to any accused in FIR or statement u/s 161 CrPC but later during the trial assign a role of his choice to several accused persons, the same would be taken as a dishonest improvement.
- iii) The evidence of such witnesses would be treated with utmost care and caution; it would not be safe to base conviction of other co-accused on such set of evidence.

81. Lahore High Court
Zahid Hussain v. The State, etc.
Faqeer Hussain, etc. v. The State, etc.
Criminal Appeal No. 43770 of 2019
Criminal Appeal No. 53561 of 2019
Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC5049.pdf>

Facts: The Trial Court convicted one of the accused while acquitting the others in a case registered under Section 363 of the Pakistan Penal Code, 1860. The convicted person challenged his conviction by filing appeal before the High Court, whereas the complainant filed a separate appeal to challenge acquittal of the remaining accused.

Issues: (i) What should be the approach of court while evaluating evidence when there is delay in registration of FIR?
(ii) What would be the consequences when best available evidence is not produced?
(iii) What is evidentiary value of extra judicial confession?
iv) Can conviction be sustained on circumstantial evidence if any link in the chain of incriminating circumstances fails?

Analysis: (i) I feel no hesitation in holding that the information regarding the incident was imparted to the police by the complainant after a considerable delay and that too after due consultation and deliberation. Thus, a cautious approach ought to be adopted by the Courts for evaluating the evidence. Reliance is placed upon the case reported as Muhammad Jahangir and another v. The State and others (2024 SCMR 1741), wherein the Supreme Court of Pakistan held as under: -
“.....perusal of record reveals that FIR was lodged after an unexplainable delay of 3 hours despite the fact that the distance of the police station from the place of occurrence was 5 km. The time of occurrence is around 05:00/05:30 pm and the matter is reported at 08:30 p.m. The complainant had a bike that he used to go to the police station. This delay has not been encountered through plausible explanation by the prosecution.

(ii) I have no doubt in my mind that non-associating of Bushra Bibi in investigation process was intentional, apparently to suppress the actual facts of the

incident and had she appeared before the police or court, she would not have supported the case of prosecution. While drawing such inference, we are derived by Article 129 illustration (g) of Qanun-e-Shahadat Order 1984, which reads as under:- “129. Court may presume existence of certain facts. The Court may presume the existence of any fact, which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and the public and private business, in their relation to the facts of the particular case. Illustrations The court may presume: (g) that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it.” The Hon’ble Supreme Court of Pakistan in the case of Muhammad Rafique, etc. v. State & others (PLJ 2011 SC 191) held as under:- “that if any party withholds the best piece of evidence then it can fairly be presumed that the party had some sinister motive behind it. The presumption under Article 129 (g) of Qanun-e-Shahadat Order can fairly be drawn that if PW would have been examined, his evidence would have been unfavourable to the prosecution”.

(iii) So far as the evidence of extra judicial confession made by Zahid Hussain (appellant) is concerned, the evidence of extra judicial confession is always regarded as weak in nature and is generally fabricated in cases where requisite incriminating evidence is lacking. For this good reason, the evidence of extra judicial confession is not considered sufficient for awarding conviction.

iv) No doubt conviction can be awarded to an accused on the basis of circumstantial evidence but if the incriminating circumstances are so knitted with each other and failure of one link apt to destroy the entire chain.

- Conclusion:**
- (i) The court should evaluate prosecution evidence with caution if the FIR was lodged after unexplained or unreasonable delay.
 - ii) When the best available evidence is withheld, the court may draw adverse inference against the party suppressing it under Article 129(g) of the Qanun-e-Shahadat Order, 1984.
 - iii) The evidentiary value of an extra-judicial confession is weak and unreliable, requiring cautious scrutiny and corroboration before it can support a conviction.
 - iv) No, conviction cannot be sustained if any link in the chain of incriminating circumstantial evidence fails.

LATEST LEGISLATION/AMENDMENTS

1. Vide The Petroleum Products (Petroleum Levy) (Amendment) Ordinance, 2025 dated 15-04-2025; the amendment in section 7 and omission of fifth schedule is made in The Petroleum Products (Petroleum Levy) Ordinance, 1961.
2. Vide The Capital Development Authority (Amendment) Ordinance, 2025 dated 02-05-2025; amendments are made in sections 27, 28, 29, 29A, 30, 32, 32A, 33A, 33B & 36 of the Capital Development Authority Ordinance, 1960.

3. Vide The Tax Laws (Amendment) Ordinance, 2025 dated 02-05-2025; certain amendments are made in the Income Tax Ordinance 2001 and Federal Excise Act, 2005.
4. Vide The Federal Minister of State (Salaries, Allowances, and Privilege) (Amendment) Ordinance, 2025 dated 02-05-2025; section 3 is substituted in the Federal Minister and Ministers of State (Salaries, Allowances, and Privilege) Act, 1975.
5. Vide Official Gazette of Pakistan dated 02-05-2025; The National Agri-trade and Food Safety Authority Ordinance, 2025 is promulgated.
6. Vide Official Gazette of Pakistan dated 09-07-2025; The Virtual Assets (Ordinance), 2025 is promulgated to establish a regulatory authority for the licensing, regulation, and supervision of virtual assets.
7. Vide The Civil Servants (Amendment) Act, 2025 dated 29-06-2025; section 15-A is inserted in the Civil Servants Act, 1973.
8. Vide Official Gazette of Punjab dated 25-06-2025; The Punjab Center of Excellence on Countering Violent Extremism Act, 2025 is promulgated for the establishment of Center of Excellence on Countering Violent Extremism.
9. Vide The Punjab Protection (Amendment) Act, 2025 dated 25-06-2025; amendments are made in sections 2, 23 & 26 in the Punjab Protection Act, 2005.
10. Vide The Boilers Pressure Vessels (Amendment) Act, 2025 dated 25-06-2025; amendments in sections 2, 5, 6, 7, 11, 12, 16, 25, 27 & 29, substitution of section 16 and omission of section 26 are made in the Boilers Pressure Vessels Ordinance 2002.
11. Vide Official Gazette of Punjab dated 25-06-2025; The Punjab Specialized Medical Institutions Act, 2025 is promulgated to improve medical education, responsiveness and quality of clinical care for patients in an effective, efficient and accountable manner.
12. Vide Official Gazette of Punjab dated 25-06-2025; The Punjab Awareness and Dissemination of Information Act, 2025 is promulgated to disseminate public awareness regarding Government projects, initiatives, programs and policies for ensuring access to information.
13. Vide The Punjab Finance Act, 2025 dated 30-06-2025; amendments are made in sections 2, 3, 5, 10A, 16B, 31, 48, insertion of section 3A and substitution of first & second schedule of Sales Tax on Services Act, 2012.
14. Vide The Punjab Road safety Authority (Amendment) Act, 2025 dated 01-07-2025; amendments are made in sections 6, 14, 21, 22 of the Punjab Road safety Authority Act, 2023.
15. Vide Official Gazette of Punjab dated 01-07-2025; The Punjab Primary and Secondary Healthcare Service Act, 2025 is promulgated to provide mechanism for provision of healthcare services, as well as operation and management of primary and secondary healthcare facilities.
16. Vide The Punjab Representatives Laws (Amendment) Act, 2025 dated 01-07-2025; certain amendments are made in Punjab Public Representatives Laws.

17. Vide notification No.SOR-III(S&GAD)1-12/2000(P) dated 20-06-2025; the Punjab Departmental Examination and Seniority Rules, 2025 are promulgated.
18. Vide notification No.SOR-III(S&GAD)1-12/2000(P) dated 20-07-2025; the PMS (Probationers) Training, Final Passing Out Examination and Seniority Rules, 2025 are promulgated.
19. Vide notification No.SOR-III(S&GAD)1-16/2006 dated 20-07-2025; amendment in rule 2 and column No.7 & 10 of schedule-1 are made in the Punjab Provincial Management Service Rules, 2004.
20. Vide notification No.1-7/2011(PX)(VOL_VI) dated 30-07-2025; amendments in rule 32A, 40, second schedule are made in The Punjab Motor Vehicles Rules, 1969.
21. Vide notification No. 11027 dated 01-07-2025; amendments are made in rule 11 & schedule of the Punjab Police (E&D) Rules, 1975.
22. Vide notification No.SOR-III(S&GAD)1-27/2002(PI) dated 02-07-2025; column No.8 & 9 inserted in schedule of The Punjab Social Welfare and bait-ul-mal Department (Directorate) Service Rules, 2009.
23. Vide notification No.SO(TT)12-2/2014.P-II dated 04-07-2025; amendment is made in the Subsidiary Treasury Rules.

SELECTED ARTICLES

1. HARVARD LAW REVIEW

<https://harvardlawreview.org/print/vol-138/determining-rights/>

Determining Rights by Jud Campbell

This Article explores Founding-era views about the grounding of constitutional rights and how those rights obtained determinate legal content. Today, we typically view constitutional rights as textually grounded, gaining their force through ratification, and we treat the task of determining their content as a question of law—that is, a question for judges to decide using legal criteria. But the designers of the Bill of Rights did not share that vision. In the eighteenth century, fundamental rights were often grounded in natural or customary law rather than in enacted text, and enumerating them was usually declaratory, marking their existence without altering their meaning. Moreover, determining the content of underdeterminate rights was up to the people themselves, often through ordinary politics. To be sure, it was possible to determine rights textually, as exemplified by the amount-in-controversy threshold in the Seventh Amendment. By and large, however, members of the First Congress rejected this specificatory approach in favor of declaratory provisions, as exemplified by the First Amendment’s simple reference to “the freedom of speech, or of the press.” In so doing, the Bill of Rights mostly reaffirmed the existence of natural and customary rights, without determining their content. Recovering this history is especially timely, with so many features of rights jurisprudence now in flux. Seeking a historical anchor, some Justices have recently embraced a “text and history” approach that asserts fidelity to original meaning. This method, however, proceeds from mistaken historical assumptions and creates a distorted

image of the original Bill of Rights. Yet a historically guided path forward is far from clear in a legal culture that rejects many of the conceptual premises of Founding-era constitutionalism. As a work of intellectual history, this Article cannot tell us where to go from here. But it reveals forgotten ways of thinking that merit consideration as the Supreme Court continues to determine our rights, whether it admits so or not.

2. MANUPATRA

<https://articles.manupatra.com/article-details/Womens-Participation-in-Innovation-and-IPR-in-India>

Women's Participation in Innovation and IPR in India by Mahima Shree

Women's participation in innovation and IPR has been increasing significantly around the globe and in India but is only tilted towards men predominantly. Despite various technologies and schemes of the government women in India are still underrepresented in the ecosystem of innovation and IPR. The government has launched various schemes and policies for the advancement of women in the field of innovation and IPR but those policies and schemes are less heard off and people especially women don't have the knowledge about them, hence this paper delves into various challenges that women come across in this field and how they struggle to thrive in the same, examines various opportunities given by government, highlight some note-worthy contributions by women in the field of innovation and IPR and current situation of women in this arena. The main goal of this paper is to make the readers get acquainted with the concept of innovation and IPR as a field of growth, let people especially women have a sound knowledge of various policies and initiatives and showcase the note-worthy contributions of women in this field so that more and more women participate in innovations and become in equal capacity with men in this field.

3. HARVARD LAW REVIEW

<https://harvardlawreview.org/print/vol-138/the-law-and-lawlessness-of-u-s-immigration-detention/>

The Law and Lawlessness of U.S. Immigration Detention by Alina Das

The United States operates the largest immigration detention system in the world. Immigrants and watchdog groups have reported poor conditions of confinement, including medical mistreatment and neglect, inadequate nutrition, unsanitary conditions, and overcrowding. To challenge these conditions of confinement, immigrants have raised a variety of constitutional, statutory, and administrative claims in federal court. Some courts have rejected these claims, reluctant to intercede in agency management of the detention system and override the will of the political branches. This emerging jurisprudence assumes that the sole interest of the political branches in detention is to facilitate the exclusion and deportation of immigrants, with little consideration given to how immigrants are detained. These courts view agency regulation of detention as gratuitous self-regulation, neither required by law nor enforceable, even when violations of these rules threaten the life and liberty of those detained. The result is a weakened rights framework that does little to protect the substantive rights of immigrants in

detention. This Article challenges these judicial assumptions by unearthing a more nuanced account of the political branches' "civil detention interest." A careful review of legislative and regulatory history across three periods of detention expansion demonstrates the political branches' interest in ensuring the civil conditions of immigration detention and a growing legislative distrust of agency management of detention conditions. This civil detention interest should inform how courts adjudicate challenges to immigration detention conditions. The relative failure of any branch of government to effectuate this interest exposes the lawlessness of the immigration detention system in the United States.

4. **Lawyers Club India**

<https://www.lawyersclubindia.com/articles/legal-licence-suspended-for-fraud-17842.asp>

Legal Licence Suspended for Fraud by Vanya Garima Kachhap

A legal profession is built on many pillars—off tear, integrity and accountability. When these core values of these pillars are compromised then it not only has urea effect upon the lawyer-client relationship but it also brings disrepute to the whole legal system. In a recent disciplinary action by the Bar Council of Maharashtra & Goa, attention was drawn to the seriousness with which such a misconduct is addressed. Advocate Ranjeeta Vengurlekar was suspended for two years after she was found guilty of charging ₹80,000 from her client under the pretext of it being a court fee and issuing a fraudulent receipt too. This matter came to light when the client, Abhijeet Jagannath Zadokar submitted digital evidence including Fatal m WhatsApp messages and records of payment, that were accepted as valid proof under section 65B of the Indian Evidence Act. The Bar Council not only imposed suspension but also directed her to pay ₹25000 as compensation to the client. This case highlights the critical need for the ethical conduct in the legal field of practice.

5. **Lawyers Club India**

<https://www.lawyersclubindia.com/articles/legal-heirs-of-a-negligent-driver-not-entitled-to-compensation-under-the-motor-vehicles-act-a-doctrinal-analysis-of-g-nagarathna-ors-v-g-manjunatha-anr-2025--17834.asp>

Legal Heirs of a Negligent Driver Not Entitled to Compensation Under the Motor Vehicles Act: A Doctrinal Analysis of G. Nagarathna & Ors. v. G. Manjunatha & Anr. (2025) by Sankalp Tiwari

The Motor Vehicles Act, has been hitherto hailed as a beneficent and curative legislation tending to guarantee speedy and fair compensation for road accident victims. Particularly with the introduction of structured compensation provisions and the development of claim facilities, the Act has emerged as one of the most invoked statutes in India's jurisprudence. Though its corrective goal must be balanced with the foundational values of civil liability. Central to this tension is Section 166, which enshrines fault-based compensation and mandates the claimant to establish that the

accident was caused by another's negligence or wrongful act. The ruling in this case reaffirms the priority of fault in maintaining a claim under the MV Act.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*

Volume - VI, Issue - XIV

16 - 07 - 2025 to 31 - 07 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(16-07-2025 to 31-07-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles
Prepared & Published by the Research Centre Lahore High Court

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1. **Supreme Court of Pakistan**
Zahid Khan, etc. v. The State through Prosecutor General, Punjab and another
Criminal Petition No. 645-L of 2025
Mr. Justice Yahya Afridi, CJ, Mr. Justice Shakeel Ahmad, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 645 1 2025.pdf

Facts: The petitioner has filed this application against the order of the High Court, whereby his application for pre-arrest bail was dismissed.

Issues: i) Can accused be arrested, once pre-arrest bail is declined by a competent court?
ii) Whether the mere filing of a petition before the Supreme Court can be treated as an implied stay or bar to arrest, despite the dismissal of pre-arrest bail?

Analysis: i) Prompt and faithful enforcement of judicial orders is fundamental to the criminal justice system. Once pre-arrest bail is declined by a competent court of law and the accused stands exposed to arrest in accordance with law.
ii) It is, therefore, necessary to clarify that any practice whereby police authorities treat the mere filing of a petition before the Supreme Court as an implied stay or bar to arrest, despite the dismissal of pre-arrest bail, indicates a misunderstanding of the purpose of pre-arrest bail. This relief exists as an exceptional measure to protect individuals against arbitrary or mala fide arrest, where circumstances clearly warrant such protection. Once a competent court has declined pre-arrest bail, it has necessarily determined that no such exceptional circumstances exist and arrest is lawful and necessary to ensure an effective investigation. Allowing the mere act of filing another petition to operate as a de facto stay would render that judicial determination meaningless, defeat the objective of ensuring prompt and fair investigation, and risk abuse of process by enabling accused persons to indefinitely evade arrest without any legal basis. Therefore, judicial orders must remain binding and enforceable unless and until a competent court expressly orders otherwise. It must be remembered that interim protection is not automatic; it must be specifically sought and expressly granted. Absent such an order, a refusal of bail remains fully operative and must be implemented promptly and in good faith by investigating authorities.

Conclusion: i) Yes, accused can be arrested in accordance with law.
ii) No, interim protection is not automatic; it must be specifically sought and expressly granted.

-
2. **Supreme Court of Pakistan**
Saleh Muhammad and another v. Mst. Mehnaz Begum and others
Civil Petition No.354-P of 2025
Mr. Justice Yahya Afridi, CJ, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 354 p 2025.pdf

- Facts:** Petitioner abandoned the respondent shortly after marriage, refused maintenance, and contracted a second marriage. In response to her suit for dower, dowry, and maintenance, he alleged she was medically unfit and not a “female” under the law. All courts rejected this claim and allowed the respondent’s claim for dower, dowry articles, and maintenance. The petitioner has sought leave to appeal against the High Court's judgment affirming the decisions of the lower courts
- Issues:** i) What is the settled principle regarding interference by the Supreme Court with concurrent findings of the courts below?
ii) Whether infertility is a valid ground to deny a woman her dower or maintenance under the law??
- Analysis:** i) It is settled law that this Court will not disturb concurrent findings of the courts below, save on grounds of legal error apparent on the face of the record.
ii) It must be acknowledged without equivocation that infertility, even if present, is no ground to deny a woman her dower or maintenance.
- Conclusion:** i) Supreme Court does not interfere with concurrent findings unless there is a legal error on the face of the record.
ii) Infertility, even if proven, does not disqualify a woman from claiming dower or maintenance.

3. Supreme Court of Pakistan
Chief Land Commissioner, Punjab/Senior Member Board of Revenue Punjab, Lahore, etc. v. Administrator Auqaf Department, Bahawalpur, etc.
Additional District Judge, Toba Tek Singh etc.
Civil Petitions No. 2915-L, 2916-L & 2917-L of 2015
Mr. Justice Yahya Afridi (Chief Justice), Mr. Justice Shakeel Ahmad, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2915_1_2015.pdf

- Facts:** The petitions arose out of remand orders passed by the High Court over a decade ago, directing revenue authorities to re-decide the matter in accordance with law. Despite clear directions, the Deputy Land Commissioner, failed to act, resulting in unreasonable and unexplained delay.
- Issues:** Whether mere pendency of an appeal, revision or constitutional petition by itself operates as a stay of execution proceedings or implementation of some order?
- Analysis:** For clarity, it bears emphasis that the mere pendency of any appeal, revision, or constitutional petition does not, of itself, stay the execution or implementation of the order impugned. This principle is expressly embodied in Order XX Rule 1 of the Supreme Court Rules, 1980, which provides... In reference to the above-stated rule, this Court has already recently clarified in the case of Rashid Baig vs. Muhammad Mansha (2024 SCMR 1385) that mere pendency of a petition before this Court does not, by itself, operate as a stay of proceedings, which may only be

lawfully restrained by an express injunctive order of the Court. Thus, administrative inaction premised on the mere pendency of further proceedings, without any lawful restraint, is both unjustified and impermissible. It is particularly regrettable that despite the clear pronouncement of this Court in Rashid Baig's case (supra) expressing disapproval of such misuse of procedural pendency, the same practice continues unabated. This reflects not merely individual lapses, but a persistent pattern of administrative disregard for binding remand orders, which in itself constitutes systemic failure requiring urgent redress.

Conclusion: Mere pendency of any appeal, revision, or constitutional petition does not, of itself, stay the execution or implementation of the order impugned.

4. **Supreme Court of Pakistan**
Ghulam Qadir Thebo v. Islamic Republic of Pakistan through Secretary, Establishment Division, Government of Pakistan and others
Civil Petition No.550-K of 2022
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._550_k_2022.pdf

Facts: The petitioner, a senior civil servant, was thrice superseded for promotion to BS-22 despite having seniority over those who were promoted. He contended that the High-Powered Selection Board acted arbitrarily and without assigning any reasons, and his official representations remained unaddressed. Alleging a breach of his fundamental rights, he challenged the non-consideration before the High Court, which dismissed his petition without properly examining the facts and legal issues involved, prompting to file thus Civil Petition.

Issues:

- i) What is the distinction between eligibility and fitness for promotion in service matters?
- ii) Whether a civil servant has a right to be considered for promotion, but not a vested right to be promoted?
- iii) Whether denial of promotion due to administrative delay gives rise to legitimate expectation of proforma promotion with benefits?

Analysis:

- i) The question of eligibility correlates to the terms and conditions of service, whereas fitness for promotion is a subjective evaluation based on an objective criterion.
- ii) Though consideration for promotion is a right, the promotion itself cannot be claimed as of right.
- iii) If he lost his promotion on account of any administrative oversight or delay in the meeting of DPC or Selection Board, despite having fitness, eligibility, and seniority, then in all fairness, he has a legitimate expectation for proforma promotion with consequential benefits.

- Conclusion:**
- i) Eligibility relates to service terms, while fitness for promotion involves subjective evaluation on objective grounds.
 - ii) Consideration for promotion is a right, but promotion itself is not claimable as of right.
 - iii) A civil servant denied promotion due to administrative delay despite eligibility and fitness has a legitimate expectation of proforma promotion with consequential benefits.

5. Supreme Court of Pakistan
Irfan Ali Pitafi etc v. Secretary (Colleges) Education Department Sindh and others
C.P.L.A Nos.915-K, 916-K, 917-K, 944-K, 946-K, 948-K to 1004-K, 1019-K to 1025-K, 1028-K to 1037-K, 1065-K to 1071-K, 1088-K to 1089-K of 2024 and C.P.L.A No.2-K of 2025
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._915_k_2024.pdf

Facts: The petitioners, appointed through a formal recruitment process to non-teaching posts in the College Education Department, joined service after being issued offer letters, but were never paid salaries. Legal proceedings ensued, during which a departmental committee found no fault with the petitioners and attributed responsibility to a former official. Despite this, they were issued show cause notices and removed from service without proper hearing. Their appeals before departmental authorities and the Sindh Service Tribunal were ultimately dismissed.

Issues:

- i) What is the scope of jurisdiction exercised by the Service Tribunal in matters concerning civil servants?
- ii) What is the underlying purpose of appellate jurisdiction in the judicial system?
- iii) What is the rationale behind the establishment of the Service Tribunal under Article 212 of the Constitution of Pakistan?
- iv) In what ways the Service Tribunal deals with an order under appeal, and what is its status while exercising such powers?
- v) What is the purpose of exercising judicial discretion in the context of delivering justice?

Analysis:

- i) The learned Service Tribunal exercises exclusive jurisdiction in the matters relating to the terms and conditions of service of civil servants and for the matters connected therewith or ancillary thereto.
- ii) The fundamental philosophy of the appellate jurisdiction is to ensure checks and balances by means of re- evaluation and re-examination of the orders passed by the lower fora or authority.
- iii) The wisdom of setting up a Service Tribunal under Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973, is to deal with and decide matters relating to the terms and conditions of service of Civil Servants.

iv) The Service Tribunal may, on appeal, confirm, set aside, vary or modify the order appealed against and for the purpose of deciding any appeal it is deemed to be a Civil Court.

v) The astuteness of discretion in judicial power is meant to serve and advance the cause of justice in a judicious manner in aid of justice.

- Conclusion:**
- i) The Service Tribunal has exclusive jurisdiction over matters concerning the terms and conditions of civil servants' service and related issues.
 - ii) Appellate jurisdiction exists to maintain checks and balances through re-evaluation of decisions made by lower authorities.
 - iii) The Service Tribunal under Article 212 of the Constitution is established to adjudicate matters related to civil servants' terms and conditions of service.
 - iv) The Service Tribunal, deemed a Civil Court in appeal, may affirm, reverse, vary, or modify the challenged order.
 - v) Judicial discretion is exercised wisely to promote and advance justice in a fair and judicious manner.

6. Supreme Court of Pakistan
M/s Trio Industries (Pvt) Limited v. Babu Sher & others
CPLA. No. 451-K of 2023
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 451_k_2023.pdf

Facts: The Petitioner, owner of an industrial establishment, assailed order of the High Court through which his Constitutional Petition against the order of the Labour Appellate Tribunal, regarding grant of compensation to workers in lieu of reinstatement in service, had been dismissed.

Issues:

- i) Whether addressing application for closure of an establishment to secretary Labour department instead of government fulfils the mandatory requirement under order 15 of the Sindh Terms of Employment (Standing Orders) Act 2015.
- ii) Whether Labour Court or Labour Appellate Tribunal can order for payment of compensation to workers when industry has been closed illegally?
- iii) Who is responsible for proper and faithful observance of standing orders?

Analysis:

- i) One more important aspect that cannot be lost sight of is that under Standing Order 15 of the 2015 Act, an application for closing down the establishment was to be moved to the Government of Sindh. We called upon the learned counsel for the petitioner to show us the application so moved for closing down the establishment. The learned counsel directed us to page 77 of the paper book which is an application dated 02.03.2017, addressed to the Secretary, Labour Department, and not to the Government of Sindh, which is the proper channel for that accords such permission under the provisions of Standing Order 15 of the 2015 Act.

ii) The learned High Court has also expressed distinctly that the petitioner company had not legally closed down the establishment, hence the learned Tribunal rightly directed the petitioner's company to deposit the amount due as payment to the workers within one month, in view of the length of their service, instead of reinstating them in service, which was not possible. In addition, the learned High Court also held that the award of compensation has not resulted in a miscarriage of justice in any manner so as to justifiably call for any interference under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, because in principle, the discretion rests with the Tribunal or the Court to grant compensation to a workman, in lieu of reinstatement, and the exercise of such discretion by the Court or the Tribunal is necessary to maintain peace and harmony in industrial relations between employer and employees. Consistent with Sections 34 (7), read with Section 47 (3) of the SIRA, the Labour Court as well as the Appellate Tribunal are both empowered and have jurisdiction to pass such orders as may be just and proper in the circumstances of the case. In our view, such comprehensive powers are vested in them to deal with different exigencies and decide cases on their own peculiar facts and circumstances, and if on the basis of hyper technicalities, an attempt is made to squeeze the broad and expanded powers and jurisdiction conferred to the Labour Court and its appellate forum, then it will be tantamount to making them incapable of dispensing cases of the labour class with justice and will also circumvent the soul and spirit of law.

iii) . In line with Section 3 of the 2015 Act, the conditions of the employment of workers and other incidental matters in every industrial or commercial establishment are to be subject to the other provisions of this Act and to be regulated in accordance with the Standing Orders, while under Standing Order 23 of the same Act, the employer of the industrial and commercial establishment is personally responsible for the proper and faithful observance of the Standing Orders. In unison, the violation of Standing Orders has been made punishable under Section 7 of the 2015 Act...

- Conclusion:**
- i) Addressing application for closure of an establishment to secretary Labour department instead of government does not fulfil mandatory requirement under order 15 of the Sindh Terms of Employment (Standing Orders) Act 2015.
 - ii) Yes. Labour Court or Labour Appellate Tribunal can order for payment of compensation to workers when industry has been closed illegally.
 - iii) The employer of the industrial and commercial establishment is personally responsible for the proper and faithful observance of the Standing Orders.

7. **Supreme Court of Pakistan**
Syed Zakir Hussain v. The State and another
Cr.P.L.A. Nos.48-K of 2025
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 48 k 2025.pdf

- Facts:** The State challenged the remand orders passed by the petitioner, being the Presiding Officer, Anti-Terrorism Court and designated as the Administrative Judge, by filing Criminal Revision Applications before the High Court. The High Court, through a consolidated impugned order, set aside the petitioner's remand orders, recorded adverse observations implying judicial misconduct, and directed placement of the matter before the Chief Justice and the Home Department. The petitioner assailed the High Court's order before the Supreme Court seeking expunction of adverse remarks.
- Issues:**
- (i) Whether a High Court can lawfully pass adverse remarks or strictures against a judicial officer without affording them an opportunity of hearing, and whether such remarks are liable to be expunged if passed without procedural fairness and due process?
 - (ii) What is the proper procedure for addressing allegations or concerns regarding judicial officers' conduct?
- Analysis:**
- (i) The principle of natural justice, due process, and fair play, and particularly the right to fair trial envisaged as fundamental rights in the Constitution applies across the board, including to judicial officers of subordinate judiciary. They too, being dispensers of justice, should be granted the right to a fair trial, rather than being condemned unheard (...) Judicial strictures must be passed with the greatest wariness and circumspection because such condemnation and denunciations have never-ending or interminable impact on the credit of judicial officer (...) Rather, it always haunts him and causes severe hardship and disparagement to his name and reputation in judicial service.
 - (ii) The High Court is not to assume the role of a critic of the personal attributes and abilities of a judge. In cases where a judge of the High Court espouses the view that a judge of the District Judiciary has exhibited grave incompetence or has misconducted himself, the appropriate process is to inform the competent authority on the administrative side through a confidential note addressed to the Chief Justice (...) An improper motive should not be attributed even to a serious error committed by a judicial officer without confronting him and seeking his comments in order to maintain judicial comity and discipline (...) If the comments/report is not found satisfactory, then the matter may be referred confidentially to the Chief Justice for consideration on the administrative side.
- Conclusion:**
- (i) No adverse remarks can be passed without hearing the judicial officer; such remarks, made without due process, are liable to be expunged.
 - (ii) See above analysis No. ii.

Facts: The father of the respondent, a government employee, passed away, after which his widow was granted a family pension. Upon the widow's death, the respondent, being then unmarried, received the family pension. The pension was stopped upon her marriage. Later marriage of the daughter was dissolved, she applied for resumption of the pension as a divorced daughter. The request was denied on the basis of a Circular dated 05.12.2022, which conditioned pension eligibility on the daughter's marital status at the time of the pensioner's death. The High Court granted relief, leading the petitioners to file the present civil petition before the Supreme Court.

Issues:

- i) Pension as a Legal entitlement.
- ii) Protection of Pension Rights Under Article 9 of the Constitution as an Extension of the Right to Life.
- iii) Whether unwarranted delays in disbursement of pension constitute criminal negligence and breach of constitutional obligation?
- iv) Statutory Entitlement of family of a deceased civil servant to receive pension or gratuity.
- v) Definition of a family under West Pakistan Civil Services Pension Rules, 1963.
- vi) Disbursement of Pension after Death among legal heirs.
- vii) Entitlement of Pension by unmarried or a divorced daughter
- viii) Whether executive circulars can override or limit the provisions of a statute or statutory rules?
- ix) Constitution protection for rights of women against discrimination
- x) Whether the change of a daughter's marital status could lawfully bar her right to claim family pension?

Analysis:

- i) Pension is the right of a government servant who has served the government for a substantive period of time. It is not a charity, bounty, or ex gratia payment, but a legal entitlement that is granted in recognition of past service. It provides financial support in old age and reflects the State's obligation to care for those who have served it. It cannot be reduced or denied arbitrarily, and must be administered strictly in accordance with law.
- ii) This Court has also held that the right of accrued pension is protected under Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973 (Constitution) as part of the right to life. It is important to reiterate that the right to life does not merely include existence of the right to pension but includes the access to pension as the means necessary for living with dignity. Therefore, it is the duty of the State and its departments to act with diligence and integrity and to ensure the prompt and fair disbursement of pensionary benefits...In the Kanwal Rashid case(2021 SCMR 730) this Court affirmed that family pension rights are an extension of the right to life under Article 9 of the Constitution and that any denial of such rights must have a legal basis, not a departmental policy or a circular.
- iii) Delays in the disbursement of pensionary benefits to retired employees, widows, or children are not only unlawful but amount to criminal negligence and dereliction

of duty (PLD 2007 SC 35)... Unwarranted delays cause hardship and violate the trust placed in public institutions as retired government servants and their families are left waiting for that which is lawfully due to them on account of bureaucratic negligence. Timely payment of pension is not simply an administrative measure but a constitutional obligation.(2024 SCMR 1689)

iv) Section 20 of the Sindh Civil Servants Act, 1973 (Act of 1973) provides that on retirement from service, a civil servant shall be entitled to receive such pension or gratuity as may be prescribed. Subsection (2) thereof provides that in the event of the death of a civil servant, whether before or after retirement, the family shall be entitled to receive such pension, or gratuity, or both, as may be prescribed.

v) Rule 4.10 of the West Pakistan Civil Services Pension Rules, 1963 provides for family pension but does not define family, which is defined in Rule 4.7(1) which states that family, for the purposes of payment of gratuity, includes the wife (or wives) for a male government servant, husband of a female government servant, children of the government servant, the widow (or widows) and children of a deceased son of a government servant and a divorced daughter and sister.

vi) As per Rule 4.10(2)(A), family pension is given to the widow or widower of the deceased government servant and where there is no widow or widower, as the case may be, pension is divided equally amongst the surviving sons who should not be older than 21 years of age and unmarried daughters. In case family pension is not granted under Rule 4.10(2)(A), then it may be granted under Rule 4.10(2)(B) to the father or mother of the deceased government servant, as the case may be, and in the event that neither the father or mother are available, to the divorced daughter.

vii) Rule 4.10(3) provides that family pension shall not be payable to an unmarried female member of the deceased pensioner's family in the event of her marriage. The Rules make it clear that family pension is granted to an unmarried daughter or a divorced daughter. Although both these terms are not defined in the Rules, there is no apparent distinction between them, however, the meaning attributed to the terms unmarried and divorced by the Petitioners is that an unmarried daughter is one who has never been married and a divorced daughter is one who was married and subsequently divorced.

viii) It is settled law that executive clarifications in the form of circulars and administrative directives cannot override, amend or curtail the scope of the statute itself or the rules framed thereunder... While administrative orders or executive instructions may fill in procedural details, they cannot nullify, override or contradict the Rules framed under the parent statute (2015 SCMR 630). Consequently, the Finance Department could not impose conditions on who qualifies for family pension, and it cannot restrict or exclude persons from a right given under the law by imposing conditions which are not envisioned under the statute or rules.

ix) Article 13 thereof guarantees women equal rights in family benefits, while Article 2(f) obliges States to repeal existing laws and regulations that constitute discrimination. Article 5(a) requires the elimination of prejudices based on

stereotyped gender roles, and Article 16(1)(c) recognises equal rights and responsibilities within marriage and at its dissolution.

x) Surviving daughter's claim should be assessed on actual need and individual financial circumstances, not marital status. This is the only way to ensure substantive equality so that we can finally look beyond formal categories like married or unmarried and instead consider the real-life impact of such classifications on women's financial security... The timing of the pensioner's death cannot lawfully be used to extinguish a surviving daughter's right to claim pension.

- Conclusion:**
- i) See above analysis No i.
 - ii) Family pension rights are an extension of the right to life under Article 9 of the Constitution.
 - iii) Delays in the disbursement of pensionary benefits to retired employees are not only unlawful but amount to criminal negligence and dereliction of duty.
 - iv) In the event of the death of a civil servant, whether before or after retirement, the family shall be entitled to receive such pension, or gratuity.
 - v) See above analysis No v.
 - vi) See above analysis No vi.
 - vii) Family pension is granted to an unmarried or a divorced daughter.
 - viii) See above analysis No viii.
 - ix) See above analysis No ix.
 - x) Surviving daughter's claim should be assessed on actual need and individual financial circumstances, not marital status.

9.	Supreme Court of Pakistan Ghazi Arab v. The State Criminal Petition No. 1425 of 2024 Mr. Justice Muhammad Ali Mazhar, <u>Mr. Justice Syed Hasan Azhar Rizvi</u>, Mr. Justice Aqeel Ahmed Abbasi https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 1425 2025.pdf
Facts:	The petitioner sought leave to appeal against the order passed by the High Court, whereby the post-arrest bail had been declined in a criminal case registered against him and other accused persons on the allegation of commission of <i>Qatl-e-Amd</i> in furtherance of their common object.
Issues:	i) Can the delay cast doubt on the occurrence of the incident and constitute a ground for grant of bail when sufficient material exists on record connecting the accused with the commission of the offence? ii) What is the principle governing the applicability of the “rule of consistency” in bail matters? iii) In which situation does a confessional statement of a co-accused form the part of consideration while deciding the bail petition of another accused in same case? iv) What are the exceptions for granting post-arrest bail in cases falling within the prohibitory clause Section 497(1), Cr.P.C?

v) Under what circumstances does a case fall within the domain of the prohibitory clause of Section 497, Cr.P.C.?

- Analysis:**
- i) The Mere delay, in such circumstances, does not cast any doubt on the occurrence of the incident, nor can it be treated as a ground for grant of bail when sufficient material exists on record which prima facie connects the petitioner/accused with the commission of the offence.
 - ii) It is trite law that the rule of consistency is applicable only when one person's case is at par with the accused whose post-arrest bail has been granted.
 - iii) At the bail stage, a tentative assessment is permissible only if the confessional statement is corroborated by independent incriminating material available on record.
 - iv) It is a settled proposition of law that in cases falling within the prohibitory clause, the grant of post-arrest bail is restricted to the exceptions enumerated therein, namely: **(i)** under the first proviso to Section 497(1), Cr.P.C., where the accused is a woman, minor, or a sick or infirm person; **(ii)** under the third proviso to Section 497(1), Cr.P.C., where there is an unreasonable delay in the conclusion of the trial, not attributable to the accused; and **(iii)** under Section 497(2), Cr.P.C., where the case requires further inquiry into the guilt of the accused.
 - v) It is a settled proposition of law that where there appear reasonable grounds to believe that the accused has committed an offence punishable with death or imprisonment for life, the case falls within the prohibitory clause of Section 497, Cr.P.C.

- Conclusion:**
- i) See above analysis No.i.
 - ii) When the case of one accused is similar to that of a co-accused who has been released on bail.
 - iii) Only if the confessional statement is corroborated by independent incriminating material available on record.
 - iv) See above analysis No. iv
 - v) Where there appear reasonable grounds to believe that the accused has committed an offence punishable with death or imprisonment for life.

10. Supreme Court of Pakistan
Commissioner Inland Revenue v. M/S Mustafa Enterprises and another
Civil Petition No.2336 of 2025
Mr. Justice Munib Akhtar, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2336_2025.pdf

Facts: Through an instant civil petition for leave to appeal, the petitioner department has assailed the order passed by the High Court, whereby the reference application filed under Section 47 of the Sales Tax Act, 1990, by the petitioner against the order passed by the Appellate Tribunal Inland Revenue (for the tax period July 2019 to June 2020) was dismissed.

- Issues:** i) What are the requirements for initiating the proceedings of illegal or inadmissible claim of input tax adjustment?
- Analysis:** i) It has been observed that while initiating the proceedings against the respondents, there was no material or evidence available on record to make out a case against the respondents of illegal or inadmissible claim of input tax adjustment, whereas, the entire proceedings and the Order-in-Original passed in the instant case was based on presumptions, whereas, no inquiry or verification was made by the department in respect of alleged fake/flying invoices.
- Conclusion:** i) There should be material or evidence available on record, while initiating the proceedings of illegal or inadmissible claim of input tax adjustment.

11. Supreme Court of Pakistan
Fareedullah Khan & others v. Province of Balochistan through Secretary C&W Department Govt. of Balochistan & others.
Civil Petitions No. 182-Q/2017
Province of Balochistan through Secretary C&W Department Government of Balochistan & others v. Fareedullah Khan & others
Civil Petitions No. 191-Q/2017
Mr. Justice Yahya Afridi (The Chief Justice), Ms. Justice Musarrat Hilali, Mr. Justice Shakeel Ahmad.
https://www.supremecourt.gov.pk/downloads_judgements/c.p._182_q_2017.pdf

Facts: The legal heirs of a contractor sought recovery of the full security amount withheld after the contractor's blacklisting by the government department in 1991. A prior civil suit filed by the contractor resulted in a partial decree in 2006, affirming his status as an "A" class contractor but not granting release of the security amount. An execution application for release of the amount was dismissed by the executing court in 2009. On appeal, converted into a constitutional petition, the High Court conducted a factual inquiry and directed partial payment of the security amount. Both parties challenged the High Court's decision before the Supreme Court.

Issues: i) Whether the High Court, while exercising jurisdiction under Article 199 of the Constitution, can resolve disputed questions of fact by conducting a factual inquiry?

Analysis: i) It is by now settled that the High Court, while exercising jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, cannot entertain matters requiring factual inquiry, it is the prerogative and privilege of the trial Court to examine such controversies so as to be disposed of on merit after taking into consideration the evidence led by the parties...In this context, reference may be made to Waqar Ahmad's case (2024 SCMR 1877) , wherein it was held "The extraordinary jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution") is destined to dispense with an expeditious remedy in cases where the illegality or impropriety of an impugned action can be established without any exhaustive inquisition or recording of

evidence, but if some convoluted or disputed question of facts are involved, the adjudication of which can only be determined by the Courts of plenary jurisdiction after recording evidence of the parties, then incontrovertibly the High Court cannot embark on such factual controversy”. Similarly, in Federal Government Employees Housing Authority’s case (PLD 2025 SC 11), this Court ruled that, it is constitutionally impermissible for the Courts to expand and enlarge their jurisdictional domain, which is neither allowed by the Constitution nor by the law.

Conclusion: i) High Court, while exercising jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, cannot entertain matters requiring factual inquiry.

12. Supreme Court of Pakistan
Muhammad Imran Baqir v. Mst. Zarnain Arzoo & others
C.P.L.A No. 5009 of 2024
Mr. Justice Yahya Afridi, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 5009_2024.pdf

Facts: Respondent instituted a suit seeking recovery of dower, maintenance allowance as well as for dowry articles against the petitioner. The trial Court decreed the suit. Aggrieved, the petitioner preferred an appeal before the Appellate Court, which modified the decree. Still dissatisfied, the petitioner approached the High Court by filing a Constitution Petition, which was dismissed. Hence, the present petition.

Issues: (i) What is the extent and continuity of a father’s obligation to provide maintenance (nafaqa) to his child after the dissolution of marriage?
(ii) What factors should the court consider in determining the appropriate quantum of maintenance allowance for a minor child?
(iii) When does the duty to maintain the children devolve upon the mother or paternal grandfather?

Analysis: (i) Under the Islamic jurisprudence¹, as well as the settled case law in Pakistan, the father bears a solemn and continuous obligation to provide maintenance for his offspring. This duty, grounded not merely in financial capacity but in the principle of nasab (lineage), persists until the son attains the age of puberty, and in the case of a daughter, until her marriage. Where a son, upon reaching majority, is found to be incapacitated or otherwise unable to earn due to physical or mental limitations, the father remains bound to maintain him.
(ii) The determination of the appropriate quantum of maintenance involves two principal considerations: (i) the nature and extent of the child’s reasonable requirements and (ii) the father’s financial means. Maintenance traditionally includes food, raiment, and lodging (...) Given evolving societal standards and the overarching principle of welfare of the minor, the term must be interpreted broadly to encompass all reasonable expenses necessary for the physical, mental, and emotional development of the child. This includes, inter alia, educational costs, healthcare, and other needs consistent with the natural growth and comfort of the

minor. The amount awarded should reflect the family's social status, ensuring that the child is not deprived of opportunities for development and well-being solely due to the dissolution of the marriage.

(iii) In circumstances where the father lacks the means to provide maintenance and is incapable of earning due to genuine limitations, the duty to maintain the children may devolve upon the mother if she is in a position of financial ease. If neither parent possesses sufficient means, the obligation may extend to the paternal grandfather, subject to his financial ability to provide support to the children.

Conclusion: (i) The father bears a solemn and continuous obligation to provide maintenance grounded in the principle of nasab (lineage).
(ii) See analysis ii above.
(iii) The duty to maintain children devolves upon mother and paternal grandfather subject to their financial ability.

13.	Lahore High Court Usman Latif v. M/s Bashir Jamil & Brothers (Private) Limited, Sialkot through its CEO & others C.O. No.78260 of 2024 Mr. Justice Muhammad Sajid Mehmood Sethi https://sys.lhc.gov.pk/appjudgments/2025LHC5072.pdf
Facts:	The petitioner challenged the election process of the Board of Directors of the company, alleging that it was marred by procedural irregularities and non-compliance with statutory requirements. The respondents defended the validity of the elections, while the petitioner sought to have the entire election process declared null and void and requested interim relief to protect shareholder rights pending final adjudication.
Issues:	i) Whether the election of directors without passing a resolution by the existing Board to fix the number of directors, as mandated by law, renders the election process invalid? ii) Whether statutory requirements must be followed in the precise manner prescribed by law and effect of non-compliance? iii) How is the term ‘shall’ interpreted in a statutory provision regarding mandatory compliance?
Analysis:	i) Section 159(1) mandates that the existing Board of Directors shall, through a duly convened meeting, fix the number of directors to be elected in the upcoming general meeting. (...) under Section 160 of the Act, 2017. This provision empowers the Court to declare election proceedings invalid where material irregularities or violations of law are established. ii) Needless to say, when a statute requires that a thing should be done in a particular manner or form, it has to be done in such manner. otherwise it would not be in-compliance with the legislative intent.

iii) It is settled law that when the word 'shall' is used in a provision of law, it is to be construed in its ordinary grammatical meaning and normally the use of word 'shall' by the legislature brands a provision as mandatory, especially when an authority is required to do something in a particular manner.

Conclusion: i) Elections are invalid if directors aren't fixed in a duly convened meeting as required by law.
 ii) Legal procedures must be followed exactly as prescribed.
 iii) 'Shall' indicates a mandatory legal obligation.

14. Lahore High Court
Aftab Mehmood v. The State and others
Crl. Misc. No. 81211/B/2024
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC5084.pdf>

Facts: The accused, a police constable, along with other officials, allegedly arrested a suspect for investigation in a criminal case. During custody, the suspect was subjected to torture, sustained serious injuries, and subsequently died. The officials took the body to a hospital and fled. Thereafter, criminal proceedings were initiated. The accused was arrested and, through the present petition, sought post-arrest bail.

Issues: i) Does Order XXVII-A CPC apply to constitutional petitions involving criminal matters?
 ii) Can section 561-A Cr.P.C. be invoked as a substitute for Order XXVII-A CPC in criminal proceedings?
 iii) What offences are covered under the Torture and Custodial Death (Prevention and Punishment) Act, 2022, and does it affect existing civil remedies?
 iv) What special procedure does the 2022 Act prescribe for initiating proceedings and involving the FIA and Magistrate?
 v) What is the role of the FIA under the 2022 Act in investigating offences, and how is its procedure regulated?
 vi) How do sections 16 and 17 of the 2022 Act affect the applicability of the Code of Criminal Procedure to FIA proceedings?
 vii) Does the 2022 Act require the FIA to conduct a preliminary inquiry before registering an FIR, or can it proceed directly to investigation?
 viii) Does section 5(3) of the 2022 Act incorporate the procedures of the FIA Act for initiating an investigation or only for its conduct after commencement?
 ix) How does the non obstante clause in section 16 of the 2022 Act affect the application of incorporated provisions from other statutes?
 x) Should courts treat deliberate legislative omissions as intentional and give them effect in statutory interpretation?
 xi) Does the 2022 Act dispense with the requirement of FIR registration for cognizable offences, or does it only shift investigative authority to the FIA?

- xii) What procedural safeguards exist to protect individuals from false or unjust prosecution under the 2022 Act?
- xiii) What are the functions and limits of the HR Commission's oversight role under the NCHR Act and the 2022 Act?
- xiv) What is the historical origin and legal status of the Police Rules, 1934 in Pakistan's legal system?
- xv) Do the Police Rules, 1934 continue to apply in Punjab following the devolution of policing under the Eighteenth Constitutional Amendment?
- xvi) Do the Police Rules, 1934 apply to the FIA, and how are their principles reflected in FIA practices?
- xvii) What do Rules 24.13 and 24.14 of the Police Rules, 1934 require Superintendents of Police to do in cases involving custodial death?
- xviii) What are the responsibilities of the District Magistrate, DIG, IG, and Commissioner under Rule 24.15 of the Police Rules, 1934 upon receipt of a special report relating to custodial death?
- xix) What steps are required under the Police Rules and the 2022 Act when a custodial death occurs?
- xx) Can the general investigative provisions of Rules 25.4 to 25.7 of the Police Rules, 1934 be applied to custodial offences other than custodial death under the 2022 Act?
- xxi) What powers does the FIA have under Rule 3 of the Investigation Rules in cases registered under the 2022 Act?
- xxii) What are the responsibilities of the public prosecutor and the Magistrate in ensuring proper application of the 2022 Act?
- xxiii) What is the legal procedure for transferring a case from the local police to the FIA under the 2022 Act, and how does it affect the status of the FIR and trial proceedings?
- xxiv) Does an investigation by an unauthorised agency under the 2022 Act invalidate the trial proceedings?
- xxv) What procedure should the FIA follow regarding section 173 Cr.P.C. reports when a case is transferred to it before or after submission by the local police?
- xxvi) What is the difference between taking cognizance by a competent court and the process of investigation?

Analysis:

- i) It follows that Order XXVII-A CPC, a provision applicable only to civil proceedings, has no application in such cases.
- ii) section 561-A Cr.P.C. cannot be invoked as a substitute for Order XXVII-A CPC. (...) it cannot be construed to enlarge the Court's jurisdiction so as to incorporate procedural rules from the Civil Procedure Code prescribed exclusively for civil suits.
- iii) The Act primarily focuses on the following three offences: (a) torture (section 8), (b) custodial death (section 9), and (c) custodial rape (section 10). Section 11 provides punishment for filing false and malicious complaints. However, section

15 clarifies that the Act does not affect any civil remedies available under existing laws.

iv) A combined reading of clauses (c) and (d) of section 2(1) indicates that the Act establishes a special procedure for initiating proceedings. Any person or their representative with reliable information about the commission of an offence under this Act may file a complaint with the FIA. The said complaint may be oral or in writing. Additionally, section 5(2) stipulates that if, at any time, including during the grant of physical remand under the Code, the Magistrate has reasonable grounds to believe that an offence under this Act has been committed or if a complaint of torture in custody is lodged, he shall order a medical examination. If the results of such examination reveal the infliction of torture, the Magistrate shall notify the FIA to investigate the offence.

v) Section 5(1) of the 2022 Act grants exclusive jurisdiction to the FIA for investigating complaints against public officials accused of offences under the Act, subject to the supervision of the HR Commission. Section 5(3) of the 2022 Act stipulates that the FIA, while investigating offences under the Act, shall have the same powers and follow the same procedure as prescribed in the FIA Act and the Rules made thereunder.

vi) Section 16 of the 2022 Act declares that this Act shall have effect notwithstanding anything contained in any other law for the time being in force. Section 17 stipulates that the provisions of the Code shall apply to proceedings under this Act. Therefore, the provisions of the Code remain applicable to the officials of FIA as long as they do not conflict with the 2022 Act, the FIA Act, and the Investigation Rules.

vii) The 2022 Act consistently uses the term “investigation” and does not refer to “inquiry”. In contrast, section 5 of the FIA Act and the Investigation Rules use two terms, “inquiry” and “investigation”, without providing specific definitions. While these terms are commonly considered interchangeable, they carry distinct meanings in the legal context. “An inquiry refers to a preliminary examination or fact-finding process conducted by a designated authority or agency to gather information regarding a particular matter ... On the other hand, an investigation involves a detailed examination of a specific matter or allegation to gather evidence and determine its truth or validity.”¹² This distinction has led to divergent views on the true import of section 5(3) of the 2022 Act and has prompted a legal controversy: whether, upon receiving a complaint under the 2022 Act, the FIA must first conduct a preliminary inquiry or proceed directly to register an FIR without such inquiry.

viii) First, section 5(3) provides that the FIA “shall, while investigating the offences under this Act, have the same powers and follow the same procedures as prescribed in the Federal Investigation Agency Act, 1974 (Act VIII of 1975) and the rules made thereunder.” The use of the phrase “while investigating” indicates that the incorporation is limited to the conduct and mode of investigation once commenced, not to the threshold requirements or conditions for initiating the investigation.

ix) Second, when a statute, employing the doctrine of referential legislation, adopts another enactment, whether in whole or in part, the adopted provisions become an integral part of the incorporating statute as if written into it verbatim. However, where the incorporating statute also contains a non obstante clause, as section 16 of the 2022 Act does, the incorporated provisions must yield in the event of any substantive inconsistency. In such instances, the incorporated law remains operative only to the extent that it aligns with the parent statute's purpose, text, and structure. Thus, incorporation and override can co-exist within the same statute, but the overriding clause prevails where conflict arises.

x) It is well established that courts must give effect to legislative silence where it appears deliberate and not treat omissions as mere oversights in the absence of compelling contextual justification.

xi) Sections 8 to 10 of the 2022 Act expressly declare the offences of torture, custodial death, and custodial rape to be cognizable. Under the general scheme of the Code of Criminal Procedure, a cognizable offence requires immediate registration of an FIR. There is nothing in the 2022 Act that overrides or dispenses with this foundational requirement. The Act merely transfers the responsibility of investigation from the local police to the FIA.

xii) Firstly, the Investigating Officer is not required to arrest a person merely because he is named in the FIR. He must collect evidence to justify the arrest. Secondly, if it appears to the officer-in-charge of a police station that there is no sufficient ground for entering on an investigation, he must not investigate the case, invoking the proviso (b) to section 157(1) Cr.P.C. Thirdly, the officer-in-charge of the police station may proceed under section 169 Cr.P.C. if there is insufficient evidence against the accused. Fourthly, the Magistrate may discharge the accused where appropriate. Fifthly, the person filing a mala fide complaint under the 2022 Act can be prosecuted under section 11 of the Act. Lastly, a victim of false prosecution may also seek civil redress under the law of malicious prosecution. These safeguards balance public accountability and institutional fairness without frustrating the purpose of the 2022 Act.

xiii) The HR Commission has been established under the National Commission of Human Rights Act 2012 (the "NCHR Act"), for the promotion and protection of human rights as provided for in the Constitution and the various international instruments to which Pakistan is a State party or shall become a State party.¹⁶ (...) A combined reading of these statutes suggests that the HR Commission is intended to perform an oversight function aimed at safeguarding the fundamental rights of both the accused and the victim and protecting complainants from harassment or obstruction. (...) However, the HR Commission is not an investigative or prosecutorial body and must not usurp the FIA's statutory mandate.

xiv) The Police Rules, 1934, were a comprehensive set of regulations framed during British rule under the authority of the Police Act, 1861. Though originating in the erstwhile Punjab province (and thus often called the Punjab Police Rules, 1934), they came to be widely applied across British India and governed various aspects of policing, including organizational structure, administrative control, and

investigative procedure. Following independence, both the Police Act and the 1934 Rules were inherited as part of Pakistan's legal system.

xv) The Police Rules, 1934 were expressly preserved under proviso (a) to Article 185(1) of the Police Order. However, with the devolution of policing to the provinces under the Eighteenth Constitutional Amendment (2010), each province enacted its own legal framework for police administration. (...) In Punjab, the 1934 Rules have largely remained in force.

xvi) The Police Rules, 1934, do not apply *ex proprio vigore* (of their own force) to the operations of the FIA. However, the spirit and content of many Rules find their way to the FIA practices through other means. These include internal administrative orders, the operation of section 5 of the FIA Act (which confers upon FIA officers the powers and responsibilities of police officers), and judicial expectations that the FIA adhere to the same professional standards as any police force.

xvii) Rules 24.13 and 24.14 of the Police Rules require the Superintendents of Police to send special reports to the District Magistrate,¹⁷ the Deputy Inspector General (DIG) of the Range, the DIG Criminal Investigation Department and any neighbouring Superintendent or police officer whom they consider should be informed of the occurrence of a serious case as mentioned in the table sub-joined to Rule 24.15. The offence of death whilst in police custody is mentioned as a serious offence/case at Serial No. 2 of the table sub-joined to Rule 24.15.

xviii) Rule 24.15 requires that, upon receipt of a special report pursuant to Rule 24.14, the District Magistrate and the DIG shall, at their discretion, forward copies of the special reports to the Commissioner and Inspector General (IG) for information. The IG shall send copies of the said reports to the Government and the head of departments in any cases which he considers are of sufficient importance. On the other hand, the Commissioner shall only send copies to the Government when he has any particular comment on the case.

xix) Thus, in custodial death cases, the Police Rules mandate immediate report of the incident to higher authorities. Considering the provisions of the 2022 Act, and subject to any SOPs which the Government may lay down, the HR Commission should also be immediately notified about the custodial death. Simultaneously, the officer-in-charge of the local police station concerned should move under Rule 25.3, and the FIA should then take over the case and proceed in the manner discussed above.

xx) Rules 24.13 to 24.15 of the Police Rules, 1934, apply specifically to custodial death. In other matters, the general investigative provisions contained in Rules 25.4 to 25.7 may still be invoked by analogy to fill procedural gaps because they are not inconsistent with the 2022 Act, the FIA Act, or the Investigation Rules.

xxi) Rule 3 of the Investigation Rules empowers the FIA to initiate action either on its own motion or upon receipt of a complaint or other information relating to the commission of a cognizable offence under the 2022 Act. However, where such a case is already registered with the local police, the FIA may invoke section 5(1) of the Act, read with Rule 3, and seek transfer of the record.

xxii) The Magistrate also plays a vital role under section 5(2). If, at any stage, including during remand proceedings, the FIR or the material on record discloses the commission of an offence under the 2022 Act, he is duty-bound to refer the case to the FIA for investigation. (...) Under the Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006 (the “Prosecution Act”), public prosecutors are entrusted with important supervisory responsibilities in criminal proceedings. Section 9(5) of the Act requires the prosecutor to scrutinize the report submitted under section 173 Cr.P.C. and to return it for further investigation or correction if found deficient. Section 9(7) obliges the prosecutor to submit to the court a written assessment regarding the sufficiency of evidence and the applicability of the alleged offences, which the court must duly consider. Section 12(a) further mandates that the officer-in-charge of a police station must notify the District Public Prosecutor when a criminal case is registered.

xxiii) Where a case falling within the purview of the 2022 Act is initially registered with the local police under the general law but is subsequently transferred to the FIA, the local police may cancel the FIR in accordance with Rule 25.7 of the Police Rules. Upon such transfer, the FIA shall register a fresh FIR under the relevant provisions of the 2022 Act. Although the Police Rules do not apply to the FIA of their own force, the FIA may do so on the analogy of Rule 25.7. Where the local police have already submitted a report under section 173 Cr.P.C., the next step depends on whether the trial court has taken cognizance. If cognizance has not been taken, the case may still be transferred to the FIA, preferably with the court’s permission. In that event, the local police shall cancel the FIR and the FIA shall register a new one.

xxiv) An investigation by an agency lacking investigative competence constitutes a procedural irregularity. Section 156(2) Cr.P.C. stipulates that no proceedings of a police officer in any cognizable case shall be called into question on the ground that the case was one which such officer was not empowered to investigate. However, this protection is subject to the condition that the accused has not been prejudiced and there is no failure of justice. Rules 25.5 and 25.6 of the Police Rules, referenced above, also support the proposition that the proceedings conducted by the local police and the evidence they collect should be preserved. Therefore, where the local police investigate a case falling within the purview of the 2022 Act, the resulting procedural irregularity does not, by itself, vitiate the trial.

xxv) if a case is transferred to the FIA before submission of a report under section 173 Cr.P.C., the FIA is competent to assess the available material and prepare its own report. However, if the local police have already submitted a report under section 173 Cr.P.C. before the transfer, the FIA may, if circumstances so warrant, file a supplementary report regardless of whether the trial has commenced.

xxvi) Cognizance taken by a competent court is distinct from the process of investigation. Once cognizance has been taken, any prior irregularity, such as erroneous registration by an unauthorized agency, does not vitiate the trial.

- Conclusion:**
- i) Order XXVII-A CPC is inapplicable to criminal matters; it applies solely to civil proceedings.
 - ii) Section 561-A Cr.P.C. cannot substitute Order XXVII-A CPC and does not import civil procedural rules into criminal jurisdiction.
 - iii) The 2022 Act criminalises torture, custodial death, and rape, while preserving civil remedies.
 - iv) See analysis No.iv.
 - v) FIA has exclusive jurisdiction over offences under the Act and must investigate in accordance with the FIA Act and its Rules.
 - vi) The Cr.P.C. applies to FIA proceedings under the 2022 Act unless there is inconsistency with the Act or its incorporated rules.
 - vii) See analysis No.vii.
 - viii) Section 5(3) only incorporates procedural rules for the investigation phase, not for initiating it.
 - ix) Where a non obstante clause exists, incorporated provisions yield to the parent statute's intent and structure in case of inconsistency.
 - x) Courts must give legal effect to deliberate legislative omissions and not assume them to be accidental.
 - xi) Cognizable offences under the 2022 Act require FIR registration; the Act merely shifts investigative authority to FIA.
 - xii) Multiple procedural safeguards under the 2022 Act and Cr.P.C. protect officials from arbitrary arrest or malicious prosecution.
 - xiii) The HR Commission serves a supervisory, not investigative, role under the 2022 Act to safeguard rights and ensure fairness.
 - xiv) The Police Rules, 1934 remain historically foundational and influential in Pakistan's policing framework.
 - xv) Despite provincial autonomy, the Police Rules, 1934 continue to apply in Punjab.
 - xvi) While not directly applicable, the Police Rules influence FIA operations through statutory powers and judicial expectations.
 - xvii) Rules 24.13 and 24.14 require police to report custodial deaths to higher authorities as serious incidents.
 - xviii) Rule 24.15 outlines the duties of senior officials to distribute and act on special reports involving custodial deaths.
 - xix) Upon custodial death, the police must report the matter, notify the HR Commission, and trigger FIA involvement.
 - xx) See analysis No.xx.
 - xxi) FIA may act on its own or upon complaint, and can assume jurisdiction from local police under specified procedures.
 - xxii) Prosecutors and Magistrates bear essential responsibilities in ensuring compliance with the 2022 Act at all procedural stages.
 - xxiii) When a case is transferred from local police to FIA, a new FIR is registered; earlier reports may be cancelled if cognizance has not occurred.

- xxiv) Procedural irregularities due to unauthorised investigations do not vitiate trials unless prejudice or injustice is shown.
- xxv) If transferred before submission of the police report, FIA prepares its own; if after, it may file a supplementary report.
- xxvi) See analysis No.xxvi.

15. Lahore High Court
Muhammad Qasim v. The State
Crl. Appeal No.12100-J/2022
Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2025LHC5055.pdf>

Facts: The appellant was convicted for Qatl-e-Amd and sentenced to life imprisonment by the trial court. The conviction arose from an incident where multiple individuals allegedly assaulted the complainant's son, leading to gunfire that fatally injured the complainant's brother.

Issues:

- i) Whether the evidentiary value of the First Information Report is vitiated when the prosecution fails to establish with certainty the time and place of its recording?
- ii) When does blackening on the margins of a firearm entry wound occur according to medical jurisprudence?
- iii) Whether injuries on a witness guarantee the credibility of their testimony?
- iv) Whether a witness making dishonest improvements can be considered credible?
- v) Whether medical evidence alone can establish the identity of the assailant.

Analysis:

- i) It can be safely held that prosecution could not establish “time & place” of recording statement of the complainant for registration of case as well as bringing of injured persons to the hospital by the police or by the complainant party with exactness and this important as well as fundamental component has become doubtful and ultimately vitiated the legal efficacy and sanctity of the most vital document of the prosecution i.e. First Information Report, which is always considered as foundational element and cornerstone of the case of prosecution for the reason that it contains first hand detail of the occurrence presumably free from any adulteration/manipulation, addition or omission and if it is not so as in this case is and there is no explanation in this regard, then superstructure raised on the basis of this F.I.R. i.e. case of prosecution is bound to fall like house of cards...
- ii) It goes without saying that as per medical jurisprudence, blackening on the margins of entry wound is absolutely not possible if the shot has been fired from 10-Karams or 60-feet and in this regard, Dr. Ahmad Raza (PW-7) categorically stated that according to medical jurisprudence, blackening is occurred when firearm injury is caused from approximately 5 to 6 feet;
- iii) It is well settled that injured witness is not necessarily a truthful witness and he cannot be believed merely because he is having stamp of injuries on his body...
- iv) By now it is well settled that witness who introduces dishonest improvement or omission for strengthening the case, cannot be relied...

v) Yet it is trite law that medical evidence is mere supportive/confirmatory type of evidence; it can tell about locale, nature, magnitude of injury, duration of the injury and kind of weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury; therefore, same neither can provide any corroboration nor is of any help to the prosecution in peculiar facts and circumstances of the case.

- Conclusion:**
- i) Failure to prove the time and place of FIR recording vitiates its evidentiary value.
 - ii) Blackening occurs only when a firearm is discharged from a close range of approximately 5 to 6 feet.
 - iii) Injuries on a witness do not inherently guarantee credibility.
 - iv) A witness making dishonest improvements is not credible.
 - v) Medical evidence alone cannot establish the identity of the assailant.

16. Lahore High Court
Sunny Hakim v. The State etc.
Crl. Misc. No. 33508-B/2025
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC5113.pdf>

Facts: The petitioner has approached the Hon'ble High Court seeking their post-arrest bail in a case FIR registered against him for the offence under section 394/411 PPC.

- Issues:**
- i) Who is the administrative head of the criminal prosecution service under the Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006?
 - ii) Whether the Public Prosecutors appointed under the Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006 are Civil Servants or Public Servants; and what control government would have over them?
 - iii) How the applicability of the Punjab Civil Servants Act, 1974 affects the status of Prosecutors as Public Servants?
 - iv) How the Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006 ensures the independence of prosecutors and how they could be proceeded against?
 - v) Whether a prosecutor is empowered to summon or call for record from any law enforcement agency or government department?
 - vi) What does the term 'Public Interest' mean?
 - vii) How the public officials could determine the public interest in discharge of their duties?
 - viii) How a public prosecutor would evaluate the public interest while making opinion?
 - ix) Whether the principle of burden of proof beyond reasonable doubt could be considered at bail stage?

Analysis: i) The Punjab Criminal Prosecution Service is headed by the Prosecutor General

and its administration vest in him with no intervention whatsoever from any other corner except a liaison with Attorney General of Pakistan and the Advocate General of Punjab, only in cases which are pending in the Courts as a common cause.

ii) Government exercises superintendence over the criminal prosecution service but in prosecutorial decision making, criminal prosecution service is wholly independent for the reason that the prosecutors are not the civil servants rather being members of service, having an indemnity to their acts done in good faith, are cloaked as public servants (see Ss. 16 & 18 of the CPS Act), so that for any derelictions in their prosecutorial work they could be held responsible... The Supreme Court of Pakistan has already authoritatively held in a case reported as “PROVINCE OF SINDH through Chief Secretary, Sindh, Sindh Secretariat and another Versus PROSECUTOR-GENERAL SINDH, CRIMINAL PROSECUTION DEPARTMENT and others” (2012 SCMR 307) that prosecutors are not the civil servants rather public servants so as to take prosecutorial decisions independently free from government pressures for which a need for establishment of independent criminal prosecution service was felt.

iii) Section 20 of the CPS Act also gives an overriding effect to Sections 8, 9, 10, 11, 12, 13, 14, 15, 17, 18 and 19 of the CPS Act on all other laws; it therefore, gives air to a connotation that Punjab Civil Servants Act 1974 was not made applicable upon the members of service to give them a status of civil servants rather its applicability is for multifarious purposes like pay, pension, leave, and other fringe benefits which are applied in case of every person working with the affairs of the province. Thus, until the rules are framed under the CPS Act, the application of the Punjab Civil Servants Act and rules made thereunder would remain operative for the cited purposes. It is trite that if any person is directed to be governed by the Punjab Civil Servants Act 1974, it does not ipso facto make him civil servant if his service is also regulated under any special statute or rules... One of the instances in this respect could be of District Judiciary which is also governed under the Punjab Civil Servants Act 1974 for the purpose of pay, leave & pension etc., subject to the Punjab Judicial Service Rules 1994, but still they are not regarded as civil servants. Last but not the least Punjab Bar Council does not suspend the practicing license of an advocate who joins the criminal prosecution service or is appointed as law officer in office of Advocate General Punjab or Attorney General of Pakistan so as to permit them to appear before the High Courts or the Supreme Court on behalf of government as a legal counsel. This command of law is incorporated in Section 11 of the CPS Act... This aspect was also attended by the Supreme Court of Pakistan while granting permissions to the prosecutors to contest for the post of Additional Sessions Judge being eligible candidates.

iv) The Code of Conduct for Prosecutors issued in year 2016 by the Prosecutor General Punjab under Section 17 of the CPS Act also ensures independence of prosecutors... The above directions of Prosecutor General clearly demand that prosecutors shall work fearlessly by taking independent decisions or giving opinions for prosecution of criminal cases, better coordination in criminal justice system of the province and matters ancillary thereto; therefore, they cannot be

directed by any authority to take a pre-determined outcome. Thus, a prosecutor who does not apply his independent mind while taking prosecutorial decisions or giving opinions exposes himself to a legal action by the Prosecutor General under section 10 (2) of the CPS Act which again regards the prosecutors as public servants... The above subsection reinforces the independence of criminal prosecution service that until the Prosecutor General recommends, no authority in government can take action against the prosecutors.

v) Under Section 10 (3) (c) of the CPS Act, Prosecutor is authorized to call for record or any other document within a specified time from a law enforcement agency and if necessary, from any other Government department or agency as may be necessary for the purposes of prosecution. Thus, combined reading of above subsection and Rule 27.4 of Police Rules 1934 relating to police brief gives authority to prosecutors to call for brief fact sheet of the cases prior in time.

vi) The public interest has been described as referring to considerations affecting the good order and functioning of the community and government affairs for the wellbeing of citizens. It has also been described as the benefit of society, the public or the community as a whole. The public interest would consist of those government actions that most benefited the whole society.

vii) Thus, public officials must determine the public interest as it applies to them by referring to the purposes for which their organization was established and the functions they and their organization are required to perform. They should consider:

1. any enabling legislation setting out objectives, purposes or functions of the organization
2. relevant government policy
3. their organization's corporate plan or other relevant internal policy statements, and the duty statement for their position.

viii) Code of conduct for prosecutors issued by the Prosecutor General Punjab under Section 17 of the CPS Act, also gives space to public interest as per Para 5B which requires the prosecutors that in every case where there is sufficient evidence to justify a prosecution a prosecutor must go on to consider whether a prosecution is required in the public interest and while doing so shall keep in the mind the public interest factors... Code of conduct for prosecutors in the same line as per para 5.12 lays down the following factors of public interest which must be kept in mind by the prosecutors while applying public interest test;

- a) How serious is the offence?
 - b) The extent of culpability of the offender?
 - c) The circumstances of the Victim?
 - d) The age and circumstances of the offender
 - e) The impact of the offence on the community
 - f) The remorse shown by the offender or actions taken by him to undo the wrong
 - g) Is prosecution a proportionate response?

ix) In a case, reported as "AKHTAR versus KHAWAS KHAN and another" (2024 SCMR 476), Supreme Court of Pakistan has held that the burden of proof on

prosecution i.e., “proof beyond reasonable doubt” also applies at all stages including the pre-trial stage, and even at the time of deciding whether the accused is entitled to bail or not.

- Conclusion:**
- i) The Punjab Criminal Prosecution Service is headed by the Prosecutor General and its administration vest in him with no intervention whatsoever from any other corner.
 - ii) The Public Prosecutors are Public Servants, they completely independent in their decision making and government exercises only the superintendence over criminal prosecution, as they are not the civil servants.
 - iii) If any person is directed to be governed by the Punjab Civil Servants Act 1974, it does not ipso facto make him civil servant if his service is also regulated under any special statute or rules. It was not made applicable upon the members of service to give them a status of civil servants rather its applicability is for multifarious purposes like pay, pension, leave, and other fringe benefits which are applied in case of every person working with the affairs of the province, until the rules are framed under the CPS Act. One of the other instances is District Judiciary, similarly, the Punjab Bar Council does not suspend the license of prosecutors or law officers to appear before the superior courts. The apex court also granted permission to the prosecutors to contest for the AD& SJ examination considering them a public servant.
 - iv) The section 10 (2) of the CPS Act reinforces the independence of criminal prosecution service that until the Prosecutor General recommends, no authority in government can take action against the prosecutors. They cannot be directed by any authority to take a pre-determined outcome. A prosecutor who does not apply his independent mind while taking prosecutorial decisions or giving opinions exposes himself to a legal action by the Prosecutor General under section 10 (2) of the CPS Act which again regards the prosecutors as public servants.
 - v) Section 10 (3) (c) of the CPS Act, empowers a prosecutor to call for record or any other document within a specified time from a law enforcement agency and if necessary, from any other Government department or agency prior in time to conduct of prosecution. The PGP issue direction to the concerned for provision of record via WhatsApp well before the court proceedings to save precious time of the Court.
 - vi) See above analysis No.vi.
 - vii) For determining the public interest a public official must consider any enabling legislation setting out objectives, purposes or functions of the organization, relevant government policy, and their organization’s corporate plan or other relevant internal policy statements, and the duty statement for their position.
 - viii) The public interest consideration evaluation guidelines are listed in para no. 5.12 of the Code of conduct for prosecutors issued by the Prosecutor General Punjab in 2016 under Section 17 of the CPS Act.
 - ix) The principle of burden of proof beyond reasonable doubt applies at all stages including the pre-trial stage, and even at the time of deciding whether the accused

is entitled to bail or not.

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- 17. Lahore High Court**
Mst. Rasheedan v. Abdul Sattar (deceased) represented through LR's, etc.
C.R.No.77-D of 2011
Mr. Justice Malik Javaid Iqbal Wains
<https://sys.lhc.gov.pk/appjudgments/2025LHC5127.pdf>

Facts: Allegedly, predecessor-in-interest of the respondents got the Tamleek Mutation attested, depriving the petitioner and other two daughters of the deceased of their lawful shares. The petitioner challenged the said Tamleek through a civil suit, which was decreed after completion of the regular procedure. An Appeal was preferred, which was accepted; hence, this revision petition.

Issues:

- i) Whether the earlier findings on a material issue can be negated by the same court at a subsequent stage without cogent reasons?
- ii) What will be the result of a transaction effected in violation of the rights guaranteed by the Holy Quran?
- iii) Whether the gift can be made through an oral transaction, and if such transaction is challenged, which elements are required to be established by the donee?
- iv) What is the principle regarding assessment of evidence followed by the apex Court in respect of a gift transaction resulted in disinheritance of legal heirs?
- v) What will be the starting point of limitation when fraud is alleged?
- vi) When finding on a material issue has attained finality and has not been specifically challenged in revision, can the same reopened by raising arguments contrary to that finding?

Analysis:

- i) It is a settled principle that once a court has conclusively affirmed a factual finding on a material issue, particularly relating to the validity of the main transaction, it cannot, without lawful justification or cogent reasons, render a subsequent finding that directly negates its own earlier conclusion. Such an approach is contrary to settled judicial norms and violates the doctrine of consistency in judicial reasoning. Such findings of fact cannot be contradicted by subsequent inconsistent observations within the same judgment unless supported by sound legal grounds and clear reasoning.
- ii) The Holy Quran unequivocally guarantees the rights of daughters in their father's estate. Any attempt to defeat this divine commandment through a dubious transaction is not legally sustainable.
- iii) The law is settled that immovable property can be gifted orally, but the donee must establish three ingredients beyond doubt, (i) declaration of gift by the donor, (ii) acceptance by the donee and (iii) delivery of possession.
- iv) The apex Court has consistently held that where a transaction of gift results in disinheritance of legal heirs, the burden to prove the gift with strict and satisfactory evidence lies heavily on the donee.
- v) It is a settled principle that when fraud is alleged, limitation begins to run from the date of knowledge.

vi) It is a settled principle of law that when finding on a material issue has attained finality and has not been specifically challenged in revision, the same cannot be reopened indirectly by raising arguments that run contrary to that finding.

- Conclusion:**
- i) See above analysis No.i
 - ii) Such transaction is not legally sustainable.
 - iii) See above analysis No. iii.
 - iv) Onus to prove the gift lies heavily on the donee.
 - v) Date of knowledge.
 - vi) The same cannot be reopened by raising arguments contrary to that finding.

18. Lahore High Court
Abdul Latif Ansari v. Irfan Ahmad, etc.
C.R No. 1789-D of 2016.
Mr. Justice Ch. Sultan Mahmood
<https://sys.lhc.gov.pk/appjudgments/2025LHC5077.pdf>

Facts: The petitioner claimed ownership of evacuee property based on a family settlement, asserting possession and payment of dues, while challenging a Permanent Transfer Deed (PTD) issued in favor of his brother. The suit was dismissed by both trial and appellate courts, leading to the instant revision petition.

Issues:

- i) Whether a civil court has jurisdiction to entertain a suit challenging the issuance of a Permanent Transfer Deed (PTD) under the Displaced Persons (Compensation and Rehabilitation) Act, 1958?
- ii) Whether a suit filed beyond the limitation periods prescribed under Articles 14 and 120 of the Limitation Act, 1908, for challenging an official act or order, is maintainable?

Analysis:

- i) It has been the consistent view of the Superior Courts that Civil Courts would have no jurisdiction to determine the question of the validity of the transfer of land in view of the sections 22 and 25 of the Displaced Persons (Compensation & Rehabilitation) Act of 1958 which debar any court from questioning any order made by any Officer appointed under the said Act...the Civil Court cannot entertain a suit to challenge or interpret a PTD, as such actions fall within the exclusive domain of the Settlement Authorities...the petitioner has failed to challenge the PTD before the appropriate Settlement Authorities, which is the designated forum for addressing grievances related to the issuance of such documents...it was categorically held that question of inheritance of deceased right holder was required to be decided under the relevant paragraphs of the settlement scheme... jurisdiction of the civil court in such matter is barred.
- ii) Following the same and juxtaposing the facts of this case to the principles noted in the said judgment it comes to fore that as per Article 14 of the First Schedule to the Limitation Act 1908, the period of limitation for instituting a suit to set aside any act or order of an officer of Government made by him in his official capacity,

not otherwise expressly provided for in the said Act, is one year from the date of the act or order; while under the residuary Article 120, the period of limitation is six years. Whichever of these two periods is applied, the suit of the petitioner having been instituted on 27.02.1979 to challenge the PTD dated 22.05.1965 was badly barred by the law of limitation.

- Conclusion:**
- i) A civil court does not have jurisdiction to entertain a suit challenging the issuance of a PTD under the Displaced Persons (Compensation and Rehabilitation) Act, 1958.
 - ii) A suit filed beyond the limitation periods prescribed under Articles 14 and 120 of the Limitation Act, 1908, is not maintainable.

19. Lahore High Court
Abdul Rehman Faryad v. Government of Punjab etc.
Writ Petition No.40844 of 2025
Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC5162.pdf>

Facts: The petitioner was implicated in a criminal case and subsequently acquitted by a competent court. Despite his acquittal, decline of request for the issuance of a Police Character Certificate including a reference to the case, prompted the petitioner to seek rectification through the instant constitutional petition.

Issues:

- i) What is the legal effect of an unchallenged acquittal in criminal proceedings with respect to the presumption of innocence?
- ii) Is the digital preservation of FIR records permissible under law, and if so, how should such records be used post-acquittal?
- iii) Can an acquitted individual be continuously associated with a previously registered FIR in official documents such as a Police Character Certificate?

Analysis:

- i) Therefore, the acquittal order has attained finality in the eye of law. In these circumstances, it would be legally unjustified to draw any adverse inference or attach any stigma to the petitioner merely based on the registration of an FIR or the fact that a trial was conducted, when such proceedings have conclusively ended in an unchallenged acquittal. Hence, the presumption of innocence which stands supported by the acquittal must be given full effect.
- ii) Thus, the preservation of digital FIR record is permissible under the law, such record must be used strictly within the confines of legality, ensuring that no adverse inference is drawn against an individual who has been acquitted, unless such use is justified by a lawful purpose and supported by due process.
- iii) In such eventuality, any continuous reference or inclusion of the relevant FIR in official documents such as a character certificate, despite a conclusive acquittal of an accused is unwarranted. Such a practice not only violates the individual's constitutionally protected right to human dignity under Article 14 of the Constitution of the Islamic Republic of Pakistan, 1973 but also imposes a lasting

and unjust stigma upon a citizen who has been exonerated through due judicial process.

- Conclusion:**
- i) An unchallenged acquittal extinguishes all legal consequences of the trial, and the presumption of innocence must prevail.
 - ii) Digital FIR records may be retained but cannot be used to the detriment of an acquitted person without lawful justification.
 - iii) See above analysis No.iii.

20. Lahore High Court
Alam Sher v. The State
Criminal Appeal No.27076-J of 2022
Bashir Ahmad v. The State
Criminal Appeal No.27077-J of 2022
The State v. Alam Sher
Murder Reference No.58 of 2022
Ms Justice Aalia Neelum (The Chief Justice), Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC5135.pdf>

Facts: The appellants, along with a co-accused, were charged in a targeted firearm assault that resulted in one fatality and one injury. The incident was reported belatedly through a written complaint. In their defence, the accused asserted false implication owing to prior litigation between the parties, citing procedural delays, inconsistencies in the evidence, and the absence of reliable independent witnesses. Following the trial, one of the co-accused was acquitted, while one appellant was awarded death penalty, the other appellant was sentenced to ten years imprisonment under Section 324 of the Pakistan Penal Code (PPC) and an additional ten years under Section 334 PPC, along with fines. Both convicts challenged their respective convictions and sentences through separate appeals. Concurrently, the trial court submitted a Murder Reference seeking confirmation or annulment of the death sentence.

- Issues:**
- i) Whether the delay in lodging the FIR and its alleged consultation-based drafting undermines the credibility of the prosecution's case, particularly in relation to the capital sentence?
 - ii) Whether an unexplained 15-hour delay in the post mortem suggests fabrication of the occurrence and manipulation of witnesses?
 - iii) Whether mere presence of injuries on a witness is sufficient to establish the truthfulness of their testimony without subjecting it to judicial scrutiny?
 - iv) Effect of delay in recording statement under section 161 of The Code Of Criminal Procedure.
 - v) Whether the conflict between the ocular account and medical evidence renders the testimony of the eye witnesses unreliable, thereby entitling the accused to the benefit of doubt?
 - vi) Whether the prosecution's failure to prove the motive it has alleged weakens its case and entitles the accused to the benefit of doubt?

- Analysis:**
- i) The police was informed regarding the incident after a significant delay, and an anti-time FIR was filed following the stoppage of Rozenamcha merely to present it as a swiftly registered FIR, drafted through consultation and discussion, while detailing the involvement of each accused according to the complainant's choice. In such scenario, this Court has a major responsibility to evaluate the prosecution's evidence for maintaining the appellants' conviction with careful consideration, particularly regarding the capital sentence charge.
 - ii) A delay of approximately 15-hours is noticed in holding the autopsy, for which the prosecution has offered no explanation whatsoever during the trial. Considering that the occurrence had not taken place in a distant location from District Headquarters the delay in the postmortem examination raises the possibility that the time was consumed in concocting the story of the crime and procuring the witnesses.
 - iii) Injuries statedly received by a witness during a homicidal incident do not warrant acceptance without scrutiny of what he/she deposes before the court. At the most such traumas can be taken as indication of his/her presence at the spot but still such evidence is to be examined on the benchmark of general and well settled principles laid down for the appraisal of evidence. There is no hard and fast rule that a witness who is in receipt of injury will depose nothing but truth. Even otherwise this is not a simple presence of a witness at the crime scene but his/her credibility which makes him/her a reliable witness. Reference in this regard is made to the case reported as *Amin Ali v. The State* (2011 SCMR 323).
 - iv) Delay of 126-days in recording 161 Cr.P.C statement of PW.17 gives rise to many doubts which ought to be resolved in favour of appellants. While holding so, we are guided by the observation of the Supreme Court of Pakistan expressed in the case reported as *Muhammad Asif v. The State* (2017 SCMR 486) wherein it was observed as under:- "There is a long line of authorities/precedents of this court and the High Courts that even one or two days unexplained delay in recording the statement of eye-witness would be fatal and testimony of such witnesses cannot be safely relied upon."
 - v) The collection of medical evidence at investigation stage and its subsequent tendering during trial is primarily aimed at enabling the Court to get help for ascertaining the truth behind deposition of an eyewitness. If the ocular account gives rise to some inconsistency after being subjected to scrutiny through medical evidence, it warrants rejection of the tale of incident furnished by eyewitnesses. Reliance is placed upon the case reported as *Abdul Jabbar and another v. The State* (2019 SCMR 129) wherein the Supreme Court of Pakistan while dilating upon conflict between medical and ocular evidence observed as under:- "It is the settled principle of law that once a single loophole is observed in a case presented by the prosecution much less glaring conflict in the ocular account and medical evidence or for that matter where presence of eye-witnesses is not free from doubt, the benefit of such loophole/lacuna in the prosecution case automatically goes in favour of an accused."

vi) It is well settled that once the motive is set up by the prosecution and the same is not proved, the prosecution shall suffer. Reliance in this context may be placed upon the case reported as Sarfraz and another v. The State (2023 SCMR 670).

- Conclusion:**
- i) See above analysis No.i.
 - ii) Delay in the postmortem examination raises the possibility that the time was consumed in concocting the story of the crime and procuring the witnesses.
 - iii) Injuries received by a witness do not warrant acceptance; such evidence is to be examined on the benchmark of general and well settled principle for the appraisal of evidence.
 - iv) Delay in recording 161 Cr.P.C statement gives rise to many doubts.
 - v) See above analysis No.v.
 - vi) See above analysis No.vi.

21. Lahore High Court
Muhammad Maqsood v. The State & 3 others
Criminal Appeal No.231326 of 2018
Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC5168.pdf>

Facts: The complainant's brother was attacked and injured by the accused with weapons. The trial court acquitted the accused due to lack of reliable evidence, which was challenged through this criminal appeal.

Issues:

- i) Whether the delay in registration of FIR affects the credibility of the prosecution's case?
- ii) Whether the injured witness's testimony alone could sustain conviction in absence of corroborative evidence?
- iii) Whether delay in recording the statement of an injured witness affects the credibility of the prosecution's case?
- iii) Whether an appellate court can interfere with an acquittal without the presence of exceptional and compelling circumstances?

Analysis:

- i) Therefore, the unexplained and prolonged delay of eight days in reporting the matter cannot be casually overlooked. On the contrary, it casts serious doubt on the veracity of the prosecution's version and strongly suggests that the intervening period may have been utilized to concoct and fabricate a narrative to implicate the accused.
- ii) In these circumstances, the mere presence of injuries on the person of the injured witness is not, by itself, sufficient to warrant the conviction of the accused.
- iii) It is a well-settled principle of criminal jurisprudence that timely recording of statements of witnesses, particularly those of injured, is essential for ensuring the credibility of the prosecution's case.
- iv) It is a well-settled principle of criminal jurisprudence that once an accused is acquitted of the charges, a presumption of innocence is further strengthened in his

favour. Such a verdict of acquittal cannot be lightly set aside, and interference by an appellate court is justified only in exceptional and compelling circumstances where the judgment under challenge is shown to be manifestly illegal, arbitrary, or perverse.

- Conclusion:**
- i) The delay in registration of FIR affects the credibility of the prosecution case.
 - ii) the injured witness's testimony alone cannot sustain conviction in the absence of corroborative evidence.
 - iii) Delay in recording the statement of an injured witness undermines the credibility of the prosecution's case.
 - iv) An appellate court cannot interfere with an acquittal without exceptional and compelling circumstances.

LATEST LEGISLATION/AMENDMENTS

1. Vide official Gazette of Pakistan dated 09-07-2025; The Virtual Assets Ordinance, 2025 is promulgated to establish a regulatory authority for the licensing, regulation and supervision of Virtual assets etc.
2. Vide Notification No. SOR-III(S&GAD)1-9/2023 dated 11-07-2025; the amendments are made at serial No.1, 4, 5 & 6 of The Punjab Agriculture Department (Research Wing) Service Rules, 1980.
3. Vide Notification No. SOR-III(S7GAD01-24/2007(P-II) dated 14-07-2025; amendments are made at serial No.6, 7, 13, 15, 22 & 36 of The Punjab Environment Protection and Climate Change Department Service Rules, 1997.
4. Vide official Gazette of Pakistan dated 14-07-2025; The Frontier Constabulary (Re-Organization) Ordinance, 2025 is promulgated to consolidate and re-enact the law relating to the Frontier Constabulary.
5. Vide Notification No. SOR-III(S&GAD)1-4/2019 dated 17-07-2025; amendment is made for the post of 'Assistant Controller (BS-16) IN The S&GAD, Banquet Hall 90-SQA and VVIP Guest House Staff Service Rules, 2019.
6. Vide Notification No. FD(FR)II-9/2025 dated 18-07-2025; amendment is made in Rule, 7.16 of The Departmental Financial Rules.
7. Vide Notification No. PRA/Orders.06/2021/845 dated 18-07-2025; amendment is made in Rule 3 of The Punjab Sales Tax on Services (Adjustment of Tax) Rules 2012.
8. Vide Notification No. PRA/Orders.06/2021/846 dated 18-07-2025; amendment is made in Rule 5 of The Punjab Sales Tax on Services (Withholding) Rules, 2015.
9. Vide Notification No.FD(FR)II-6/2025 dated 21-06-2025; amendment is made in First Schedule of The Punjab Delegation of Financial Powers Rules, 2016.
10. Vide Notification No. 1695/2025 (ESD) dated 22-07-2025; amendment is made in Regulation 3 of The Punjab Community Safety Buildings Regulations 2022.

11. Vide Notification No.SOR-III(S&GAD)2-60/2024 dated 23-07-2025; amendment is made in Rule 3 of The Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974.
12. Vide Notification No. SOR-II(S&GAD)2-134/10 dated 23-07-2025; amendment is made in para 2(6) of The PROMOTION POLICY-2010.
13. Vide Notification No. SOR.II(S&GAD)2-59/78 dated 23-07-2025; amendment is made in para 2(III)(b) of The PERFORMA PROMOTION POLICY.
14. Vide Notification No. SOR-III(S&GAD)1-2/2023 dated 28-07-2025; amendment is made at serial No.67 in the schedule of The Punjab Forest Department (Executive, Sericulture, Research and Extension, Technical and Ministerial Posts) Recruitment Rules 2019.

SELECTED ARTICLES

1. HARVARD LAW REVIEW

<https://harvardlawreview.org/print/vol-137/the-making-of-presidential-administration/>

The Making of Presidential Administration by Ashraf Ahmed, Lev Menand, Noah A. Rosenblum

Today, the idea that the President possesses at least some constitutional authority to direct administrative action is accepted by the courts, Congress, and the legal academy. But it was not always so. For most of American history — indeed until relatively recently — Presidents derived their authority over the administrative state largely from statute. Any role for the White House in agency rulemaking or adjudication had to be legally specified. Scholars mostly agree about when this change occurred. But the dominant shared narrative — exemplified by then-Professor Elena Kagan’s seminal article Presidential Administration — is Whig history. It offers a depoliticized interpretation that presents White House primacy as the product of steady progress toward greater administrative rationality.

This Article offers a historical corrective. It explains how “administration under law” was lost and replaced with a new constitutional baseline, “presidential administration.” It is both an account of constitutional change — how one understanding of constitutional text and structure gave way to a different one — as well as a history of the regulatory state and how, beginning in the 1980s, federal officials reworked the relationship between the President, Congress, and administrative agencies in order to expand the role of market actors in governing economic activity. The Article draws attention to the intense political conflict that accompanied the advent of presidential administration. What is today bipartisan was originally nothing of the sort. It also reveals how a new interpretation of Article II took hold without any fundamental doctrinal or statutory change or shift in formal law. It highlights the emergence of a neoliberal consensus around aspects of economic regulation that incentivized and buttressed presidential administration as an approach to administrative governance. And it reveals the relative novelty of originalist arguments about the “Unitary Executive.”

2. HARVARD LAW REVIEW

<https://harvardlawreview.org/print/vol-138/a-court-of-first-view/>

A Court of First View by Stephen I. Vladeck

The U.S. Supreme Court regularly insists that it is “a court of review, not of first view.” This sentiment is usually deployed as justification for the Court’s refusal to consider arguments not raised by the parties in the lower courts; questions not answered by the lower courts; new issues that have arisen only as a result of what the Justices have held in the case at hand; or taking up a discretionary appeal in the first place. In recent years, though, the Court’s behavior has increasingly departed from this mantra. Even as the total number of cases the Supreme Court is deciding after plenary review has declined (significantly) in recent terms, the number of cases in which the Court is reaching and resolving the merits in some kind of preliminary procedural posture has grown — in absolute terms and, thus, in even more significant proportional terms. This phenomenon is especially pronounced in three categories of cases: those in which the Court is reaching the merits on appeals from the grant or denial of a preliminary injunction; those in which it is granting “certiorari before judgment” (bypassing the federal courts of appeals to hear appeals directly from U.S. district courts); and those in which it is reaching the merits on applications for emergency relief. More than that, the Court is not just reaching the merits at very early stages of a growing percentage of cases resolved through opinions of the Court; it is doing so in many of its biggest and most legally and/or politically consequential decisions. This Article describes, documents, and critiques this phenomenon, sketching out some of the costs, to both the Supreme Court and the legal system more generally, of having the Justices engaging in what is supposed to be extraordinary review on an increasingly ordinary basis. And although the Court may not be wholly responsible for the causes of this uptick, both it and Congress can and should take steps to reduce the incidence of such cases and mitigate the costs of having so many preliminary-stage decisions on the docket. Some of those reforms can come from the Court’s bully pulpit, its holdings, and its behavior; some can come from the legislature. The first step, though, is to acknowledge that this is a problem worth a solution — and that the Court is increasingly (if inconsistently) a “court of first view.” So long as that remains true, it will have a series of downstream — and understudied — effects that go beyond simply undermining the Justices’ regular insistence to the contrary.

3. Lawyers Club India

<https://www.lawyersclubindia.com/articles/how-the-u-s-is-reshaping-crypto-regulation-17886.asp>

How the U.S. Is Reshaping Crypto Regulation by Sankalp Tiwari

In mid-2025, the United States inaugurated a transformative regulatory framework for digital assets through the passage of three foundational laws—the CLARITY Act, GENIUS Act, and CBDC Anti Surveillance State Act. Collectively, this legislative package delivers

the much-needed clarity and purpose that had eluded U.S. cryptocurrency policy for years. Where previous enforcement relied on ad-hoc litigation and agency discretion, the CLARITY Act creates a clear jurisdictional divide: the Commodities Futures Trading Commission (CFTC) oversees non securities tokens, while the Securities and Exchange Commission (SEC) retains authority over tokens classified as securities. The GENIUS Act sets strict standards for stablecoin issuance—requiring full backing, ongoing audits, and regulatory licensing—while the CBDC Anti Surveillance State Act prohibits retail issuance of a digital dollar without explicit Congressional approval, affirming democratic oversight and protecting consumer privacy. These reforms signal no mere regulatory tinkering—rather, they represent a strategic recalibration of America's position in the global digital finance order. They reduce ambiguity, enhance market trust, and align with liberal democratic values in a time when authoritarian regimes promote state-controlled digital currencies. Yet the laws also confront unresolved issues including offshore issuer loopholes, enforcement coordination, DeFi oversight, and statutory gaps regarding token classification. Addressing these vulnerabilities through interagency alignment, international agreements, and institutional innovation will be essential to translating legislative ambition into strategic leadership.

4. MANUPATRA

<https://articles.manupatra.com/article-details/THE-ROLE-OF-TECHNOLOGY-IN-MODERN-DISPUTE-RESOLUTION-VIRTUAL-COURTS-AND-ODR>

The Role of Technology In Modern Dispute Resolution: Virtual Courts and Odr By Mohita Sharma

Dispute resolution refers to the structured process through which disagreements or conflicts between two or more parties are addressed and resolved. Such disputes could occur in diverse settings such as commercial transactions, employment, domestic affairs, consumer relations, or international relations. Traditionally, disputes were resolved through litigation at courts. Nonetheless, with the passage of time, other techniques have been introduced to provide quicker, cheaper, and less adversarial solutions. These are all referred to as Alternative Dispute Resolution (ADR) mechanisms. ADR involves a number of techniques that allow for the resolution of disputes without going through the usual court process. The main forms of ADR are Negotiation, Mediation, Arbitration, and Adjudication, with Litigation being the traditional judicial means of resolving disputes.

*Virtual Courts represent the digitization of traditional courtroom proceedings, where hearings, filings, and judicial interactions are conducted through video conferencing, e-filing portals, and digital evidence presentation systems. Courts across the world, including in India, have adopted virtual hearing models to ensure continuity of judicial functions amid constraints. This shift not only enhances convenience for litigants, lawyers, and judges but also reduces delays and administrative costs, making justice more accessible and inclusive. On the other hand, Online Dispute Resolution (ODR) merges technology with conventional ADR mechanisms like **

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Vivekananda Institute of Professional Studies (VIPS), Delhi. negotiation, mediation, and arbitration. It involves using online platforms to initiate, process, and resolve disputes entirely through digital interfaces. Parties can submit claims, exchange documents, communicate with mediators or arbitrators, and even reach settlements or binding decisions without ever entering a physical courtroom. ODR is especially useful for consumer disputes, e-commerce grievances, cross-border transactions, and low-value claims that may not be feasible to litigate traditionally. Technology also contributes to transparency, record-keeping, and data analytics in dispute resolution. Automated case management tools, AI-based document review, e-discovery, and blockchain for digital evidence authentication are being increasingly explored to streamline complex legal processes. In essence, the integration of technology through Virtual Courts and ODR marks a transformative shift toward a more accessible, efficient, and resilient justice delivery system. As legal systems continue to embrace digital innovation, the future of dispute resolution is poised to become more participatory, scalable, and adaptive to the needs of a digitally connected society.

5. MANUPATRA

<https://articles.manupatra.com/article-details/Emerging-Issues-In-Cyber-Law>

Emerging Issues In Cyber Law by Rose Mariyat Jose & Joshan J

“The Cyber-world has now developed into a parallel form of personality, life, and living of our lives up to such an extent that the imagination of a day without a mobile phone and a phone without internet gives the feeling of being paralyzed, especially for young users. It means now the technology and human life are inseparable. Our day starts with receiving or sending ‘good morning messages and ends with the status update. Cybercrimes are the ‘progeny of cyberspace’, which is an outcome of cybercriminals' mens rea and which owes its origin initially in the absence of cyber legislations.¹ If we analyze the term cyber law, we can conclude that it is related to all the legal issues involving computers and the Internet, which is an intersection of various fields such as privacy issues, jurisdiction issues, intellectual property rights issues, and several other legal questions.² Cyber-crimes are international, global, or cross-border (whether national or international) in nature. The principle of pirates- piracy jury gentium means thereby piracy is an offence against all the nation, the same principle is true in context of cybercrimes; with a limited and restricted extent such as the type of the offence, the jurisdiction involved (national or international), the number of victims (an individual/s, organization/s or one or more country), nationality of the cyber-criminal or the victim, the involvement of the networks and extradition laws etc. Cybercrime also caused law enforcement agencies to face new challenges due to the anonymous nature of the Internet, which further aggravates and complicates the issues.”

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*

Volume - VI, Issue - XV

01 - 08 - 2025 to 15 - 08 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(01-08-2025 to 15-08-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles
Prepared & Published by the Research Centre Lahore High Court

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1. **Supreme Court of Pakistan**
Abdul Salam Khan v. M/s Bank Al-Habib Ltd, etc.
C.P.L.A. No. 88-P of 2022
Mr. Justice Syed Mansoor Ali Shah, Mrs. Justice Ayesha A. Malik
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 88_p 2022.pdf

- Facts:** The petitioner challenged the auction of immovable property by a bank in execution of money decree. The appeal before the High Court remained pending for ten (10) years. Then the matter reached the august Supreme Court and again took three years to decide.
- Issues:**
- i) How the delay in adjudication of cases diminishes public trust and affects the country economically?
 - ii) How a structured Case Management could cater the delay in adjudication?
 - iii) How the judicial systems across the world have reformed to reduce the docket to deliver justice?
- Analysis:**
- i) It is beyond cavil that delay in adjudicating cases by the courts at any tier of the justice system corrodes public confidence in the judiciary, undermines the rule of law, and disproportionately harms the weak and vulnerable who cannot afford the cost of prolonged litigation. Delay in adjudication carries severe macroeconomic and societal consequences: it deters investment, renders contracts illusory, and weakens the institutional legitimacy of the judiciary. A justice system's credibility rests not only in the fairness of its decisions but also in the timeliness with which those decisions are rendered.
 - ii) The Court, as a matter of institutional policy and constitutional responsibility, must urgently transition toward a modern, responsive, and intelligent case management framework. Such a system must, at a minimum, ensure: the early fixation of cases on a non-discriminatory basis; the elimination of "queue-jumping" and preferential scheduling; the prioritization of matters involving constitutional, economic, or national importance without compromising the timely resolution of individual claims; the implementation of age-tracking protocols to automatically identify dormant cases; and the judicious use of Artificial Intelligence ("AI") tools to assist in scheduling and triage while preserving the sanctity of judicial discretion.
 - iii) Judicial systems across the world have recognized that delay is not an intractable inevitability but a solvable institutional challenge. Countries such as Singapore, the United Kingdom, Brazil, Estonia, Canada, China, Denmark, and Australia have undertaken comprehensive reforms combining technology, structural innovation, and procedural discipline to reduce backlog and enhance judicial efficiency. Through tools such as e-filing, real-time dashboards, automated scheduling, and transparent digital oversight, these jurisdictions have moved from being passive custodians of dockets to active managers of justice delivery. These international experiences underscore a basic truth: delays in

justice are not inevitable; they are a product of institutional design, and can be remedied with vision, planning, and resolve.

- Conclusion:**
- i) It is beyond cavil that delay in adjudicating cases by the courts at any tier of the justice system corrodes public confidence in the judiciary. Delay in adjudication carries severe macroeconomic and societal consequences: it deters investment, renders contracts illusory, and weakens the institutional legitimacy of the judiciary.
 - ii) Intelligent case management framework must, at a minimum, ensure: the early fixation of cases on a non-discriminatory basis; the elimination of “queue-jumping” and preferential scheduling; the prioritization of matters involving constitutional, economic, or national importance without compromising the timely resolution of individual claims; the implementation of age-tracking protocols to automatically identify dormant cases; and the judicious use of Artificial Intelligence (“AI”) tools to assist in scheduling and triage while preserving the sanctity of judicial discretion.
 - iii) Through tools such as e-filing, real-time dashboards, automated scheduling, and transparent digital oversight, international judicial systems have moved from being passive custodians of dockets to active managers of justice delivery.

2. **Supreme Court of Pakistan**
Mst. Nasira Ansari and others v. Late Tahira Begum through legal heirs & others
Civil Appeal No. 41-K of 2021.
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi & Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 41_k_2021.pdf

Facts: The appellants filed a Civil Suit seeking declaration of benami properties and claimed their share of inheritance in the estate of their deceased father. The appellants claimed that both the properties were owned by their father and their mother (respondent No.1) was ostensible owner but she had unlawfully gifted the property to her son (respondent No.2). The suit of the plaintiff was dismissed by the Division bench of the High Court. Hence, appeal was filed before Supreme Court.

- Issues:**
- i) What does mean by *benami* transaction?
 - ii) Upon which party the burden to prove a benami transaction lies?
 - iii) What factors are considered to resolve the character of benami transaction?
 - iv) Which elements must exist to establish the benami status of the transaction?
 - v) Whether the source of purchase money is solely sufficient to prove the benami?
 - vi) How the mode and manner of benami transaction can be established?
 - vii) Whether the testimony of the real owner (who sponsored the transaction) is necessary to prove the plea of benami transaction?
 - viii) Whether the children of sponsored/ real owner can challenge the title or ownership of benamidar?

- Analysis:**
- i) The attributes of “benami transaction”, in reality means a transaction in the name of another person to describe and express a transaction of a property who holds the said property being an ostensible owner for its beneficial owner. A benami transaction has been described shortly as one in which the real owner of the property allows it to appear in the name of an ostensible owner under a sort of secret trust.
 - ii) The burden of proving whether a particular person is a benamdar is upon the person alleging the same. (---) The onerous sense of duty lies on the party who raises the plea of benami transaction to prove by adducing unimpeachable evidence. The Court is not required to decide such pleas on the basis of mere suspicion.
 - iii) The acid test for resolving the character of transactions is obviously the source of funds but it is not always conclusive and significant to the real ownership though it may prima facie show that the person who provided money did not intend to relinquish or give up the beneficial interest in the property but some other factors also need to be considered i.e. possession of title documents, after purchase the conduct of the parties concerned in dealing with the property; who administers and oversees the property; who relishes the usufruct and who is recognized as title holder in general as well as government departments. All these important physical characteristics depend on the facts of each case separately which requires concrete evidence to prove.
 - iv) This Court held that two essential elements must exist to establish the benami status of the transaction. The first element is that there must be an agreement, express or implied, between the ostensible owner and the purchaser for the purchase of the property in the name of ostensible owner for the benefit of such person and second element required to be proved that the transaction was actually entered between the real purchaser and the seller to which ostensible owner was not party. (---). The foremost and primary component in such dispute or controversy is the agreement/understanding, express or implied between the ostensible owner and the real purchaser for the benefit of the person who made payment and it is also required to be proved that the transaction was actually entered into between the real purchaser and seller to which ostensible owner was not a party.
 - v) The source of purchase money is not conclusive in favour of the benami character of transaction though it is an important criterion but there are other circumstances showing that the purchaser intended the property to belong to the person in whose favour the conveyance was made, the essence of benami transaction being the intention of the purchaser and the court must give effect to such intention. In a benami transaction the actual possession of the property or receipt of rents of the property is most important.
 - vi) Moreover, the mode and manner of transaction is to be established by corroborating the intentions of the parties at the relevant time which could be congregated from the surrounding circumstances such as the

relationship/association of parties, the motive or aspiration implicit in the transactions including the subsequent comportment and the factum of possession of the property and custody of title documents.

vii) The best possible evidence could have been adduced by the deceased himself if he had any dispute with regard to the title of properties which he never raised in his lifetime.

viii) Even if the properties were purchased through the funds or resources of the deceased husband, then both husband and wife were privy to such arrangements/transactions in their own marital relationship and after passing of several years, the children could not question or challenge the title or ownership of properties in the name of their mother without any cogent proof or trustworthy evidence that she was actually an ostensible owner.

- Conclusion:**
- i) See above analysis No.i
 - ii) The burden of proving the benami transaction is upon the person who alleges.
 - iii) The source of funds, possession of title documents and conduct of parties are the main factors to resolve the character of benami transaction.
 - iv) See above analysis No.iv
 - v) Solely the source of purchase money is not sufficient to prove the benami.
 - vi) See above analysis No.vi
 - vii) The testimony of the real owner (who sponsored the transaction) is necessary to prove the plea of benami transaction.
 - viii) Children of sponsored/ real owner cannot challenge the title or ownership of benamidar.

3. Supreme Court of Pakistan
Muhammad Ramzan v. The State
Jail Petition No.213 of 2024
Muhammad Sabir v. The State
Jail Petition No.214 of 2024
Mr. Justice Athar Minallah, Mr. Justice Naeem Akhtar Afghan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 213 2024.pdf

Facts: The petitioners faced trial before the learned Additional District & Sessions Judge, who convicted petitioner Muhammad Ramzan under Section 302(b) PPC and awarded him the death sentence, along with payment of compensation under Section 544 Cr.P.C. to the legal heirs of the deceased. He was also convicted and sentenced under Section 398 PPC. As for petitioner Muhammad Sabir, he was convicted and sentenced under Section 398 PPC as well. The petitioners challenged their convictions before the High Court, but their appeals were dismissed. Consequently, they have filed the instant petitions.

Issues: i) What is the evidentiary value of an identification parade if the role of the accused is not specified?

- ii) Can CCTV footage, in which the faces of the culprits are not visible, be relied upon for the purpose of conviction?
- iii) What can be inferred if no independent witnesses from the locality, workers of the cattle shed, or the owner of the cattle shed were associated to attest the recoveries?
- iv) On what factor does the validity of a positive report by a firearm expert depend?
- v) What will be the legal effect of a positive report by a firearm expert if the recovery is found to be doubtful?
- vi) If primary evidence is disbelieved, can corroborative evidence alone suffice to establish guilt?
- vii) Can an accused be convicted solely on the basis of expert evidence without substantial corroboration?

Analysis:

- i) It has repeatedly been held by this Court that identification parade of an accused person without reference to the role allegedly played by him during the occurrence is shorn of any evidentiary value.
- ii) The CCTV footage of the shop with regard to the occurrence, procured during investigation and recorded in USB, duly played at the trial and relied upon by the trial court for conviction of the petitioners, was also played in this Court. The same is of no avail to the prosecution and it cannot be made a basis for conviction of the petitioners as in the CCTV footage, the faces of the culprits are not visible and it is showing only the back of the culprit who had a scuffle with the deceased.
- iii) It weakens the prosecution case and leads to possibility of foisting the recovery of weapons by the investigating officer to lend corroboration to the prosecution version.
- iv) Though positive report of a firearm expert is a valid piece of corroborative evidence but its weight is heavily dependent on the reliability of the weapon recovery.
- v) If the recovery of weapon is found to be doubtful, fabricated or otherwise unreliable, the report of firearm expert, even if positive, can be disregarded by the Court as it fails to connect the weapon genuinely to the accused or the crime in a credible manner. 21. If the court suspects fabrication, the expert report, no matter how positive, becomes irrelevant in proving the guilt of accused.
- vi) If the primary evidence i.e. recovery of weapon is weak or disbelieved, the corroborative evidence i.e. the firearm expert report cannot stand alone to establish the guilt.
- vii) It is generally unsafe to convict an accused while relying exclusively on expert evidence without substantial corroboration

Conclusion:

- i) Such identification parade is shorn of evidentiary value.
- ii) It cannot be made a basis for conviction
- iii) It weakens the prosecution case and leads to possibility of foisting the recovery of weapons.

- iv) Its weight is dependent on the reliability of the weapon recovery.
- v) Such report is liable to be disregarded.
- vi) No.
- vii) No.

4. Supreme Court of Pakistan
Malik Muhammad Ramzan v. Commissioner Sargodha Division etc.
Civil Petition No. 2768-L of 2022
Ms. Justice Musarrat Hilali , Mr. Justice Aqeel Ahmed Abbasi , Mr. Justice
Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2768 1 2022.pdf

Facts: This civil petition for leave to appeal under Article 212(3) of the Constitution impugns the judgment of the Punjab Service Tribunal, which upheld the petitioner's dismissal from service on charges of embezzlement without conducting a regular inquiry or issuance of show cause notice under PEEDA Act, 2006.

Issues:

- i) Whether an order of dismissal passed without following the procedure under Sections 9 and 10 of PEEDA Act, 2006 is sustainable in the eyes of law?
- ii) Whether awarding major penalty of dismissal from service without conducting regular inquiry and providing opportunity of hearing violates principles of natural justice?
- iii) What is the standard of care and procedural requirement upon the department while inquiring into charges involving embezzlement or misappropriation of public funds?
- iv) Whether a judgment upholding dismissal from service without regular inquiry and opportunity of hearing is contrary to law and violative of the principles of natural justice?

Analysis:

- i) We are of the opinion (...) has not followed the procedure as provided under Sections 9 and 10 of PEEDA, Act 2006 for the purpose of conducting an inquiry, therefore, any order passed pursuant to such defective inquiry is not sustainable in the eyes of law and liable to be set-aside on this account.
- ii) It is settled position of law that major penalty of dismissal from service cannot be awarded without conducting regular inquiry, or providing opportunity of being heard to a civil servant as it amounts to violation of principles of Natural Justice.
- iii) It may be observed, that in cases involving public funds extra caution and due care is required to be observed to prove the charge of embezzlement or misappropriation whereas, proper inquiry needs to be conducted in a fair and transparent manner to ensure that the public funds, so misappropriated, could be retrieved and the civil servant involved in such offence, shall be punished accordingly.
- iv) we are of the view that the impugned judgment passed by the Tribunal and the orders of the lower fora are contrary to law and violative of the principles of

Natural Justice as no regular inquiry has been conducted while imposing major penalty of dismissal from service, whereas, no opportunity of being heard has been provided to the petitioner.

- Conclusion:**
- i) An order of dismissal without compliance of Sections 9 and 10 of PEEDA Act, 2006 is not sustainable in law.
 - ii) Dismissal without regular inquiry and opportunity of hearing violates principles of natural justice.
 - iii) In cases involving public funds, the department must observe extra caution and conduct a fair and transparent inquiry.
 - iv) A judgment upholding dismissal from service without inquiry procedure and right of hearing in dismissal cases is contrary to law and violative of the principles of natural justice.

5. Supreme Court of Pakistan
Ch. Fayyaz-ur-Rehman Khalid v. Amir Javed and others.
Civil Petition No. 1898-L of 2021
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui.
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1898_1_2021.pdf

Facts: The petitioner's suit was dismissed in his absence while he was incarcerated and unaware of the proceedings. After his release, he moved applications for restoration and condonation of delay, explaining his absence due to imprisonment. The trial court accepted his explanation, restored the suit, and condoned the delay. The respondents challenged this decision through a revision petition.

Issues: i) Whether the revisional court is empowered to interfere with the trial court's findings in the absence of arbitrariness or perversity?

Analysis: ii) When is an application for condonation of delay required to be filed?
 i) It is to be kept in mind that revisional court cannot be substituted as appellate court to replace its own findings when findings of Trial Court are neither arbitrary or perverse to enable the revisional court to exercise jurisdiction with the frame described above.

ii) Condonation application is filed when statutory period is lapsed.

Conclusion: i) A revisional court cannot act as an appellate court to substitute its own findings unless the trial court's findings are arbitrary or perverse
 ii) See above analysis No. ii

6. Supreme Court of Pakistan
Muhammad Daud, Amanullah v. The State and another
Crl.P.L.A.537/2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Aamer Farooq,
Mr. Justice Justice Ali Baqar Najafi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._537_2025.pdf

- Facts:** The petitioners seek leave to appeal against the decision of High Court, whereby their applications for bail after arrest in case of the Control of Narcotics Act, 1997 were dismissed as they were apprehended along with co-accused and from their possession, Methamphetamine (Ice) weighing 1000-grams each was recovered totalling to 3.2 kilo grams.
- Issue:**
- i) Whether knowledge and common design establish constructive possession in narcotics cases?
 - ii) Whether presumption of commission of offence on being possession of illicit articles from accused, absolve the prosecution from proving its case beyond doubt?
 - iii) Whether conscious possession may be inferred from circumstantial evidence and surrounding factors in narcotics cases?
 - iv) Whether, at the bail stage, an accused can be attributed only the quantity recovered from his own possession or pointation?
- Analysis:**
- i) The possession can be physical and conscious, but there can also be constructive possession, if the person/accused had the knowledge that the other person also is carrying narcotic substance and they all have common design, sale and transportation of the narcotic substance.
 - ii) Section 29 of the Act creates a presumption and addresses it in a manner that there is a presumption from possession of illicit articles that the accused has committed an offence, if found in possession of any narcotic drug or psychotropics i.e. the substance, however needless to observe that this section does not absolve the prosecution from proving its case beyond doubt and the burden shifts to the accused only after the prosecution has established recovery beyond reasonable doubt.
 - iii) The determination of conscious possession is largely a factual matter, heavily relying on the specific circumstances of each case. The court has to analyze the evidence to ascertain accused's mental state regarding seized narcotics. The courts often infer conscious possession from circumstantial evidence rather than direct admission and all the surrounding factors are to be looked into which include or not restricted to; the manner of concealment, the quantity of drugs, the relationship of the accused to the place of recovery (owner, driver, passenger, etc.), the conduct of the accused, any financial transactions or communications linked to the drugs and/or prior history of the accused.
 - iv) The approach of this Court with respect to conscious knowledge of the possession somewhat sways but the dominance of the approach is that at bail stage, accused cannot be burdened with the total quantity recovered and is to be given the benefit of doubt for attributing him with only the quantity recovered from him or at his pointation.
- Conclusion:** i) Knowledge and common design establish constructive possession in narcotics cases.

- ii) Presumption of commission of offence on being possession of illicit articles from accused U/S 29 of Act does not absolve the prosecution from proving its case beyond doubt.
- iii) Conscious possession is inferred from circumstantial evidence and surrounding factors in narcotics cases.
- iv) see above analysis No.iv.

7. Lahore High Court
Suleman Shahbaz Sharif v. Additional Sessions Judge, etc.
Writ Petition No.43328 of 2025
Ms. Justice Aalia Neelum (The Chief Justice)
<https://sys.lhc.gov.pk/appjudgments/2025LHC5178.pdf>

- Facts:** The petitioner challenged the order of the Ex-Officio Justice of Peace directing registration of a criminal case on the respondent's application under sections 22-A and 22-B Cr.P.C. The respondent No 2 alleged that 17 laptops worth Rs. 11,66,000/- were supplied to the petitioner's company, against which two cheques were issued but those were dishonoured due to "stop payment" instructions. The petitioner denied liability, claiming the cheques were fraudulently issued by a company employee involved in creating false purchase orders and misusing company cheques, against whom multiple FIRs had already been lodged. The respondent's application for registration of the case did not mention when or by whom the laptops were received, who handed over the cheques, or the petitioner's address, and the petitioner was not made a party before the Ex-Officio Justice of Peace.
- Issues:** i) Whether Ex-Officio Justice of Peace could order case registration solely on the complainant's version and what safeguards should be observed in that regard?
- Analysis:** i) Section 22-A, 22-B Cr.P.C empowered the justice of the Peace to issue directions for the registration of the case, but this power was never supposed to be exercised mechanically. The Courts were never supposed to overlook other aspects of the case and to pass an order to register the case on the complainant's false application... The matter can be investigated keeping all the facts in view of the judgment of the Supreme Court of Pakistan titled, "Mst. SUGHRAN BIBI versus The STATE" reported P L D 2018 Supreme Court 595 that:- Para No. 27 (i) According to section 154, Cr.P.C., an FIR is only the first information to the local police about the commission of a cognizable offence. For instance, an information received from any source that a murder has been committed in such and such village is to be a valid and sufficient basis for registration of an FIR in that regard. (ii) If the information received by the local police about commission of a cognizable offence also contains a version as to how the relevant offence was committed, by whom it was committed and in which background it was committed then that version of the incident is only the version of the informant

and nothing more and such version is not to be unreservedly accepted by the investigating officer as the truth or the whole truth.

Conclusion: i) See above analysis No i.

8. Lahore High Court
Azhar Fazal etc. v. ASJ etc.
Writ Petition No. 32312 of 2025
Mr. Justice Syed Shahbaz Ali Rizvi
<https://sys.lhc.gov.pk/appjudgments/2025LHC5237.pdf>

Facts: Petitioners challenged an order of the Ex-officio Justice of Peace directing the police to record the applicant's version, register an FIR, and proceed in accordance with law on an application under Sections 22-A & 22-B Cr.P.C as they humiliated, unlawfully confined, assaulted, and threatened the respondent on gunpoint.

Issues: i) Whether action under Section 21(b) of the Sugar Factories (Control) (Amendment) Act, 2021 can be initiated only by the competent authority under Sections 13-A and 19?
 ii) Whether, in the absence of a formal report by the competent authority under Section 21(b) of the Act, the Ex-officio Justice of Peace can direct registration of an FIR?

Analysis: i) Complaint as required under Section 21(b) of the Sugar Factories (Control) (Amendment) Act, 2021 (the Act) is concerned, this Court is of the opinion that the Cane Commissioner or Additional Cane Commissioner or their nominee empowered under the above cited provision has to proceed in the light of Section 13-A and 19 of the Act.
 ii) As per mandate of Section 21(b) of the Act, the offence under the Act is cognizable only upon a formal report by the Cane Commissioner, Addl. Cane Commissioner or their nominee otherwise, the act or offence remains non-cognizable in view of which the learned Ex-officio Justice of Peace does not carry authority or jurisdiction to issue direction for registration of FIR for contravening the provisions of the Act or any order or rule made thereunder that makes the contravention punishable under Section 21(a).

Conclusion: i) See analysis No i.
 ii) The Ex-officio Justice of Peace cannot direct registration of an FIR in the absence of a formal report by the competent authority under Section 21(b) of the Act.

9. Lahore High Court
Mst. Rubina Kauser v. Addl. Sessions Judge etc.
Crl. Revision No.38401 of 2024
Mr Justice Syed Shahbaz Ali Rizvi

<https://sys.lhc.gov.pk/appjudgments/2025LHC5248.pdf>

- Facts:** Through this Civil Revision, the petitioner (complainant) has challenged the order passed by the Additional Sessions Judge, by which the petitioner's private complaint was dismissed.
- Issues:**
- i) Can the facts of a connected case, known to the Court, be considered as part of the assessment of cursory evidence?
 - ii) What are the legal requirements for issuing process against the proposed accused persons?
- Analysis:**
- i) The facts of other connected cases, known by the court, are not to be considered to decide the subject case unless the same are brought on record in due course of law.
 - ii) The learned court below was expected to pass the order only in the light of facts narrated by the three witnesses and the evidence brought on record through the three documents produced by the petitioner/ complainant which in view of this Court reveals the availability of evidence/grounds sufficient to require the issuance of process against the proposed accused/respondents under Section 204 of the Code of Criminal Procedure, 1898.
- Conclusion:**
- i) No. Facts known to the Court cannot be taken into consideration
 - ii) Availability of evidence is the requirement for issuance of process.

10.

Lahore High Court

Syed Safeer Abbas Kazmi v. Chief Executive Officer, District Health Authority, Multan and 6 Others

Writ Petition No. 5009 of 2025

Mr. Justice Mirza Viqas Rauf

<https://sys.lhc.gov.pk/appjudgments/2025LHC5256.pdf>

- Facts:** Petitioners were engaged as work charge semi-skilled staff and continuously served for years in epidemic control duties. Their regularization was denied despite policy coverage, and their services were terminated citing prior unauthorized appointments, hence, instant writ petition.
- Issues:**
- i) Whether the notification dated 29th January, 2021 issued by the Government of Punjab constitutes a valid policy framework for regularization of work charged, contingent paid, and daily wage employees?
 - ii) Can a contract or work charged employee seek regularization if employed against a permanent post and covered by an enabling statute, rule, or policy?
 - iii) What conditions must be fulfilled for a workman to qualify as a permanent workman under the Policy and the Standing Orders Ordinance, 1968?
 - iv) Whether under Clause 4 of the Policy, employees who have completed nine months of service are entitled to be considered as permanent workmen?
 - v) Whether Article 25 of the Constitution prohibits discrimination between similarly placed individuals in matters of public employment?

- Analysis:**
- i) In the meanwhile, through notification dated 29th January, 2021, issued by Government of the Punjab, Services & General Administration Department (Regulations/O&M Wing) in pursuant to the approval of Provincial Cabinet through circulation among the Provincial Ministers under Rule 25(1)(b) of the Punjab Government Rules of Business, 2011 and in terms of Rule 27 and Rule 28(15) of the Rules, *ibid*, notified the policy for work charged/contingent paid and daily wage employees (hereinafter referred to as “Policy”).
 - ii) There is no cavil that an employee is precluded to claim the regularization of his services as a matter of right but if somebody is employed even though as a contract or work charged employee against a post of permanent nature and he worked on such post for a considerable period in the said capacity and there is some statute, rule or policy bestowing the benefit of regularization upon such employee, he becomes entitle to seek regularization of his services by invoking the constitutional jurisdiction of the High Court.
 - iii) In terms of the Policy, a permanent workman is a workman, who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal lock-out or strike) or involuntary closure of the establishment and includes a badli who has been employed for a continues period of three months or for one hundred and eighty three days during any period of twelve consecutive months as is laid down in the Industrial & Commercial Employment (Standing Orders) Ordinance 1968.
 - iv) In terms of clause 4 of the Policy dealing with policy guidelines of work charged employees, daily wages and contingent paid staff, all those employees who have completed 9 months or more may be considered for status of permanent workmen in terms of the Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 and they shall be entitled to all the rights and benefits of permanent workmen.
 - v) This being so the petitioner cannot be discriminated in view of mandate of Article 25 of the Constitution of the Islamic of Republic of Pakistan, 1973 which reads as (...) It is manifestly clear from the above that all citizens are equal before law and are entitled to equal protection of law and that there shall be no discrimination amongst persons who are at the same pedestal.

- Conclusion:**
- i) The notification dated 29th January, 2021 constitutes a valid and legally backed policy for regularizing contingent and daily wage employees.
 - ii) A contract or work charged employee may seek regularization if he worked long on a permanent post and is covered by a policy or law.
 - iii) A workman qualifies as permanent if engaged on lasting work for over nine months and has completed probation, as defined in the Policy and Standing Orders Ordinance, 1968.
 - iv) under Clause 4 of the Policy, employees with nine months’ service qualify for

consideration as permanent workmen.

v) Article 25 prohibits discrimination between similarly placed individuals in public employment.

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- 11. Lahore High Court**
Syeda Muskan Zahra v. District Police Officer and others.
W.P.No.8998 of 2025
Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC5251.pdf>

Facts: The petitioner, being legally competent (*sui juris*), entered into marriage of her own volition, contrary to the wishes of her parents and respondents No.4 to 13. Following this, the said respondents allegedly began threatening the petitioner and, in furtherance of their intent, conspired with police officials (Respondents No.2 and 3), who, under their influence, have subjected the petitioner and her husband to harassment. The petitioner accordingly seeks a writ of mandamus directing Respondents No.2 and 3 to act strictly in accordance with the law and to refrain from causing any form of harassment or humiliation at the behest of Respondents No.4 to 13.

Issues:

- i) In which citation did a Larger Bench of the Lahore High Court discuss the scope and object of Sections 22, 22-A, 22-B, and 25 of the Cr.P.C.?
- ii) What does the examination of The Police Order, 2002 reveal?
- iii) Whether the availability of alternate remedy is a condition precedent for exercise of constitutional jurisdiction?
- iv) What is bar on exercise of power of High Court in its writ jurisdiction?
- v) What does the doctrine of exhaustion of remedies ensure?
- vi) Can a party bypass the prescribed legal remedy in order to directly invoke the constitutional jurisdiction of the High Court?
- vii) What must a party demonstrate to the Court regarding the availability of an alternate remedy before invoking the Constitutional jurisdiction?
- viii) What the nature of Constitutional Jurisdiction and when can it be exercised?
- ix) What observations has the Court made regarding the growing trend of bypassing available alternate remedies?

Analysis:

- i) Scope and object of Sections 22, 22-A, 22-B & 25 of Cr.P.C. came under discussion before a Larger Bench of this court in KHIZER HAYAT Case (supra), wherein after threadbare discussion, powers and functions of Justice of Peace were highlighted.
- ii) The Police Order, 2002 was promulgated on 14th August, 2002 so as to reconstruct and regulate the police. Perusal whereof reveals that the police officers/officials have been made answerable with regard to performance of their official duties and in case of any negligence or omission, they not only have to face disciplinary proceedings but also to be confronted with conviction in the shape of imprisonment and fine as well.

- iii) There is no cavil that constitutional jurisdiction of High Court cannot be abridged merely on the ground that some alternate remedy is available to the writ petitioner but at the same time a person desirous to invoke the constitutional jurisdiction of High Court has to satisfy the Court that he is not possessed with any alternate, efficacious and adequate remedy provided under the law.
- iv) It is an oft repeated principle that the High Court shall not exercise its writ jurisdiction in the cases where the petitioner has access to an equally efficacious and adequate alternative remedy under the law (...) Needless to observe that the constitutional jurisdiction is not to be exercised merely on account of purported inconvenience to a party in approaching the relevant forum.
- v) The doctrine of exhaustion of remedies not only ensures that statutory forums are respected but also prevents unnecessary burden on constitutional courts.
- vi) Nobody can be allowed to bypass or circumvent the natural course of law by avoiding to avail remedy provided thereunder and to invoke constitutional jurisdiction of this Court.
- vii) Even otherwise in presence of alternate remedy, the petitioner desirous of invoking the constitutional jurisdiction of High Court is obliged to demonstrate to the satisfaction of the Court that such remedy is only illusory and not adequate at all.
- viii) It is an extra ordinary jurisdiction which is only to be exercised in rare and exceptional cases but not as per convenience of the parties.
- ix) It is noticed that now a days, a trend has developed to bypass the alternate remedies and instead to approach the High Court in constitutional jurisdiction, which on the one hand absolve the relevant forum from performing its functions and duties and on the other, unnecessarily burdened the docket of the High Court and as such, deprives the litigants, who have their genuine causes to lay before the High Court. The constitutional jurisdiction should not be exercised at the whims of the parties as run of the mill case.

- Conclusion:**
- i) Khizer Hayat and others versus Inspector-General of Police (Punjab), Lahore and others (PLD 2005 Lahore 470).
 - ii) It reveals that police officers and officials are accountable both departmentally and criminally.
 - iii) See above analysis No. iii
 - iv) See above analysis No. iv
 - v) It ensures that statutory forums are respected and also prevents unnecessary burden on constitutional courts.
 - vi) No. Statutory remedy cannot bypassed
 - vii) It has to demonstrate to the satisfaction of the Court that such remedy is illusory and not adequate at all.
 - viii) Being an extra ordinary remedy, it is to be exercised in rare and exceptional cases.
 - ix) See above analysis No.ix
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12. **Lahore High Court**
Mst. Yasmeen v. Dr. Fahad Ahmad, District Police Officer Hafizabad, and others
Writ Petition No. 12912/2023
Mr Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2024LHC6593.pdf>

Facts: A criminal case was registered against three individuals for offences including rape and abduction. Initially, the investigation was assigned to a male officer whom the petitioner accused of bias. Upon her request, the investigation was transferred to a female officer by the competent authority. Petitioner subsequently asserted that the case, being governed by the Anti-Rape (Investigation and Trial) Act, 2021, must be handled by the entire Special Sexual Offences Investigation Unit (SSOIU), not by a single officer. When her request for a team-based investigation was refused, she challenged the legality of the transfer order through a constitutional petition.

Issues:

- i) Whether preamble can be used to interpret the meaning of a statutory provision?
- ii) How have Pakistani courts treated the use of the preamble in interpreting legislative intent?
- iii) What objective does the preamble of the Anti-Rape (Investigation and Trial) Act, 2021 reflect?
- iv) How does the Anti-Rape (Investigation and Trial) Act, 2021 protect the rights of women and children?
- v) What mechanism does section 9 Anti-Rape (Investigation and Trial) Act, 2021 introduce for investigating sexual offences?
- vi) Whether SSOIUs safeguard the dignity and rights of survivors during investigations?
- vii) Whether investigation units differ from joint investigation teams (JITs) in structure and function?
- viii) What qualifications and gender preference are prescribed for members of SSOIUs under section 9(2) and whether the law make it mandatory to include a female officer in the unit?
- ix) Whether members of a specialized investigation unit can conduct inquiries individually, or must they act as a unit?
- x) What is the significance of involving a female police officer in investigations involving women or child victims?
- xi) Whether the investigation be conducted collectively by the team or individually by its members in the case of a JIT?
- xii) Whether the replacement of JITs with SSOIUs reflect an intent to depart from collective investigations?

Analysis: i) The preamble is a part of a statute, though not its operative part. Nevertheless, it provides a valuable guide to find out the legislative intent. Coke said: “The

preamble of the statute is a good means to find out the meaning of the statute, and as it were, a key to open the understanding thereof.”¹ According to another jurist, “it is a key to open the minds of the makers of the Act, and the mischiefs which they intend to redress.

ii) In *Murree Brewery Co. Ltd. v. Pakistan through the Secretary to Government of Pakistan, Works Division, and others* (PLD 1972 SC 279), the Supreme Court of Pakistan held that “the preamble is a legitimate aid in discovering the purpose of a statute.” In *Mst. Ummatullah through Attorney v. Province of Sindh and others* (PLD 2010 Karachi 236), a Division Bench of the Sindh High Court held that “preamble is the gateway to any statute; it is bedrock to understand the scope, purpose and object to any statute.” Similarly, in *Kamil Khan Mumtaz and others v. Province of Punjab through Chief Secretary, Government of Punjab, and others* (PLD 2016 Lahore 699), a Division Bench of this Court ruled:

“A preamble is, therefore, a window to the main statute. Although the preamble does not control the main enactment, it certainly gives an inkling of the intention of the legislature and the policy of the Act. The concept relating to the policy of the Act is of paramount importance, and all interpretation must be done in accordance with the policy and the intention of the legislature found therein.”

iii) The preamble of the Anti-Rape Act expresses the nation’s resolve to confront the pervasive issue of sexual violence and gender-based crimes. It highlights that the Act aims to develop efficacious procedures to streamline the entire judicial process from the time a crime is reported to its resolution in court. This includes adopting faster and more effective methods of processing cases, better management of evidence to preserve its integrity for trials, and swiftly bringing perpetrators to justice.

iv) The Anti-Rape Act is a remarkable legislative initiative aimed at upholding the constitutional rights of women and children, including their rights to life, dignity, and justice. Additionally, it seeks to fulfil Pakistan’s obligations under international law, which require it to address the scourge of sexual violence.

v) Section 9 introduces a crucial mechanism for handling the intricacies of investigating sexual offences by establishing Special Sexual Offences Investigation Units (SSOIOUs) in every district by provincial governments and in the Islamabad Capital Territory by the federal government. This provision embodies a contemporary law enforcement approach, recognizing the need for specialized expertise and dedicated resources to address such crimes effectively.

vi) The formation of SSOIOUs reflects the Act’s victim-centred approach, emphasizing survivors’ rights, dignity, and well-being throughout the investigative process. By prioritizing the needs of survivors, SSOIOUs create a supportive environment conducive to reporting incidents of sexual violence and seeking justice.

vii) The concept of “investigation units” is distinguishable from “joint investigation teams” (JITs). They serve unique purposes in the pursuit of justice. Investigation units typically operate within a single law enforcement agency and are specialized teams or divisions responsible for investigating various types of

crimes. These units, such as homicide or cybercrime units, focus on specific areas of criminal activity and possess expertise and resources tailored to their respective fields. In contrast, JITs are collaborative entities formed by multiple law enforcement agencies or governmental entities to investigate specific cases or types of crimes that transcend jurisdictional boundaries. Comprising representatives from various agencies and stakeholders, JITs pool together resources, expertise, and investigative powers to address cases requiring cooperation and coordination across different jurisdictions. While investigation units concentrate on internal investigations within a single agency, JITs facilitate cross-agency collaboration to tackle cases that demand a unified approach.

viii) Section 9(2) of the Act stipulates that the SSOIUs shall comprise police officers who have received training on investigation in relation to sexual offences, and preferably, one member of the unit shall be a female police officer...It is, however, important to note that the Anti-Rape Act encourages the involvement of lady police officers in handling the Scheduled Offences – though it does not impose a strict requirement. Section 9 of the Act states that the SSOIU should preferably have a female police officer as one of its members who has received training on investigation in relation to sexual offences. The use of the word “preferably” instead of “must” indicates flexibility in unit formation, recognizing factors such as staffing constraints and resource availability.

ix) Section 9(3) mandates that investigations for offences listed in Schedule-I shall be conducted exclusively by the SSOIU, while those in Schedule-II are to be carried out by the SSOIU under the supervision of a police officer not below the rank of BPS-17. Two interpretations of section 9 of the Anti-Rape Act are possible: first, that the SSOIU as a unit should handle the investigation of Scheduled Offences collectively, and second, that individual police officers who are members of the SSOIU in the relevant district may conduct the investigations independently.

x) The Anti-Rape (Investigation) Rules 2022 also cast certain duties on a female police officer when appointed. The purpose of these provisions is that where the victim is a woman or child, the association of a woman officer with the investigation makes them feel comparatively comfortable and, in some instances, even prevent re-traumatization.

xi) Section 9 of the Ordinance prescribed that the JIT shall comprise of the District Police Officer as the head, one Superintendent of Police (Investigation), one Deputy Superintendent of Police, and one Station House Officer. In the case of a JIT, it may be correct to presume that the investigation was to be entrusted to the JIT as a whole instead of its individual members.

xii) However, the fact that while enacting the Anti-Rape Act 2021, the legislature made a conscious departure from the concept of a JIT and resorted to the establishment of SSOIUs in each district also suggests that its intent was not to assign the investigation of the Scheduled Offences to the entire unit.

- Conclusion:**
- i) The preamble is a part of a statute, it provides a valuable guide to find out the legislative intent.
 - ii) See above analysis No ii.
 - iii) The preamble of the Anti-Rape Act expresses the nation's resolve to confront the pervasive issue of sexual violence and gender-based crimes.
 - iv) The Anti-Rape Act aimed at upholding the constitutional rights of women and children, including their rights to life, dignity, and justice.
See above analysis No iv.
 - v) Section 9 introduces a crucial mechanism for handling the intricacies of investigating sexual offences by establishing SSOIUs.
 - vi) The formation of SSOIUs reflects victim-centred approach, emphasizing survivors' rights, dignity, and well-being.
 - vii) See above analysis No vii.
 - viii) See above analysis No viii.
 - ix) See above analysis No ix.
 - x) Where the victim is a woman or child, the association of a woman officer with the investigation makes them feel comfortable.
 - xi) In the case of a JIT, the investigation was to be entrusted to the JIT as a whole.
 - xii) See above analysis No xii.

13.

Lahore High Court**Abdul Salam v. H.B.F.C., Limited****C.M No. 3562 of 2025-in-R.F.A. No.58 of 2025/BWP****Mr. Justice Muzamil Akhtar Shabir, Mr. Justice Malik Muhammad Awais Khalid**<https://sys.lhc.gov.pk/appjudgments/2025LHC5289.pdf>**Facts:**

The applicant, who is appellant in the titled Regular First Appeal („RFA’), seeks direction to the Office of this Court for issuance of certified copy of order passed by this Court in the titled RFA, whereby the operation of impugned judgment and decree had been suspended. The office of the High Court objected to issue certified copy on the ground that the requisite copy is of conditional order and condition is not complied with.

Issues:

- i) Which law authorizes the preparation and issuance of certified copies of public documents; what presumption is attached to such copies?
- ii) When the office can refuse, under High Court Rules & Orders, to issue certified copy?
- iii) Whether the non-submission of surety bond or non-payment of decretal amount could be a ground for refusal to issue certified copy by the office?
- iv) Whether the court could interfere in administrative actions on the basis of ‘unreasonableness’?
- v) How the principle of ‘abundant caution’ could be applied in issuing copies of conditional orders?

Analysis:

- i) Article 87 of the Qanun-e-Shahadat Order, 1984 („QSO’) authorizes the officer

having custody of a public document to issue certified copy of the same and under Article 88 QSO such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies... Certified copies of order(s) passed by this Court are issued under the powers vested in the Office of this Court vide Rules and Orders of the Lahore High Court, Lahore Volume V, Chapter 5, Part A (“the Rules”), which relate to inspection of records and Copy Branch Rules relating to issuance of certified copies of orders passed by this Court, whereas the Part B of said Chapter relates to grant of copies and translation of records. The certified copies issued under said Rules unless rebutted through evidence, have presumption of law relating to authenticity attached to the same.

ii) In terms of Rule 23 of the Rules if the petitions are found to be either incompetent or defective, an “Objection Statement” showing details given in Appendix „G“ attached to Copy Branch Rules concerning such petitions will be pasted on the notice board.

iii) Needless to mention that a Court could pass an order without any condition which becomes operative immediately or there could be different types of conditional orders passed by this Court, such as orders that become operative on the basis of some further development or performance of a condition precedent such as requiring submission of surety bonds or decretal amount to the satisfaction of the Deputy Registrar (Judicial) of this Court or the trial court or any other forum. Where the order was without any condition or same was made subject to submission of surety bonds or decretal amount subject to the satisfaction of the trial court or any other forum, unless the petition for provision of certified copy was found to be incompetent or defective, the office of this Court would not ordinarily refuse to issue certified copy of the said order to the petitioner for the reason that the such copy is to be produced before the trial court or any other forum for further action/process by the said court or forum.

iv) It is a settled proposition of law that every order passed by an authority has to be reasonable and the Court can interfere and set aside an order on the ground of unreasonableness if it is flawed. Reference may be made to case titled “Associated Provincial Picture Houses Ltd. versus Wednesbury Corporation” {(1948) 1 KB 223} wherein it is provided that the “test of unreasonableness” in administrative law, also known as the Wednesbury unreasonableness test, is a standard used to assess whether a public authority’s decision is so flawed that it can be struck down by a court during judicial review. It essentially asks if the decision is so unreasonable that no reasonable person or body could have made it. This test is a high bar, requiring a decision to be not just flawed but egregiously irrational. Furthermore, the Supreme Court of Pakistan in case titled Dr. Akhtar Hassan Khan and others versus Federation of Pakistan and others (2012 SCMR 455) has observed that grounds upon which an administrative action is subject to control by judicial review, include (i) illegality, which means the decision-maker must understand the law correctly that regulates his decision making power and must give effect to it, (ii) irrationality, namely, Wednesbury unreasonableness and

(iii) procedural impropriety.

v) In case the condition mentioned therein was not complied with and not prior to the same, hence in the meanwhile when the order is operative in its own terms, the Office cannot treat the same as inoperative and decline to issue its certified copy, however, as of abundant caution, the Office while issuing certified copy, if so deemed necessary to ensure that the issuance of certified copy may not be misinterpreted, can give a note/endorsement on the certified copy of the order that the condition mentioned therein has not yet been complied with.

- Conclusion:**
- i) Articles 87 & 88 of the QSO deal the preparation and issuance of certified copies of public documents and its use thereof. The certified copies issued under High Court Rules & Orders unless rebutted through evidence, have presumption of law relating to authenticity attached to the same.
 - ii) If the petitions for certified copies are found to be either ‘incompetent or defective’, then it could be refused to issue a copy with ‘Objection Statement’.
 - iii) The non-submission of surety bond or non-payment of decretal amount could be a ground for refusal to issue certified copy by the office for the reason that such copy is to be produced before the trial court or any other forum for further action/process by the said court or forum.
 - iv) Every order passed by an authority has to be reasonable and the Court can interfere and set aside an order on the ground of unreasonableness if it is flawed.
 - v) As of abundant caution, the Office while issuing certified copy, if so deemed necessary to ensure that the issuance of certified copy may not be misinterpreted, can give a note/endorsement on the certified copy of the order that the condition mentioned therein has not yet been complied with.

14. Lahore High Court
Qadeer Ali, etc. v. Province of Punjab, etc.
I.C.A No. 38859 of 2024
Mr Justice Asim Hafeez, Mr Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC5221.pdf>

Facts: Appellants were appointed on contractual basis against designated post(s) in a project. They sought regularization of their services/employment through constitutional petition (s) decided through consolidated judgment (‘impugned decision’), hence; the instant Intra-Court Appeal and two other connected appeals.

Issues:

- i) What a contractual employee cannot claim and what he can claim?
- ii) What is the precedential value of the decisions refusing leave to appeal?
- iii) Whether the status of a project employee *ipso facto* changes upon conversion of the project from development to non-development category?
- iv) Does the Constitutional Court have the authority to direct the inclusion of a category of project employees for the purpose of extending the benefit of the Punjab Regularisation of Service Act, 2018 (Act, 2018), by changing the status of an employee?

- v) Are the judgments of the Constitutional Courts, which denounced cherry-picking exercises, applicable where the plea of discrimination remains unsubstantiated?
- vi) Can regularization be claimed as a matter of right?

Analysis:

- i) No vested right qua regularization of services could be claimed but an employee can claim a right to be considered for regularization, subject to law or policy, regulating regularization of project employees, where project was converted from development to non-development category.
- ii) There is no cavil that decisions of the Apex Court, refusing leave to appeal are not construed as binding precedents in terms of Article 189 of the Constitution of Islamic Republic of Pakistan, 1973, nonetheless, claim is put to scrutiny in light of *doctrine(s) of „Ratio decidendi“ and „Obiter dicta“*
- iii) We do not scribe to the argument that status of project employee would *ipso facto* change, simplicitor, upon conversion of the Project from development to non-development category.
- iv) Constitutional court has no authority to direct inclusion of category of project employee for the purposes of extending the benefit of Act, 2018 – by way of changing the status of an employee. This kind of intrusion is an act in excess of jurisdiction.
- v) Judgments of the constitutional courts, whereby cherry-picking exercise was found administered and consequently deprecated / denounced, are not applicable where plea of discrimination remains unsubstantiated.
- vi) Regularization cannot be claimed as a right but a privilege extended and subjected to certain conditionalities.

Conclusion:

- i) See above analysis No.i
- ii) Decisions refusing leave to appeal are not binding precedents.
- iii) No. Status of a project employee does not automatically change upon conversion of the nature of a project.
- iv) No. A constitutional court is not vested with the authority to alter the employment status of a project employee by directing his inclusion in a different category.
- v) Such judgments are not applicable.
- vi) See above analysis No.vi

15. Lahore High Court
Muhammad Sulaiman Khan v. Learned Guardian Judge-II, Lahore and 2 Others
Writ Petition No. 36274 of 2023
Mr. Justice Sultan Tanvir Ahmad
<https://sys.lhc.gov.pk/appjudgments/2025LHC5183.pdf>

Facts: The petitioner, a foreign national and father of two minor children, filed a custody suit under section 25 of the Guardian and Wards Act, 1890, seeking custody of

the minors who were also foreign nationals. The Guardian Court declined to exercise jurisdiction based on nationality which decision was upheld by the appellate court. The respondent-mother contested the custody claim by invoking the Hague Convention on the Civil Aspects of International Child Abduction, asserting wrongful removal of the children from their habitual residence abroad and seeking their return.

- Issues:**
- i) When is the removal or retention of a child considered wrongful under Article 3 of the Hague Convention on the Civil Aspects of International Child Abduction?
 - ii) When is removal or retention of a child deemed wrongful under Article 3 of the Hague Convention?
 - iii) What factors determine whether a child's residence qualifies as "habitual residence" under the Hague Convention?
 - iv) Applicability of the Hague Convention based on Habitual Residence before Breach of Custody Rights
 - v) Effect of Article 6-A inserted into the Schedule of the Family Courts Act, 1964, regarding the jurisdiction of Guardian/Family Courts.
 - vi) What is the significance of Article 12 of the Hague Convention in determining the prompt return of a wrongfully removed or retained child?
 - vii) What defence is available under Article 13(a) of the Hague Convention to oppose the return of a wrongfully removed or retained child?
 - viii) Circumstances considered by Pakistani courts to permit the relocation of children abroad, keeping in view the UNCRC and the principle of the child's best interest.
 - ix) Which statute prevails for determining territorial jurisdiction in child custody matters Guardians and Wards Act, 1890 or the Family Courts Act, 1964?
 - x) Concept of nationality defined in Pakistani jurisprudence.

- Analysis:**
- i) Chapter I of the Hague Convention is related to its scope. Article 3 provides when the 'removal or retention' is to be considered 'wrongful':- Article 3 "The removal or the retention of a child is to be considered wrongful where a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention. The rights of custody mentioned in sub-paragraph a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State."
 - ii) "Wrongful" admits removal and retention (i) in breach of right of custody either jointly or alone, under the law of the State where the child was habitually resident immediately before the removal or retention; and (ii) at the time of removal or retention the rights were exercised or would have been so exercised but could not due to removal or retention.

iii) “habitual residence” should be given a harmonized approach with the law of the State from where a child had residence immediately before complained removal... In “Mark v Mark” ([2005] UKHL 42) it has been decided that the question whether the residence is habitual is a factual one, which should be answered by applying the test laid down by Lord Scarman in “Shah” ([1983] 2 AC309) and it is possible that legality of a person’s residence in England might be relevant to factual question whether that residence is “Habitual”... For the purposes of the Hague Convention ‘habitual residence’ must not be just a temporary or intermittent place, however, there is no need for an intention to reside indefinitely. There must be some degree of integration into the social and family environment in the State. The presence should be voluntarily. Enforced presence or residing somewhere with opportunity to escape is not included. See “Udny v Udny” ([1869] LR 1Sc) and “Shah v Barnet London Borough Council and other appeals” ([1983] 1 ALL ER).

iv) Articles 4 and 5 of Hague Convention provide that the convention applies to any child having habitual residence in a contracting State immediately before any breach of custody or access right, until the child attains age of 16... The breach of custody referred in Article 4 relates to those rights which are defined in Article 5(a) i.e. “rights of custody”, which are concerning the care of the person of the child, in particular, the right to determine the child’s place of residence.

v) It is also vital to establish procedures to ensure prompt return of the removed child to the State of habitual residence. Article 6-A in schedule (Part-I) to Family Courts Act (FCA-1964), through SRO 980(I) / 2017 dated 25.09.2017 (the ‘**Notification**’), has been inserted. This confers jurisdiction upon the Guardian / Family Court to resolve these issues, in the Country.

vi) An examination of the Hague Convention also reveals that it warrants taking the measures of the nature that the question of wrongful removal and detention should be determined at earliest, so that upon being convinced the order of return can be passed without delay or harmful effect to any child... Article 12 of Hague Convention has critical implication... The above provisions necessitate that if less than a year has elapsed from the wrongful removal the order of return should be forthwith. After one year, position depends on the question- if the child has settled in its new environment?

vii) Further discussion on Article 13(a) of the convention will not be out of context. The requested State is not bound to order the return if the one opposing can establish that the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or had subsequently acquiesced in the removal of or the retention. “In re D (a child) [2006] UK HL 51, the issue before the Court was whether a child should be returned to Romania after three years and ten months of his removal...In the said case the proceedings were dropped and appeal was allowed, primarily on the ground that father was not having ‘right of custody’ for the purposes of Hague Convention when the child was removed from

Romania to England and accordingly removal was held as not wrongful, therefore, no obligation to return arose.

viii) The questions of upbringing or relocation abroad in best interest of children have already been considered and such permission have been granted in certain cases (PLD 2012 Sindh 166, PLD 2018 Sind 377, 2025 CLC 478) keeping in view the United Nations Convention on the Rights of the Child-1989 (**UNCRC**). The Honourable Supreme Court in Malik Mahmood Ahmad Khan and Dr. Muhammad Asif cases (CPLA. 2250-L / 2016 and CRP No. 458/2024) has issued guidelines considering the international obligation under UNCRC and best interest of Children.

ix) Next is the pleaded conflict between GWA-1890 and FCA-1964. This has been examined in several cases (2001 SCMR 2000, PLD 2023 Lahore 433, 2024 SCMR 634). Anne Zahra case is concerning where some proceedings took place in USA and later custody petition under FCA-1964 was filed in Pakistan. The question for determination that arose before the Supreme Court was as to which Court has the jurisdiction and if same is to be resolved under GWA-1890 or FCA-1964 and rule framed thereunder. In Paragraph No. 7 of this judgment the issue is resolved in following manners:- “...As has been observed, the West Pakistan Family Courts Act, 1964 has overriding effect in so far as the matter included in the Schedule, therefore, initially it is the Family Court which has to be approached in respect of matters relating to custody of minor being one of the listed item in the Schedule and in determining as to which of the Family Court shall have jurisdiction to entertain such a petition shall have to be decided under the provisions of the said Act and the rules framed thereunder and once a Family Court is approached accordingly by a party considering that a particular Family Court was vested with the territorial jurisdiction to entertain the petition, for the purposes of the trial of the same, the procedure as prescribed under the said Act is not to be followed but the general procedure for the trial of suit under the Civil Procedure Code has to be followed which has no nexus or relevancy with the question of determination of the Trial Jurisdiction of the Court...”

x) Nationality represents a person’s status, by virtue of which she or he owes allegiance to a Country. The concept of Nationality is elaborated in “Umar Ahmad Ghuman” case (PLD 2002 Lahore 521) as under:- “10. Nationality in common parlance means membership of a particular nation. In international Law it refers to the attributes of a person natural or artificial person belonging to a State with certain rights and obligations which the law may prescribe...” Similar question came up for hearing in “Muhammad Zaman” case (2012 CLC 24) , when it was observed that for such matters the question of citizenship or nationality is not relevant while determining the issue of jurisdiction for the Courts.

Conclusion: i) See above analysis No i.
 ii) See above analysis No ii.
 iii) See above analysis No iii.
 iv) Articles 4 and 5 of Hague Convention provide that the convention applies to

any child having habitual residence in a contracting State immediately before any breach of custody or access right.

v) Article 6-A inserted into the Schedule of the Family Courts Act, confers jurisdiction upon the Guardian / Family Court to resolve these issues, in the Country.

vi) Article 12 of Hague Convention necessitate that if less than a year has elapsed from the wrongful removal the order of return should be forthwith.

vii) See above analysis No vii.

viii) See above analysis No viii.

ix) As has been observed, the West Pakistan Family Courts Act, 1964 has overriding effect in so far as the matter included in the Schedule.

x) See above analysis No x.

16. Lahore High Court
Naeem Ullah v. Chaudhary Zulifqar Ahmad, etc.
Writ Petition. No.44946 of 2025
Justice Raheel Kamran
<https://sys.lhc.gov.pk/appjudgments/2025LHC5243.pdf>

Facts: Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has assailed vires of order passed by the Special Judge Rent, whereby petition under Sections 12 and 20 of the Punjab Rented Premises Act, 2009 ('Act') for deposit of rent and injunction against eviction of the petitioner from rented premises was dismissed as well as judgment passed by the Additional District Judge, whereby appeal preferred there-against by the petitioner was also dismissed.

Issues i) What is scope and application of provisions of section 24 of the Punjab Rented Premises Act, 2009?

Analysis: i) The provisions of Section 24 of the Act are not expressly or by necessary implication confined in their scope and application to eviction proceedings but include other pending proceedings under the Act wherein payment of rent and other dues are required to be made. Had it been intention of the legislature to confine scope and application of the aforementioned provisions to eviction proceedings, heading of Section 24 of the Act would have been worded differently, such as "payment of rent and other dues pending eviction proceedings". Legislature is presumed to be never short of words and omission of the word "eviction" in the heading of Section 24 of the Act is conscious and in line with provisions of the aforementioned section. No doubt Section 24(1) of the Act relates to eviction proceedings, however, that is not necessarily the case vis-à-vis other provisions of Section 24 ibid. Subsection (2) of Section 24 of the Act confers authority upon the Rent Tribunal to tentatively determine the dispute and pass the order for deposit of rent where there is a dispute of the rent due or rate of rent. There is nothing in the language of said provision that confines such

disputes to eviction proceedings only and not extendable to other proceedings includes those under Section 20 of the Act. The requirement qua deposit of rent in terms of subsection (1), as mandated under subsection (2) of Section 24 of the Act, only suggests that the tentatively determined rent is to be deposited in the bank account of landlord or in the Rent Tribunal till final order within the time specified in the order passed under Section 24 of the Act. Likewise, subsection (3) of Section 24 of the Act empowers the Rent Tribunal to direct the tenant to pay utility bills. The above provisions of subsection (2) & (3) of Section 24 of the Act are enforceable independently in all pending proceedings visualized under the Act and not just proceedings initiated on eviction petition. Finally, subsection (4) of Section 24 of the Act stipulates consequences for failure of the tenant to comply with the direction or order of the Rent Tribunal whereby it has been mandated to pass final order forthwith in such eventuality.

Conclusion: i) See above analysis No.i

17. Lahore High Court
Collector, Collectorate of Customs, Model Customs Collectorate, Allama Iqbal International Airport, Lahore v. Muhammad Saleem Badhsh and another
Customs Reference No. 22234 of 2024
Mr. Justice Asim Hafeez, Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC5283.pdf>

Facts: This Customs Reference Application filed under Section 196 of the Customs Act, 1969 (the “Customs Act”), being dissatisfied, the respondents impugned the order by filing appeal under Section 194-A of the Customs Act before the Tribunal. The appeal was decided vide impugned judgment.

Issues

- i) What is pre-condition for exercise of jurisdiction and authority under section 142 of the Customs Act?
- ii) Whether declaration by the Passenger(s), as envisaged under Section 139 of the Customs Act, 1969 is a sine qua non for invocation of Section 142 of the Customs Act, 1969?
- iii) What is object of Section 142 of the customs Act?

Analysis: i) the exercise of jurisdiction and authority in terms of Section 142 of the Customs Act is dependent upon a mandatory pre-condition of a true declaration by the passengers/respondents, if so made, in terms of Section 139 of the Customs Act. This provision requires the owner of a baggage to declare the contents of the baggage to the proper Officer of the Customs Department; it is only when a truthful declaration is made under Section 139 of the Customs Act that one can claim a right to be considered for invoking benefits under Section 142 of the Customs Act, the Baggage Rules, 2006 and the letter dated 14.05.2018. Needless to observe that even in a case of truthful declaration in terms of Section 139 of the Customs Act, the option to re-export the goods abroad cannot be claimed as a

matter of right. The plain reading of Section 139 makes it abundantly clear that in the matter of declarations, there is no onus cast upon the Department to accost individual passengers for taking declarations, particularly after introduction of the channel system, which system is to the effect that a passenger passing through green channel leads to an ineluctable declaration on the part of the passenger concerned that he has no dutiable goods accompanying him to be declared.

ii) Since the declaration, as envisaged under Section 139 is a sine qua non for invocation of Section 142, as Section 139 creates an obligation upon every passenger to make declaration of the contents of his baggage and to answer questions with respect to baggage and articles carried by him. The failure to do so or the failure to produce baggage or any such article(s) for examination is liable to penalties and confiscation as provided by item (70) of Section 156(1).

iii) The object of Section 142 of the Customs Act, which is a relatively new provision and was introduced by the legislature to give a facility to the passenger(s) for temporarily leaving the baggage with the Customs Department for the purpose of being returned to him on his leaving Pakistan. Another object of Section 142 may be to exclude any articles from the purview of Sections 156 and 168, if a declaration is made under Section 139 of the Customs Act. It is inconceivable that there would be any refund or right to re-export will be forthcoming, if indeed, there is a misdeclaration or no declaration at all on the part of a passenger, with a view to evade payment of duty.

- Conclusion:**
- i) See above analysis No.i
 - ii) The declaration, as envisaged under Section 139 is a sine qua non for invocation of Section 142 of the Customs Act.
 - iii) See above analysis No.iii

18. Lahore High Court
Mst. Tasneem Kausar v. Govt. of the Punjab, etc.
W.P. No.5012 of 2021
Mr. Justice Malik Muhammad Awais Khalid
<https://sys.lhc.gov.pk/appjudgments/2025LHC5211.pdf>

Facts: The petitioner was proceeded against under the Punjab Employees (Efficiency, Discipline and Accountability) Act, 2006 and terminated from service. The termination was challenged in Writ Petition, resulting in reinstatement by the High Court. However, instead of reinstating, the department suspended the petitioner indefinitely and initiated a fresh inquiry. Despite the petitioner's denial of allegations, a major penalty of dismissal and recovery of emoluments was imposed, in violation of the reinstatement order. The petitioner challenged this in Writ Petition, which was disposed of with directions to treat it as an appeal. The appeal was subsequently dismissed by Respondent No.2. Now, By way of this petition, the petitioner has challenged the orders of dismissal of her appeal by Respondent No.2 and the order of dismissal from service passed by Respondent No.3.

- Issues:**
- i) What is inevitable for the purpose of a regular inquiry, and what must be done before awarding a penalty to an employee?
 - ii) Who has the authority to declare a certificate bogus?
 - iii) What principles were expounded by the Hon'ble Supreme Court of Pakistan in the case of *The Vice-President (Admin.), National Bank of Pakistan and others vs. Basharat Ali and others* (1996 SCMR 201)?
 - iv) What implicit elements may be inferred from the express principles enunciated in the case of *The Vice-President (Admin.), National Bank of Pakistan*, as referred to above?
 - v) What is the requirement of the principles of natural justice with respect to the regular inquiry of an employee?
 - vi) What are the underlying aspirations of conducting a departmental inquiry?
 - vii) What elements constitute a regular inquiry?
 - viii) What obligation is cast upon administrative functionaries in relation to the discharge of their responsibilities and duties?

- Analysis:**
- i) For the purpose of regular inquiry while in order to ascertain the truth all cannons of justice were inevitable and allegations must substantially be proved against the petitioner before awarding any penalty.
 - ii) It is the prerogative of the concerned institute to declare any certificate bogus subject to confrontation in a lawful manner.
 - iii) That paramount object of framing of the rules and enactment to provide a fair and reasonable opportunity to an accused employee to defend himself against the charge brought against him by his employer in order to ensure adherence of the principles of natural justice.
 - iv) This will implicitly include the right to have a copy of charge-sheets with all material particulars relating to allegations on the basis of which charges are founded, to have reasonable time to submit a reply to the charge-sheet, to participate in an inquiry proceeding, to examine the documentary evidence produced in support of the charges, to cross-examine the witness produced by the employer and to produce oral and/or documentary evidence in rebuttal to the evidence produced in support of the charges.
 - v) The principles of natural justice require that delinquent should be given fair opportunity to contest charges levelled against her before she was found guilty. A regular inquiry cannot be considered an inquiry unless fair opportunity is provided to a person to defend the charges.
 - vi) The underlying aspiration of conducting departmental inquiry is to determine whether a case of misconduct is made out and whether the accused is found guilty by the Inquiry Officer/ Committee is obligated to ascertain whether due process of law or the right to a fair trial, as envisaged under Article 10-A of the Constitution of the Islamic Republic of Pakistan 1973, was followed or not.
 - vii) A regular inquiry cannot be considered or labelled a regular inquiry unless fair opportunity is provided to defend the charges and confrontation of material and cross-examination of witnesses.

viii) The administrative functionaries are under obligation to discharge their responsibilities and duties in a reasonable manner with impartiality and full application of law in order to ensure that no one is denied to earn his livelihood because of the unfair action being departure from the mandatory provision of law, equity and justice.

- Conclusion:**
- i) See above analysis No.i
 - ii) The concerned institute.
 - iii) See above analysis No. iii
 - iv) (a) Right to have a copy of charge-sheets with all material particulars relating to allegations, (b) to have reasonable time to submit a reply to the charge-sheet, (c) to participate in an inquiry proceeding, (d) to examine the documentary evidence produced in support of the charges, (e) to cross-examine the witness produced by the employer, and (f) to produce oral and/or documentary evidence in rebuttal.
 - v) Delinquent should be given fair opportunity to contest charges.
 - vi) See above analysis No.vi
 - vii) (a) fair opportunity to defend the charges, (b) confrontation of material, and (c) cross-examination of witnesses.
 - viii) To discharge their responsibilities and duties in a reasonable manner with impartiality and full application of law.

19. Lahore High Court
Nadeem Liaqat v. The State, etc.
Crl. Appeal No. 35879/2025.
Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC5200.pdf>

Facts: The appellant was tried and convicted by the trial court under Section 3 of the Illegal Dispossession Act, 2005 for two years with fine. The appellant preferred an appeal before the High Court against his conviction and sentence.

Issues:

- i) What does imply the silence of complainant in non-summoning order of the court to the extent of some of the accused in a complaint case?
- ii) What is importance of a report called by the court from the police?
- iii) What was primary object of the Illegal Dispossession Act, 2005?
- iv) How the delay in filing the complaint affect its genuineness?
- v) What are the effects of non-exhibiting the private complaint in evidence?
- vi) What would be the fate of a criminal case if prosecution fails to discharge the burden of proof?

Analysis: i) Thus, the silence of Muhammad Mehdi Khan (PW.1) in not challenging the non-summoning order amounts to implied acceptance of the trial court's decision and undermines the credibility of his earlier allegations against them. It gives rise to a reasonable inference that the complainant may have exaggerated or fabricated

portions of his narrative, particularly those involving the police officials. Such conduct adversely affects the overall reliability of the prosecution's case and raises concerns about the truthfulness of the complaint at the time it was filed.

ii) Importantly, the report makes it explicitly clear that there has been no unlawful dispossession or illegal occupation, rather, it states that Mst.Asmat Zahra continues to reside in one portion of the house, while the other portion has been rented out to tenants with her consent. These findings, as documented in the police report, directly contradict the version of events presented by the complainant and cast serious doubt on the allegations made in the complaint.

iii) The primary objective of the Act is to safeguard the rights of lawful owners and lawful occupiers of immovable property from illegal or forcible dispossession by land grabbers and unauthorized individuals.

iv) Furthermore, during the course of proceedings, learned counsel for the complainant failed to provide any plausible explanation for the inordinate delay in initiating the complaint. The unexplained silence and lack of urgency on the part of the complainant raises serious questions regarding the genuineness of the allegations.

v) Although the entire proceedings were initiated on the basis of a complaint filed under the provisions of the Act of 2005, notably, the said complaint was never exhibited during the course of the trial. If this Court excludes that un-exhibited complaint from consideration in accordance with settled principles of appraising the evidence, the entire foundation of the prosecution's case collapses. It is a well-established principle of law, requiring no elaborate clarification that any document not formally exhibited during trial cannot be treated as part of the evidentiary record or read in evidence.

vi) In these circumstances, the prosecution has not discharged the burden of proof beyond a reasonable doubt. Thus, the principle of benefit of doubt, which is a cornerstone of criminal jurisprudence, must be extended in favour of the appellant. Accordingly, the evidence presented cannot be deemed sufficient or credible to sustain conviction under the Act of 2005.

Conclusion: i) See above analysis No.i
 ii) See above analysis No.ii
 iii) See above analysis No.iii
 iv) See above analysis No.iv
 v) See above analysis No.v
 vi) See above analysis No.vi

20. Lahore High Court
Zain-ul-Abideen alias Zain. v. The State etc.
Criminal Appeal No.132000 of 2018
Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC5232.pdf>

Facts: A complaint was filed by the Punjab Food Authority alleging commission of an offence under Sections 22-A and 24-A of the Punjab Food Authority Act, 2011 (as amended in 2015). The trial court convicted the appellant under Section 24-A, sentencing him to one month's simple imprisonment and a fine of Rs. 100,000/-. Execution of sentence was postponed subject to furnishing bail bonds under Section 382-A Cr.P.C. to allow appeal. Instead of filing the appeal before the High Court under Section 45-A of the Act, the appellant filed it before the Court of Sessions, which dismissed it for want of jurisdiction. Thereafter, the appellant filed the present appeal before the High Court, along with an application under Section 5 of the Limitation Act, 1908, seeking condonation of delay, without challenging the earlier dismissal order.

Issues:

- i) Forum for filing an appeal against a sentence or order passed under Section 24-A of the Punjab Food Authority Act, 2011 (as amended by the Act of 2015).
- ii) Whether pursuing an earlier appeal before the wrong forum justifies filing a fresh appeal beyond the limitation period?
- iii) Pre-requisite to condone the delay in a time barred appeal.

Analysis:

- i) Any person aggrieved by a sentence or order passed under Section 24-A must file an appeal before this Court within the prescribed limitation period of thirty days. To facilitate clarity and understanding, Section 45-A of the Act of 2011 is reproduced below:- "45A. Appeal against conviction.– (1) The Authority or the person sentenced by a Special Court may, within thirty days from the date of communication of the order, file an appeal against a final order of the Special Court to Lahore High Court. (2) Save as provided in this Act or rules, no Court shall take cognizance or revise a sentence or transfer any case from a Special Court or make order under section 426, 491 or 498 of the Code or have jurisdiction of any kind in respect of any proceedings of the Special Court."
- ii) Simply relying on the plea that the delay resulted from pursuing a remedy before an incorrect forum does not meet the approach required under the law. A mere procedural mistake, unless accompanied by bona fide reasons and supported by diligent conduct, cannot be considered a reasonable justification for the condonation of delay. In support of the above view, reliance is placed on the case reported as *Rehmatullah v. Muhammad Ikram and 7 others* (1999 MLD 1622).
- iii) While it is true that this Court, in the interest of justice, often exercises discretion to condone delay in appeals filed by convicted persons, such condonation is not automatic nor is it a matter of routine practice. It is certainly not to be treated as a rigid or mechanical rule that applies in every case, regardless of circumstances. The condonation of delay, particularly in appeals against conviction must be considered if sufficient cause is demonstrated by the accused-appellant. The onus lies on the convict to present cogent, convincing, and reasonable explanations for the delay.

Conclusion: i) Person sentenced under the Punjab Food Authority Act, 2011 by a Special Court may file an appeal against a final order to Lahore High Court.

ii) See above analysis No ii.

iii) The condonation of delay in appeals against conviction must be considered if sufficient cause is demonstrated.

21. Lahore High Court
Ameer Afzal v. The State
Criminal Appeal No.64856 of 2019
Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC5265.pdf>

Facts: The appellant was convicted under Section 302(b) PPC and sentenced to life imprisonment, with compensation to the legal heirs of the deceased. The case arose from a firing incident where the deceased and two others were allegedly shot by the appellant and co-accused. The appellant contested the prosecution's version, raising doubts about the FIR's promptness, the reliability of eyewitnesses, the role of injured witnesses, and the credibility of recovery and motive. The co-accused were acquitted on the same evidence. The appellant filed a Criminal Appeal.

Issues:

- i) Whether the prosecution's failure to produce or summon the person who carried the written complaint from the crime scene to the police station undermines the credibility of its case regarding the timing and procedure of FIR registration?
- ii) Whether the deliberate withholding of entries in the FIR register and Station Diary, resulting in delay in FIR registration, renders the prosecution's version doubtful?
- iii) Whether the failure of alleged eyewitnesses to identify the deceased in the inquest report undermines their claimed presence at the crime scene?
- iv) What is the effect of the absence of injured eyewitnesses from the investigation and trial proceedings?
- v) Whether medical evidence, being merely corroborative in nature, can by itself establish the identity of the perpetrator?
- vi) Whether the prosecution's failure to prove the specific motive, weakens its case?

Analysis: i) Complaint/Fard Biyan (Exh.PV) was prepared at the scene of the incident. This document was then sent to the concerned Police Station for the formal registration of the FIR through Given his role in this crucial chain of events, ...was a key witness whose testimony could have directly corroborated the promptness and authenticity of the FIR registration process. However, the prosecution neither listed as a witness nor made any effort to summon him to testify in court. In such circumstances, the omission of such a vital witness casts doubt on the prosecution's narrative regarding the timely and proper registration of the FIR. It would be unreasonable and unjustified for the court to accept the prosecution's claim about the timing and procedure of FIR registration without questioning the deliberate withholding of an important witness who could have substantiated that

very claim. In this regard, the Supreme Court of Pakistan has already addressed a similar issue in the landmark judgment reported as *Minhaj Khan v. The State* (2019 SCMR 326) emphasizing that failure to produce the police constable who carried the written complaint to the police station undermines the prosecution's case.

ii) The record suggests that the FIR was registered after an unjustified delay and only once the routine documentation processes specifically, Register No. 1 & 2, commonly known as the FIR Register and Station Diary had been deliberately kept on hold. This deliberate delay and manipulation of standard police procedure not only casts serious doubt on the prosecution's version of events but also undermines the element of promptness and spontaneity that is typically associated with the lodging of a genuine FIR. The halting of these registers implies that the FIR may have been recorded retrospectively, possibly after deliberation or consultation, which compromises its credibility and raises the possibility of afterthought or fabrication. In criminal jurisprudence, such procedural irregularities strike at the root of the prosecution's case, especially where the timing and sequence of events are critical to the truth of the matter in issue.

iii) Inquest report (Exh.PB) clearly states that the dead body of deceased was identified not by the alleged eyewitnesses, but by given up PW and PW.5. This omission raises a serious and fundamental question that if PW.10 and PW.11 had truly been present at the scene of the crime, as they claim, it is only natural and expected that they would have identified the deceased at the time of the preparation of the inquest report. Their failure to do so casts a long shadow of doubt over their presence at the scene and consequently over the prosecution's entire narrative. This glaring inconsistency significantly weakens the prosecution's case and supports the inference that the eyewitnesses may have been introduced later or were not truthful in their account. In this regard, valuable guidance can be sought from the judgment of the Supreme Court of Pakistan in the case of *Iftikhar Hussain alias Kharoo v. The State* (2024 SCMR 1449).

iv) Two individuals also sustained injuries, and their MLCs were duly prepared by PW.2. However, it is an admitted fact that despite being injured eyewitnesses, neither of these individuals participated in the investigation nor appeared before the trial court to support the prosecution's version of events... From the foregoing, it can reasonably be inferred that if the aforementioned witnesses had appeared during the investigation, they likely would not have supported the prosecution's case.

v) It is a well-established principle of law that medical evidence serves primarily as corroborative evidence. It can confirm aspects such as the nature, number, and location of injuries, the type of weapon used, and the time elapsed between death and postmortem examination. However, medical evidence, by its nature, does not identify the perpetrator of the crime. Reference is made to the cases reported as *Muhammad Tasaweer v. Hafiz Zulkarnain and 2 others* (PLD 2009 Supreme Court 53) and *Altaf Hussain v. Fakhar Hussain and another* (2008 SCMR 1103).

vi) It is a well-settled principle that when the prosecution puts forth a specific motive and fails to substantiate it, the case of the prosecution is thereby weakened. Reliance is placed upon the case reported as Sarfraz and another v. The State (2023 SCMR 670).

Conclusion: i) Failure to produce the person who carried the complaint to the police station undermines the prosecution's case.
 ii) See above analysis No ii.
 iii) See above analysis No iii.
 iv) See above analysis No iv.
 v) Meical evidence, by its nature, does not identify the perpetrator of the crime.
 vi) When prosecution fails to prove the motive, case of the prosecution is weakened.

LATEST LEGISLATION/AMENDMENTS

1. Vide Official Gazette of Punjab dated 28th July 2025, Corrigendum is issued related to the Gazette Notification No. 79 of 2025 published on 05.05.2025, in Punjab Gazette (Extraordinary) vide pages 4395-4396, at page 4396 at Sr No. 2, in clause (b), (a) item No "viii" to be read as "ix" and (b) item No. "ix" to be read as "x".
2. Vide Official Gazette of Punjab dated 28th July 2025, Corrigendum is issued related to the Gazette Notification No. 90 of 2025 published on 30.05.2025, in Punjab Gazette (Extraordinary) vide pages 4815-4816, at page 4816 at Sr No. 1, in clause (b), item No "iii" to be read as "iv".
3. Vide Notification No.(E&M)3-1/2024 (EVS) dated 30th July 2025 Amendment was made in Second Schedule, in Sr. No. (5) of Punjab Motor Vehicles Rules, 1969; where in clause (a), at the end the word "and" shall be omitted, in clause (b) at the end for "full stop" the expression "and" shall be substituted and thereafter a para No (c) shall be inserted.
4. Vide Official Gazette of Punjab dated 1st August 2025, Notification No. SOR-III(S&GAD)1-2/2023 dated 31ST July 2025 is published; Amendments and substitutions are made in the Schedule of Punjab Forest Department (Executive, Sericulture, Research and Extension, Technical and Ministerial Posts) Recruitment Rules 2019 under the heading '1. Forestry Executive' and '3. Forestry Ministerial'
5. Vide Official Gazette of Punjab dated 31st July 2025, Notification No. 580 /LAD/Legal-II dated 22.04.2025 issued by Provincial Police Officer is Published in which Amendment in Police Rules, 1934 are made.
6. Vide Official Gazette of Punjab dated 1st August 2025, Notification No. SOR-III(S&GAD)1-13/2025 Amendments are made in Rule 6, in sub-rule (2) and (3) of Punjab Civil Judges Departmental Examination Rules, 1991.
7. Vide Notification No. 77 dated 6th August 2025 of Lahore High Court Lahore, all the Constitutional Petitions pertaining to tax and Financial Matters were

ordered to be heard and decided by the Division Benches instead of single Benches.

SELECTED ARTICLES

1. MANUPATRA

<https://articles.manupatra.com/article-details/THE-PANCHAYATS-CORROBORATION-TO-WITCH-HUNTS-JUSTICE-OR-QUIXOTIC-AFFAIR>

The Panchayat's Corroboration to Witch-Hunts: Justice Or Quixotic Affair By Trisha Raj, Himanshu Yadav

On an eerie night of July 6, 2025 five members of a family were charred to death on the suspicion of witch-craft. The incident took place in a village of Purnia district, Bihar. The village Tetgama , where this gruesome insanity took place is not an alien to such practices. The practices have been intransigent among people since decades. The belief has led to incongruous situations as compared to the modern thinking and development. Prevalent in the states of Jharkhand, Chhatisgarh, Madhya Pradesh, Assam, Bihar and Odisha, these practices are well known ingredients in diminishing the major aspect of growth that government is desiring for. It was mentioned by the officials that the punishment to death was sanctioned by the village panchayat in the presence of hundreds of villagers, and the poor souls neither even got a chance to defend themselves nor to knock the door of any court. The local government is formed to deliver quick justice and aids to people without much relying on the other higher form of government. And do these local government has power of discernment, while sentencing someone to egregious death. And what power does the law offer to panchayats regarding penalties.

According to, "The Prevention and Prohibition of Witch-Branding and Witch-Hunting and Other Harmful Practices Bill, 2022," local governments such as gram panchayat are involved in addressing witch-hunting, but their role is focused on prevention, rehabilitation and forming other aid-facilities to the victim and their family. The act nowhere gives authority to panchayats to punish individuals based on mere allegation. Allegations must be processed through the legal system, with investigations conducted by the police and trials held in courts.

2. MANUPATRA

<https://articles.manupatra.com/article-details/Comprehending-the-Efficacy-of-Artificial-Intelligence-in-Drug-Development>

Comprehending the Efficacy of Artificial Intelligence in Drug Development By Supriya

Artificial Intelligence is similar to using brain for manual tasks. It is a system within Computer Science that is on its way to surpass human intelligence in day-to-day activities. In simple terms, it has the ability to replicate human intelligence and solve complex problems . Most people might assume that AI and its application is a new*

development. But the reality is that it has been in existence for hundreds of years; only the degree of its application has increased. The Artificial Intelligence is similar to human intelligence as it also produces output based on Perceive, Analyse and Decision. As human intelligence has a capacity to produce output based on certain datasets fed into the brain, the artificial intelligence produces results based on the vast inputs fed in it by the user. However, unlike the restricted capacity of the brain to analyse, AI has an unlimited capacity to produce results based on different permutations and combination. Unlike Coding which is traditional software for producing desired outputs based on inputs, AI has the ability to learn from its inputs. This is a major difference and the most favourable merit of Artificial Intelligence that it has the capability to learn from variety of datasets. Furthermore, AI software will produce better results when vast datasets are fed to it; lower the amount of input, high chances of inaccurate results.

3. **MANUPATRA**

<https://articles.manupatra.com/article-details/Unlocking-CSR-Potential-in-Indian-SMEs-Challenges-Laws-and-Global-Lessons>

Unlocking CSR Potential in Indian SMEs: Challenges, Laws and Global Lessons By Akanksha Karankal

In India, corporate social responsibility, or CSR, has become a vital part of moral and sustainable business operations, particularly since it was made mandatory by Section 135 of the Companies Act of 2013. Small and medium-sized businesses (SMEs), which make up more than 90% of India's industrial units and are essential to employment and GDP contribution, are largely left out of this statutory obligation. Many SMEs participate voluntarily in CSR initiatives even though they are not required to by law, but they still face substantial operational, financial, and legal obstacles. This study examines the legal compliance environment around corporate social responsibility (CSR) in SMEs, emphasizing the lack of SME-specific CSR policies, resource limitations, regulatory burdens, and awareness gaps. The study also looks at international best practices and suggests institutional and legal changes to promote inclusive and scalable CSR involvement by SMEs using a doctrinal and policy analysis approach. The study comes to the conclusion that SMEs might continue to be on the periphery of India's larger CSR and sustainability objectives in the absence of a supportive legal framework.

4. **LAWYERS CLUB INDIA**

<https://www.lawyersclubindia.com/articles/how-do-lawyers-calculate-what-a-car-accident-claim-is-worth--17913.asp>

How Do Lawyers Calculate What a Car Accident Claim Is Worth? By Yaksh Sharma

Renton, Washington, located in King County, where over 1,600 traffic collisions occurred in 2023, including nine fatal crashes, faces a rising toll on its residents during daily commutes. That same year, the county recorded around 518 injury collisions and a notable increase in serious accidents over the past decade. In such a bustling transport

corridor, especially with intersecting highways I-5, I-405, and SR 167 converging near Renton, the likelihood of being involved in a traffic incident is unfortunately elevated. These numbers underscore why understanding the actual value of a car accident claim is critical for Renton drivers and passengers alike. In such situations, clients must reach out to a Phillips Law Firm car accident lawyer in Renton who brings local crash patterns, injury severity, medical costs, lost wages, pain and suffering, and comparative fault into precise focus. Given the frequency of rear-end, angle, and fixed-object collisions in the region, building a claim requires a detailed assessment of all contributing factors. In Renton's context, a trusted local firm like Phillips Law Firm can ensure claims reflect both regional traffic realities and statewide injury compensation standards. In this post, let us review what they consider when judging claims of this nature.

5. **LAWYERS CLUB INDIA**

<https://www.lawyersclubindia.com/articles/cheque-bounce-after-adalat-settlement-civil-offence-or-criminal-liabilty-17907.asp>

Cheque Bounce after adalat settlement: Civil Offence or Criminal Liability By Kishan Dutt Kalaskar

Lok Adalats are recognized as an effective form of alternative dispute resolution in India, aimed at enabling swift and friendly settlements. Frequently, parties agree to resolve their disputes by issuing post-dated cheques as part of the agreement. However, complications arise when such a cheque is returned unpaid. This discourse explores whether the dishonour leads to criminal liability under Section 138 of the Negotiable Instruments Act, 1881, or if the response is solely civil in nature.

LAHORE HIGH COURT B U L L E T I N



Fortnightly Case Law Update *Online Edition*

Volume - VI, Issue - XVI

16 - 08 - 2025 to 31 - 08 - 2025



Published By: Research Centre, Lahore High Court, Lahore

Online Available at: <https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin>

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FORTNIGHTLY CASE LAW BULLETIN

(16-08-2025 to 31-08-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles
Prepared & Published by the Research Centre Lahore High Court

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1. **Supreme Court of Pakistan.**
Arab & another v. Province of Sindh through Secretary Health Department and others
Civil Petitions No. 933-K to 935-K of 2023
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 933 k 2023.pdf

Facts: The petitions have approached the court for release of their salaries but their appointment orders were withdrawn by the competent authority despite their appointment after due codal formalities and procedure. They performed duties for certain time but salaries not issued.

Issues:

- i) Whether the High Court can entertain questions of fact in jurisdiction under Article 199 of the Constitution?
- ii) Under what situation jurisdiction under Article 199 of the Constitution could be invoked and what is its object?
- iii) What should be the nature of alternate remedy to bar the jurisdiction under Article 199 of the Constitution?

Analysis:

- i) No doubt, it is a well-settled exposition of law that disputed questions of fact cannot be entertained and adjudicated in the writ jurisdiction, and in the constitutional jurisdiction, the High Court cannot go into miniature and diminutive details.
- ii) The extraordinary jurisdiction granted under Article 199 of the Constitution is envisioned predominantly for affording an express remedy where the unlawfulness and impropriety of the action of an executive or other governmental authority could be substantiated without any convoluted inquiry. The object of proceedings under Article 199 of the Constitution is the enforcement of a right and not the establishment of a right and, therefore, the right of the concerned incumbent, which he seeks to enforce, must not only be clear and complete but there must also be an actual infringement of the right.
- iii) While dismissing the writ petition on the ground that the disputed question of fact could not resolved, it must also be considered that to effectively bar the jurisdiction of the High Court under this Article, the alternate remedy, if any available, is not only to be adequate but also equally efficacious under the law and commensurate to the same purpose which is sought to be achieved through a Constitution Petition under Article 199.

Conclusion:

- i) The disputed questions of fact cannot be entertained and adjudicated in the writ jurisdiction.
- ii) The extra-ordinary jurisdiction under Article 199 of the Constitution could be invoked where the unlawfulness and impropriety of the action of an executive or other governmental authority could be substantiated without any convoluted inquiry.
- iii) In order to effectively bar the jurisdiction of the High Court under this Article,

the alternate remedy, if any available, is not only to be adequate but also equally efficacious under the law and commensurate to the same purpose which is sought to be achieved through a Constitution Petition under Article 199.

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2. **Supreme Court of Pakistan**
Mst. Tahira Begum and others v. Federation of Pakistan, etc.
CPLA No. 03-K of 2023
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi,
Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3_k_2023.pdf

Facts: The Petitioners acquired a leased evacuee trust property in 1974, formalised by a registered 99-year lease deed in 1992. After the lease was cancelled on allegations of forgery without proper hearing and their constitutional petition was dismissed, they filed the present civil petition for leave to appeal.

Issues:

- i) What is the primary objective behind the enactment of the Evacuee Trust Property Act?
- ii) How are the terms “Act” and “evacuee trust property” defined under the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- iii) What is the appellate mechanism under Section 16 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- iv) What revisional powers are provided to the Federal Government under Section 17 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- v) What time limitation is imposed on an aggrieved person for seeking revision under Section 17 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- vi) What is the purpose and scope of the powers conferred under Section 21 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- vii) Whether Section 21(2) expounds that the Chairman and officers appointed under the Evacuee Trust Properties (Management and Disposal) Act, 1975 shall be deemed to be a Court under the Code of Criminal Procedure, 1898, and their proceedings deemed judicial under the Pakistan Penal Code?
- viii) Whether under the Scheme for the lease of Evacuee Trust Agricultural Land, 1975, the Assistant/Deputy Administrator and the Chairman have the power to cancel leases, and on what grounds?
- ix) Whether the right to a “reasonable opportunity of being heard” under Clause 23 of the Scheme is supported by the procedural entitlement under Section 27 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- x) Whether the Evacuee Trust Properties (Appeal and Revision) Rules, 1980 provide a procedure for appearance and adjournment in appeal or revision proceedings?
- xi) What are the essential elements of a lease of immovable property under Section 105 of the Transfer of Property Act, 1882?

- xii) What is the prescribed manner for creating leases under Section 107 of the Transfer of Property Act, 1882?
- xiii) Whether Section 13 of the Evacuee Trust Properties (Management and Disposal) Act, 1975 deems all persons appointed under the Act to be public servants within the meaning of Section 21 of the Pakistan Penal Code?
- xiv) Whether Section 14 of the Evacuee Trust Properties (Management and Disposal) Act, 1975 expounds that no civil Court shall have jurisdiction in respect of any matter determined under the Act?
- xv) Whether Section 15 of the Evacuee Trust Properties (Management and Disposal) Act, 1975 shields and protects the Federal Government, the Board, or any appointed person from legal proceedings for actions done in good faith?
- xvi) Whether the bar of jurisdiction imposed under Section 14 of the ETP Act entails a corresponding duty on authorities to exercise their powers with greater diligence and rationality?
- xvii) Whether Section 21 of the ETP Act confers civil court-like powers on authorities despite the jurisdictional bar created by Section 14?
- xviii) Whether adherence to legal principles and procedural rules is essential in judicial or quasi-judicial proceedings for ensuring fair and just decisions?
- xix) What is due process of law and how does Article 4 of the Constitution ensure that no action detrimental to life and liberty is taken without it?
- xx) Whether the principles of natural justice and the right to fair trial under Article 10-A require affording a right of audience before any detrimental or prejudicial action is taken?

Analysis:

- i) The conscientious survey of ETP Act accentuates that the foremost purpose of legislating this law was to provide for the management and disposal of evacuee properties attached to charitable, religious or educational trusts or institutions.
- ii) Under Section 2 (a) (Definition Clause), “Act” means the Displaced Persons (Compensation and Rehabilitation) Act, 1958 (XXVIII of 1958), or the Displaced Persons (Land Settlement) Act, 1958 (XLVII of 1958), as the case may be. While clause (d) defines “evacuee trust property” which means the evacuee trust properties attached to charitable, religious or educational trusts or institutions or any other properties which form part of the Trust Pool constituted under this Act.
- iii) The right to appeal is provided under Section 16 of ETP Act, wherein any person aggrieved by an order passed under this Act may, within fifteen days of the passing of such order, prefer an appeal: (a) in the case of an order passed by an Assistant Administrator or a Deputy Administrator, to the Administrator; and (b) in the case of an order passed by an Administrator, not being an order passed in appeal by the Administrator confirming an order of an, Assistant Administrator or a Deputy Administrator, to the Chairman.
- iv) Whereas Section 17 of the same act, ordains a provision for Revision which elucidates that the Federal Government may at any time, of its own, motion or otherwise, call for the record of any case or proceedings under this Act, which is pending or in which the Chairman, an Administrator, a Deputy Administrator or

an Assistant Administrator has passed an order, for the purpose of satisfying itself as to the correctness, legality or propriety of such an order, and may pass such order in relation thereto as the Federal Government thinks fit.

v) The proviso appended with this section, reads aloud that the record of any case or proceedings in which the Chairman, an Administrator, a Deputy Administrator or an Assistant Administrator has passed an order shall not be called for under this section on the application of any aggrieved person made after the expiration of fifteen days from the date of such order.

vi) According to Section 21 of the ETP Act, the Federal Government or any person authorised by it, the Chairman and every officer appointed under this Act shall, for the purposes of making any enquiry or hearing any appeal or revision under this Act, have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908, (CPC) when trying a suit in respect of the following matters, namely (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of any document; (c) requisitioning any public record from any Court or office; (d) issuing commissions for the examination of witnesses; (e) appointing guardians or next friends of persons who are minors or of unsound mind; (f) adding legal representatives of deceased applicants or claimants, as parties; (g) restoration of cases dismissed for default; (h) substituting the names of the rightful claimants; (i) consolidation of cases; (j) any other matter which may be prescribed by rules made under this Act.(...) At this moment, we recapitulate that under Section 21 of the ETP Act, the Federal Government or any person authorised by it, the Chairman and every officer appointed under this Act shall, for the purposes of making any enquiry or hearing any appeal or revision under this Act, have the same powers as are vested in a Civil Court under CPC, and under this section, various procedural powers have been conferred to ensure and protect the cause of justice and right to fair trial.

vii) While sub-section (2) expounds that the Chairman and every officer appointed under this Act shall be deemed to be a Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898, and any proceedings before the Chairman or any such officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code and for the purposes of sections 196, 199 and 200 thereof.

viii) Without a doubt, Clause 19 of the “Scheme for the lease of Evacuee Trust Agricultural Land, 1975” provides that the Assistant/Deputy Administrator shall be competent to cancel a lease if the lessee thereof has violated any of the terms and conditions of the lease or if the land is required for any public purpose provided the lessee has been provided a reasonable opportunity of being heard. Whereas under Clause 23, of the Scheme, the Chairman is competent to cancel the lease of any land if he is satisfied that the auction was not conducted properly or that the lease was acquired by fraud or deceitful means.

ix) If we dwell on the watchword “reasonable opportunity of being heard” broached in Clause 23 of the Scheme for the lease of Evacuee Trust Agricultural

Land, 1975, it simultaneously implores our attention to Section 27 of ETP Act, wherein any person who is entitled or required to attend before the Chairman or any other authority in connection with any proceeding under this Act, otherwise than when called upon to attend personally for examination on oath or affirmation, may attend or be represented by his duly authorised agent, and any application, appeal or revision may be presented by counsel or such agent.

x) According to the Evacuee Trust Properties (Appeal and Revision) Rules, 1980, the procedure for causing appearance on the date fixed for hearing appeal or revision is jotted down in Rule (7), while Rule (8) germane to the “Adjournments” wherein, the authorities hearing appeals and revisions may, on sufficient cause shown by either of the parties, adjourn the hearing of an appeal or revision, as the case may be; provided that where a case is adjourned the authority hearing the appeal or revision shall fix the next date of hearing.

xi) Under Section 105 of the Transfer of Property Act, 1882 (Chapter V), a lease of immovable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered, periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.

xii) The mannerism of how the leases are made is provided under Section 107, which set forth that a lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument. It is further provided that all other leases of immovable property may be made either by a registered instrument or by an oral agreement accompanied by delivery of possession and where a lease of immovable property is made by a registered instrument, such instrument or, where there are more instruments than one, each such instrument shall be executed by both the lessor and the lessee.

xiii) It is somewhat significant to spotlight the niceties of Section 13 of the ETP Act, wherein all persons appointed under this Act, are deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

xiv) While Section 14, expounds that save as otherwise provided in this Act, no civil Court shall have jurisdiction in respect of any matter which the Federal Government or an officer appointed under this Act is empowered under this Act to determine, and no injunction, process or order shall be granted or issued by any Court or other authority in respect of any action taken or to be taken in exercise of any power conferred by or under this Act.

xv) In the same context, the indemnity of actions is shielded and protected under Section 15 with the diction that no suit, prosecution or other legal proceeding shall lie against then Federal Government, the Board or any person appointed under this Act in respect of anything which is done in good faith or intended to be done in pursuance of this Act or any rules, scheme or order made thereunder.

xvi) In view of the rigors and exactitudes of Section 14 of the ETP Act, wherein explicit bar has been imposed that neither civil Court has jurisdiction to try any

matter covered or regulated under ETP Act nor can grant any injunction in respect of any action taken or to be taken in exercise of any power conferred by or under the said Act, therefore, in our view, if such bars are imposed through legislative instruments in any law/statute, then in such manifestations, more responsibilities and conscientiousness is attached to such authorities/offices to perform their functions with due diligence. It also commands an onerous responsibility to exercise special jurisdiction and powers under the special law with rationality and the existence of mental persuasion much higher than mere opinion. (...) The bar of jurisdiction of civil Court under Section 14 of the ETP Act, neither, bestowed unbridled or unchecked jurisdiction, nor does it authorize the authority to decide the matters in cursory or slipshod manner. On the contrary, it is their obligation under law to decide matters with proper application of mind and pass judicious orders.

xvii) While Section 14 has created a specific bar but concomitantly, Section 21 of the ETP Act, conferred wide ranging powers vested in a civil Court under CPC, inter alia, summoning and enforcing the attendance of any person; examining him on oath and issuing commissions for the examination of witnesses.

xviii) In judicial or quasi-judicial proceedings, not only adherence to the law but legal principles including relevant rules of procedure and evidence is ought to be considered for fair and just decisions.

xix) Due process is prerequisite that needs to be respected at all strata. The right to fair hearing and fair trial necessitates that no one should be penalized by the decision upsetting and afflicting his right or legitimate expectations unless he is given a fair chance to answer it and a fair opportunity to explicate/present the case. To enjoy the protection of law and to be treated in accordance with the law is an inalienable right of every citizen. The purposefulness of Article 4 of the Constitution is to ascribe and integrate the doctrine of equality before law or equal protection of law, and no action detrimental to the life and liberty of any person can be taken without due process of law.

xx) The principles of natural justice require that the delinquent should be afforded a fair opportunity to converge, explain and contest before he is found guilty and condemned. The principles of natural justice and fair-mindedness are grounded in the philosophy of affording a right of audience before any detrimental action is taken. In our Constitution, right to fair trial has also become a fundamental right under Article 10-A. The principle of natural justice is grounded on the astuteness and clear-sightedness of affording a right of audience before any prejudicial action is taken, therefore it is an inescapable obligation of all judicial, quasi-judicial and administrative authorities to ensure justice according to the sagacity of the law.

- Conclusion:**
- i) The primary objective of the ETP Act is to regulate and manage evacuee properties linked to charitable, religious or educational trusts.
 - ii) See above analysis. ii

- iii) Section 16 provides a right of appeal to the Administrator or Chairman based on the authority passing the original order.
- iv) Section 17 empowers the Federal Government to revise any order passed under the Act to ensure its legality and propriety.
- v) An aggrieved person must apply for revision within fifteen days of the order under Section 17.
- vi) Section 21 confers civil court-like powers on authorities to ensure procedural fairness and safeguard the right to a fair trial.
- vii) Section 21(2) expounds that the Chairman and officers are deemed courts under the *CrPC, 1898*, and their proceedings are deemed judicial under the *PPC* for specified penal consequences.
- viii) Under the Scheme, the Assistant/Deputy Administrator may cancel a lease for breach of terms or public purpose, while the Chairman may do so for improper auction or fraud.
- ix) Clause 23's guarantee of a reasonable opportunity of being heard is reinforced by Section 27 of the ETP Act, which allows representation through counsel or authorised agents.
- x) Rules 7 and 8 provide for appearance and adjournment procedures during appeal and revision proceedings under the 1980 Rules.
- xi) A lease under Section 105 is a transfer of the right to enjoy immovable property for consideration over a specified duration.
- xii) Section 107 requires leases exceeding one year or reserving yearly rent to be made through a registered instrument executed by both lessor and lessee.
- xiii) Section 13 of the ETP Act deems all persons appointed under the Act to be public servants within the meaning of Section 21 of the *Pakistan Penal Code*.
- xiv) Section 14 expounds that no civil Court shall have jurisdiction over matters determined under the Act, nor issue any injunction or order regarding actions taken under it.
- xv) Section 15 shields and protects the Federal Government, the Board, or any appointed person from legal proceedings for actions done in good faith under the Act.
- xvi) The imposition of a jurisdictional bar under Section 14 requires the authorities to exercise their powers with enhanced responsibility, diligence, and rational judgment.
- xvii) Despite the jurisdictional bar under Section 14, Section 21 empowers authorities with civil court powers for ensuring effective adjudication.
- xviii) In judicial or quasi-judicial proceedings, compliance with legal principles and procedural rules is essential to ensure fairness and justice.
- xix) Due process is prerequisite to be respected at all strata, and Article 4 ensures that no action detrimental to life and liberty can be taken without it.
- xx) The principles of natural justice and Article 10-A mandate affording a right of audience before any prejudicial or detrimental action is taken.

3. **Supreme Court of Pakistan**
Province of Sindh & others v. Amanullah & others
C.P.L.A.4-K/2025
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi,
Mr. Justice Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 4 k 2025.pdf

- Facts:** Respondents filed separate petitions under Article 199 seeking directions for appointment and salary against non-technical posts on the basis of DRC recommendations and offer letters in pursuant to walk-in interviews conducted under advertised vacancies; High Court allowed the petitions without affording opportunity of hearing or considering variations in advertisements and recruitment processes hence these petitions.
- Issues:**
- i) Whether the High Court, in exercise of writ jurisdiction, can adjudicate a matter involving disputed questions of fact?
 - ii) Whether the jurisdiction of the High Court under Article 199 is barred when the alternative remedy is equally efficacious, convenient, and effective?
 - iii) Whether the principle of *mutatis mutandis* permits application of law with necessary modifications to avoid repetition?
- Analysis:**
- i) The High Court, in the writ jurisdiction, cannot record evidence and cannot be involved deeply in the factual controversy, which cannot be thrashed out without leading evidence by the parties. However, at the same time, the available record and the comments filed by the concerned department can be vetted and scanned in order to arrive at a just conclusion on whether the matter can be adjudicated upon based on the available and admitted documents without dilating upon the factual controversy.
 - ii) It is well settled by now that the words "adequate remedy" connote an efficacious, convenient, beneficial, effective, and speedy remedy. It should be equally inexpensive and expeditious. To effectively bar the jurisdiction of the High Court under this Article the remedy available under the law must be able to accomplish the purpose which is sought to be achieved through a petition under Article 199. The other remedy in order to be adequate, must be equally convenient, beneficial, and effective, and the relief afforded by ordinary law must not be less efficacious, more expensive, and cumbersome to achieve as compared to that provided under the Article.
 - iii) The expression "mutatis mutandis" is a medieval Latin phrase which denotes "with things changed that should be changed" or "once the necessary changes have been made", which cannot be muddled or intertwined with the phrase "ceteris paribus", which prohibits and bars the changes other than those that are perceptibly articulated. In legal parlance, the expression *mutatis mutandis* generally applies for making certain adjustments of features in a new situation or framework, as a shortcut (an alternative route that is shorter than the one usually taken) in order to avoid reiterating or retelling the same provisions with minor variations. It applies from one case to another with required alterations or

modifications within the different set of circumstances of the cases to avoid repetition, by signifying that the primary criteria shall apply with certain vicissitudes.

- Conclusion:**
- i) High Court, in exercise of writ jurisdiction, cannot adjudicate a matter involving disputed questions of fact.
 - ii) The jurisdiction of the High Court under Article 199 is barred when the alternative remedy is equally efficacious, convenient, and effective.
 - iii) The principle of *mutatis mutandis* permits application of law with necessary modifications to avoid repetition

4. Supreme Court of Pakistan
Province of Sindh through Land Acquisition Officer v. Abdul Tawab & others
Civil Appeal No. 101-K of 2022
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 101 k 2022.pdf

Facts: The Province of Sindh through Land Acquisition Officer challenged the judgment passed by the Referee Court/Additional District Judge in Land Acquisition Reference/Suit, whereby the Reference was allowed in favour of the private respondents and the quantum of compensation was enhanced.

Issues:

- i) Whether any relaxation or compassionate treatment could be given to Government department for delay in filing appeal before the Superior Courts?
- ii) Whether the reckless, sluggish or slumbering attitude of a party could extinguish its remedy?

Analysis:

- i) The question of limitation cannot be taken casually or unconscientiously. If any person or party wants to file an appeal in the higher court, he should be vigilant and diligent in pursuing his available remedy within the stipulated timeframe. If the department was negligent or reckless and approached the A.A.G. Office with delay, then no premium of such delay can be accorded with the benefit of condonation in the lapse of time...In the case of Regional Police Officer, Dera Ghazi Khan Region versus Riaz Hussain Bukhari (2024 SCMR 1021 = 2023 SCP 323), one of us, speaking for the bench, held that while considering the grounds for condonation of delay, whether rational or irrational, no extraordinary clemency or compassion and/or preferential treatment may be accorded to the Government department, autonomous bodies, or private sector/organizations; rather, their cases should be dealt with uniformly and in the same manner as cases of ordinary litigants and citizens.
- ii) No doubt, the law favours adjudication on merits, but simultaneously one should not close their eyes or oversee another aspect of great consequence, namely that the law helps the vigilant and not the indolent. At this juncture, it is quite relevant to quote a Latin maxim “Leges vigilantibus non dormientibus

subserviunt” or “Vigilantibus Non Dormientibus Jura Subveniunt” which articulates that the law aids and assists those who are vigilant but not those who are sleeping or slumbering. Delay in invoking a lawful remedy by a person or entity who was sleeping over their rights may be denied. The doctrine of equality before law demands that all litigants, including the State, are accorded the same treatment and the law is administered in an even-handed manner.

- Conclusion:** i) While considering the grounds for condonation of delay, whether rational or irrational, no extraordinary clemency or compassion and/or preferential treatment may be accorded to the Government department, autonomous bodies, or private sector/organizations; rather, their cases should be dealt with uniformly and in the same manner as cases of ordinary litigants and citizens. The plea that time was spent in fulfilling inter-departmental procedures and seeking final instructions from the competent authority is not a sufficient cause.
- ii) The law helps the vigilant and not the indolent. Delay in invoking a lawful remedy by a person or entity who was sleeping over their rights may be denied.

5. Supreme Court of Pakistan
Aqeel Ahmed Khan v. The State through Federal Prosecutor General,
Islamabad and another
Criminal Petition No.960 of 2025
Mr. Justice Athar Minallah, Mr. Justice Ali Baqar Najafi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p.960.2025.pdf

Facts: By means of this Petition for Leave to Appeal, the petitioner seeks post-arrest bail in a case registered against him for the alleged commission of an offence under Section 489-F of the Pakistan Penal Code, 1860 (PPC), which was previously denied by the High Court through the impugned order now under challenge.

- Issues:**
- i) Under which category of offences, as defined in Section 497 of the Code of Criminal Procedure, 1898 (Cr.P.C.), does the offence under Section 489-F PPC fall?
 - ii) What is the consistent view of the august Supreme Court regarding the grant of bail in offences that fall within the non-prohibitory clause of Section 497 Cr.P.C.?
 - iii) What are the extraordinary and exceptional circumstances under which bail may be denied in offences falling within the non-prohibitory clause of Section 497 Cr.P.C.?
 - iv) Can the quantum of the amount involved in a case registered under Section 489-F of the Pakistan Penal Code be treated as an exception to the general rule?
 - v) Whether the offence under Section 489-F of the Pakistan Penal Code is intended to serve as a mechanism for recovery of the amount?
 - vi) Which statutory mechanism has been prescribed by the legislature for the recovery of money in instances of cheque dishonour?

- Analysis:**
- i) The said offence is, admittedly, of the category which falls within the non-prohibitory clause of section 497 of the Code of the Criminal Procedure, 1898 ('Cr.P.C.).
 - ii) This Court has consistently held that while considering the grant of bail, where offences fall within the non-prohibitory clause, the granting of bail has to be considered favourably as a rule, but may be declined in exceptional cases.
 - iii) The extra ordinary and exceptional cases, inter alia, includes likelihood of abscondence of the accused; apprehension of the accused tempering with the prosecution evidence; and the danger of the offence being repeated.
 - iv) The quantum of amount involved in a case registered under section 489-F cannot be treated as an exception to the general rule that in cases falling under the category of non-prohibitory clause.
 - v) The offence under section 489-F of PPC is not a provision which is intended by the legislature to be used for recovery of the alleged amount.
 - vi) The legislature has set out the framework for recovery of an alleged amount in case of a dishonoured cheque under Order XXXVII of the Civil Procedure Code, 1908.

- Conclusion:**
- i) Non-prohibitory clause.
 - ii) The grant of bail is ordinarily to be favored, subject to denial only in exceptional cases.
 - iii) See above analysis No. iii
 - iv) No
 - v) No
 - vi) As provided under Order XXXVII of the Civil Procedure Code, 1908

6. Supreme Court of Pakistan
Sahad v. Mst. Afsheen and another
Criminal Petition No. 1033 of 2025
Mr. Justice Amin-ud-Din Khan, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 1033_2025.pdf

Facts: Petitioner was charged under sections 302/34 PPC along with co-accused on the allegation of collectively firing upon the deceased, resulting in his death. After dismissal of bail by the High Court and two courts of Sessions, the petitioner filed the present petition before this Court seeking post-arrest bail.

- Issues:**
- i) Whether a mismatch between crime empties and the weapon allegedly recovered from the accused renders the recovery doubtful?
 - ii) Whether the evidentiary value of the recovered weapon, in light of the forensic report, can be determined without recording evidence at trial?
 - iii) Whether the absence of specific attribution of individual role by the sole eyewitness makes the case fit for further inquiry?

Analysis: i) It appears that the crime empties recovered from the place of occurrence do not

match with the weapon allegedly recovered from the present Petitioner. The inconsistency between the recovered crime empties and the weapon attributed to the Petitioner renders the recovery doubtful.

ii) All the more so as the said report, when produced by the learned Law Officer, was neither objected to nor denied by the learned counsel for the Complainant. Any opinion regarding the evidentiary value of such recovery, therefore, cannot be formed without recording evidence at the trial

iii) It is also pertinent to observe that the Complainant, who is the sole eyewitness, did not specify in her statement the distinct role played by each of the accused. Her narration was general in nature, attributing no specific or individual role to the Petitioner which makes the case fit for further inquiry.

- Conclusion:**
- i) The mismatch between crime empties and the recovered weapon renders the recovery doubtful.
 - ii) The evidentiary value of the recovered weapon, in light of the forensic report, cannot be determined without recording evidence at trial.
 - iii) The absence of specific attribution of individual role by the sole eyewitness makes the case fit for further inquiry.

7. **Supreme Court of Pakistan**
Sardar Hussain v. The State and another.
Criminal Petition No. 966 of 2018 and Crl. M.A No. 1586 of 2018.
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan & Mr. Justice Malik Shahzad Ahmad Khan.
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 966 2018.pdf

Facts: The appellant was tried and convicted under section 9(a)(iii), (vi) (xii) of National Accountability Ordinance, 1999 ('NAO,1999') by the Ehtasab Court (trial court) and sentenced for imprisonment of 03 years along with payment of fine. His conviction was maintained from the High Court. Then he filed this petition before the Supreme Court of Pakistan.

Issues:

- i) What qualifies the misuse of authority?
- ii) Whether mistake of civil law constitutes the mens rea?
- iii) Whether mere misuse of authority, without proof of mens rea, has any penal consequences?
- iv) What is corruption and corrupt practices?
- v) In which cases the misuse of authority is attracted?
- vi) Whether procedural improprieties can be per se categorized as 'misuse of authority'?

Analysis:

- i) To establish the charge of misuse of authority, the prosecution has to establish the two essential ingredients of the alleged crime i.e, "mens rea" and "actus reus". If either of these is missing no offence is made out, Mens rea or guilty mind, in context of misuse of authority, would require that the accused had the knowledge that he had no authority to act in the manner he acted or that it was against law or

practice in vogue but despite that he issued the instruction or passed the order.

ii) He merely approved the proposal and sent the matter to the competent authority. At worst he could be accused of mistake of civil law. i.e. ignorance of rules, But a mistake of civil law negates mens rea.

iii) The mens rea for an offence under section 9 (a)(vi) of the Ordinance, is found in two elements i.e. conscious misuse of authority and illegal gain or undue benefit and in absence of anyone of these basic components of crime, the misuse of authority is not Culpable, therefore, the prosecution must establish mens rea and actus reus of the crime to establish the charge, as without proof of these elements of crime, mere misuse of authority, has no penal consequence.

iv) The offence of corruption and corrupt practices has not been as such defined in the Ordinance but in general terms, the corruption is an act which is done with intent to give some advantage inconsistent with law and wrongful or unlawful use of official position to procure some benefit or personal gain, whereas the expression corrupt practices is series of depraved/ debased/ morally degenerate acts.

v) A charge of misuse of authority under that law may be attracted where there is a wrong and improper exercise of authority for a purpose not intended by the law, where a person in authority acts in disregard of the law with the conscious knowledge that his act is without the authority of law, where there is a conscious misuse of authority for an illegal gain or an undue benefit and where the act is done with intent to obtain or give some advantage inconsistent with the law. The said precedent cases also show that misuse of authority means the use of authority or power in a manner contrary to law or reflecting an unreasonable departure from known precedents or custom and also that mens rea or guilty mind, in the context of misuse of authority, would require that the accused person had the knowledge that he had no authority to act in the manner he acted or that it was against the law or practice in vogue but despite that he issued the relevant instruction or passed the offending order.

vi) In this context, the petitioner's actions/omissions can at most be described as procedural improprieties which would not per se be categorized as a "misuse of authority" attracting the offence under section 9(a) (vi) of the NAO, 1999.

- Conclusion:**
- i) The two essential ingredients i.e, "mens rea" and "actus reus" qualifies the misuse of authority.
 - ii) A mistake of civil law negates mens rea.
 - iii) The misuse of authority, without proof of mens rea, has no penal consequence.
 - iv) See above analysis No.iv.
 - v) See above analysis No.v.
 - vi) Procedural improprieties cannot per se be categorized as a "misuse of authority".
-

- 8. Supreme Court of Pakistan**
Muhammad Shakeel v. The State thr. P.G. Punjab and another
Crl.P.L.A.1144/2025
Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Naeem Akhter Afghan,
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 1144 2025.pdf

Facts: The petitioner sought post-arrest bail in the criminal case where he is under the allegation of committing Zina with the complainant's daughter.

Issues: i) Whether absence of marks of violence makes the case one of consent or coercion, to be determined at trial?
 ii) Whether unexplained delay in recording prosecution evidence after submission of challan makes the case of accused of further inquiry?
 iii) Whether bail can be withheld as punishment?

Analysis: i) Though MLC of the victim and DNA Analysis Report of PFSA reveal of sexual intercourse by the petitioner with the victim but the MLC of the victim does not reveal of any marks of violence on the body of victim. It is yet to be determined at the trial as to whether the sexual intercourse was with consent of the victim or it was forcible.
 ii) Despite submission of challan in December 2024, till date the statement of victim and the prosecution witnesses have not been recorded and in this regard no plausible explanation has been offered by the prosecution.
 iii) According to settled principles of law, bail cannot be withheld as mere punishment.

Conclusion: i) In the absence of marks of violence makes the case one of consent or coercion, to be determined at trial
 ii) See above analysis No.ii.
 iii) See above analysis No.iii

- 9. Supreme Court of Pakistan**
Federal Board of Revenue through its Secretary (Legal HR), FBR, Islamabad
v. Naureen Ahmad Tarar and others
C.P.L.A.1002/2025
Ms. Justice Musarrat Hilali, Mr. Justice Justice Aqeel Ahmed Abbasi, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1002 2025.pdf

Facts: Respondent, a Pakistan Custom Services officer, challenged the seniority list issued by the petitioner department (FBR), which relegated her position; the Federal Service Tribunal (FST) restored her seniority, ruling that the 1990 Rules were inapplicable post-promotion; the petitioner department's appeals against FST judgments were dismissed by the Supreme Court, affirming Respondent's seniority restoration; Respondent's writ petition for implementation was allowed by the Islamabad High Court, remitting the matter to FST, whose execution order is now challenged by the petitioner department via CPLA.

- Issues:**
- i) Whether seniority can be altered after induction and subsequent promotion in service?
 - ii) Whether the benefit of a judgment in rem can be extended to similarly placed parties?
 - iii) Whether interference by the Supreme Court is justified under Article 212(3) in the absence of a substantial question of law of public importance?
- Analysis:**
- i) The issue of seniority shall be determined at the time of induction in service and cannot be changed subsequently, especially when the officers have been promoted to the next higher grade.
 - ii) In view of the large number of judgments of this Court, the benefit of the judgment in rem can be extended to similarly placed parties.
 - iii) This petition does not raise a substantial question of law of public importance and warrant no interference by this court within the contemplation of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973.
- Conclusion:**
- i) See above analysis No.i.
 - ii) See above analysis No.ii
 - iii) Supreme Court cannot interfere within the contemplation of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973 in the absence of a substantial question of law of public importance.

10. Supreme Court of Pakistan
M/s Mobiserve Pakistan (Pvt.) Limited v. M/s V-Tech & others
CPLA No. 3824 of 2023 & C.M.A No. 8489 of 2023
Mr. Justice Amin-Ud-Din Khan, Mr. Justice Shahid Bilal Hassan.
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3824 2023.pdf

Facts: The petitioner has approached the Supreme Court of Pakistan under Article 185(3) of the Constitution, seeking leave to appeal against a decision of the Islamabad High Court dated 18.09.2023. The High Court had dismissed the petitioner's writ petition challenging the trial court's dismissal of an application under Section 12(2) of the Civil Procedure Code (CPC), 1908. The background involves a recovery suit filed by the respondents. The petitioner was proceeded against ex parte due to non-appearance, and an ex parte decree was passed on 18.09.2013. The petitioner later filed a Section 12(2) application alleging irregularities, which was dismissed by the trial court on 14.07.2022. That dismissal was upheld by the High Court.

- Issue:**
- i) What is the condition precedent for adoption of substitutive service of summons?
 - ii) What is the distinction between the scope and application of Section 12(2) CPC and Order IX Rule 13 CPC?
 - iii) Whether a third party can invoke jurisdiction of Section 12(2) CPC?
 - iv) Whether the act of the court in allowing substituted service without

following mandatory procedures can be corrected under the maxim *actus curiae neminem gravabit*?

v) Whether a party may raise objections under Section 47 CPC, alongside or instead of a separate application under section 12(2) CPC?

vi) Whether the ancillary provisions of Order XXI CPC (e.g., Rules 26, 90) Section 144 and Section 151 CPC apply when an ex-parte decree is set aside?

vii) What are the provisions of CPC that ensure procedural fairness in the process of execution, stay or restitution?

Analysis:

i) It is observed that substituted service can only be effected when ordinary summons cannot be served or defendant deliberately avoids to receive summons of the Court and the Court is satisfied that service could not be effected through ordinary modes of service and that satisfaction can be achieved by recording statement of the process server but as stated above nothing as such was undergone by the learned trial Court.

ii) The scope of application under Section 12(2) CPC is broader than Order IX Rule 13, CPC, as it is not limited to ex-parte decrees and can be invoked by non-parties...(…) section 12(2) law provides a remedy to challenge a judgment, decree, or order obtained by: i) fraud, ii) misrepresentation, or iii) want of jurisdiction. However, mere used of these terms is no sufficient, rather specific particulars must be provided as required by Rule 4 of Order VI, CPC⁵. It allows any person⁶ affected by such a decree or order to apply to the court that passed it, seeking to set it aside. This provision is not limited to parties to the suit but extends to any person aggrieved by the decree or order. It means an application under Section 12(2) CPC is maintainable when the decree or order was obtained by deliberate deception or suppression of material facts from the Court. (...) An application under Order IX Rule 13 CPC is maintainable when: the defendant(s) was not duly served with the summons, or the service was defective, preventing their appearance; the defendant(s) was prevented from appearing due to sufficient cause, such as illness, accident, or other unavoidable circumstances; the decree was passed ex-parte, i.e., in the absence of the defendant, without hearing their defense. The application must be filed by the defendant in the court that passed the ex-parte decree. The defendant must demonstrate that they were not served or had sufficient cause for non-appearance. The court may set aside the decree in terms (e.g., costs) and allow the defendant to contest the suit. Unlike Section 12(2) CPC, this provision-Order IX, Rule 13, CPC is limited to ex-parte decrees and does not cover fraud or jurisdiction issues unless they relate to service or non-appearance. Key Distinctions between the applications under section 12(2) and IX(13), CPC are that Section 12(2), CPC addresses fraud, misrepresentation or lack of jurisdiction and applies to any decree or order, while Order IX Rule 13, CPC is restricted to ex-parte decrees; Section 12(2), CPC can be invoked by any aggrieved person, including non-parties, while Order IX Rule 13, CPC is available only to defendants; Section 12(2) CPC

focuses on substantive defects (fraud, misrepresentation, jurisdiction), while Order IX Rule 13 CPC addresses procedural issues (non-service, sufficient cause); Section 12(2) CPC seeks to set aside the decree or order entirely, while Order IX Rule 13 CPC seeks to restore the suit for hearing on merits. In light of the above, an application under Section 12(2) CPC lies when a decree or order is tainted by fraud, misrepresentation, or lack of jurisdiction, as seen in cases like fabrication of documents or jurisdictional overreach. Conversely, an application under Order IX Rule 13 CPC lies when an ex-parte decree is passed due to non-service of summons or sufficient cause for the defendant's non-appearance, such as illness or defective service

iii) An application under Section 12(2) can be filed. Additionally, a person not a party to the suit but affected by the decree e.g., a third party whose property is wrongly included in a decree, may apply under this section.

iv) it is also a well settled elucidation of law that an inadvertent error or lapse on the part of Court may be reviewed in view of the renowned legal maxim "*actus curiae neminem gravabit*" recognized by both local and foreign jurisdictions which articulates that no man should suffer because of the fault of the Court or that an act of the Court shall prejudice no one. This maxim is rooted in the notion of justice and is a benchmark for the administration of law and justice to ensure that justice has been done with strict adherence to the law and for undoing the wrong so that no injury should be caused by any act or omission of the Court. The proper

place of procedure in any system of administration of justice is to help and not to thwart the grant to the people of their rights. All technicalities have to be avoided unless it is essential to comply with them on grounds of public policy [Ref: *Imtiaz Ahmad v. Ghulam Ali and others* (PLD 1963 SC 382)].

v) If a decree is challenged under Section 12(2) CPC on the basis of fraud or lack of jurisdiction, issues related to its execution (e.g., whether the decree is enforceable) may be addressed under Section 47 CPC during execution proceedings. For instance, if a decree obtained by fraud is sought to be executed, the aggrieved party may raise objections under Section 47 CPC, alongside or instead of a separate application under Section 12(2) CPC, depending on the stage of proceedings; Section 151 CPC empowers courts to pass orders necessary to meet the ends of justice or prevent abuse of the process of the court. It is notable fact that if an application under Section 12(2) CPC does not fully address procedural gaps (e.g. interim relief to stay execution of a fraudulent decree), the court may invoke its inherent powers under Section 151 CPC.

vi) The provisions under Order XXI (e.g. Rules 2612, 2913, 9014, 99–101) govern the execution of decrees. If a decree is challenged under Section 12(2) CPC for fraud or lack of jurisdiction, ancillary issues like staying execution (Order XXI Rule 26, CPC) or setting aside a sale in execution due to fraud (Order XXI Rule 90, CPC) may arise if a property is sold in execution of a decree obtained by misrepresentation, the affected party may seek to set aside

the sale under Order XXI Rule 90 CPC, in conjunction with an application under Section 12(2) CPC.

vii) The ancillary provisions ensure procedural fairness, provide mechanisms for execution or stay, and allow appeals or restitution, complementing the primary remedies under Section 12(2) and Order IX Rule 13, CPC. Provisions like Section 151 and Order XXI, CPC grant courts flexibility to address case-specific issues, ensuring justice is not defeated by procedural technicalities. Both Section 12(2) and Order IX Rule 13, CPC applications require compliance with procedural rules [e.g., notice under Order IX Rule 14 CPC or evidence of fraud under Section 12(2) CPC], and ancillary provisions like Order V or Section 47, CPC guide these requirements.

- Conclusion:**
- i) substituted service can only be effected when ordinary summons cannot be served or defendant deliberately avoids to receive summons of the Court and the Court is satisfied that service could not be effected through ordinary modes of service.
 - ii) See above analysis No. ii.
 - iii) See above analysis No. iii.
 - iv) An inadvertent error or lapse on the part of Court may be reviewed in view of the renowned legal maxim "actus curiae neminem gravabit"
 - v) See above analysis No.v.
 - vi) See above analysis No.vi.
 - vii) See above analysis No.vii

11. Supreme Court of Pakistan
Zahid Nawaz v. The State, etc.
Criminal Petition No. 433/2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim,
Mr. Justice Ali Baqar Najafi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 433_2025.pdf

Facts: The appellant was apprehended with a narcotic substance and convicted by the courts below. He challenged the conviction on the grounds of delayed transmission of the sample for analysis and the entire investigation having been conducted by the complainant himself.

Issues:

- i) Whether the absence of evidence regarding safe custody or transmission of recovered substance vitiates the conviction?
- ii) Whether investigation by the complainant himself in a case under the Control of Narcotic Substances Act, 1997 violates the accused's right to a fair trial under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973?
- iii) Whether justice can be considered served without eliminating potential bias or predetermined conclusion in laws with severe penalties and reverse burden of proof?
- iv) Whether a complainant-police officer is legally prohibited from investigating a case under the Control of Narcotic Substances Act, 1997?

- v) Whether investigation in criminal cases under the Control of Narcotic Substances Act, 1997 must be free from objectionable features to avoid grievance of unfairness?
- vi) Whether the complainant acting as investigating and raiding officer raises concerns under the principle that no one can be a judge in their own cause?
- vii) Whether the absence of independent corroboration creates a clear risk of false implication when all prosecution witnesses belong to the same police unit?

Analysis:

- i) This Court has consistently maintained that a conviction cannot be recorded in the absence of any evidence regarding the safe custody or safe transmission of the recovered substance or the samples thereof.
- ii) The importance of a fair investigation is a guaranteed constitutional right under Article 10 A of the Constitution of the Islamic Republic of Pakistan 1973. This right is the foundation of a fair trial and necessitates that the complainant and the investigating officer are not the same person, particularly in criminal cases registered under the provisions of the CNS Act, 1997, which carries stringent punishments.(...) in order to protect the accused's fundamental right to a fair trial under Article 10-A of the Constitution, we are of the considered view that a complainant should avoid acting as the Investigating Officer in a criminal case as far as it is practical, in such circumstances where he has acted as the complainant, the reasons shall be made part of the record if prejudice is pleaded by the defense.
- iii) Not only must justice be served, but it must also be appearing to be served. It was necessary to eliminate any potential bias or predetermined conclusion. This requirement is particularly critical in laws that impose severe penalties and reverse the burden of proof.
- iv) We acknowledge that the complainant-police officer is not legally prohibited from conducting an investigation of a case registered under CNSA, 1997. Nevertheless, the investigation may be challenged on the basis of bias or a genuine likelihood of bias on the part of the investigating officer.
- v) The investigation in a criminal offense, particularly under the provisions of the CNS Act, 1997, which carries a reverse burden of proof under section 29, must be free from objectionable features or infirmities that may legitimately lead to a grievance on the part of the accused that the investigation was unfair and carried out with an ulterior motive. In this regard, guidance can also be sought from Chapter 25 of the Police Rules, 1934.
- vi) This raises significant concerns, as it violates the fundamental principle of natural justice that no one can serve as a judge in their own cause. The accused is frequently deprived of a fundamental safeguard, which is the cross-examination of an independent investigator, when the Investigating Officer simultaneously serves as the complainant and raiding officer. This officer is frequently a primary witness for the defense. In *Ashiq alias Kaloo v. The State* (1989 P Cr.LJ 601), the Federal Shariat Court categorically observed that such investigations are inherently prejudiced.

vii) Although police officials may be competent witnesses in their own right, there is a clear risk of false implication when the complainant, investigating officer, and marginal witnesses are all members of the same police unit and are accountable to each other, without independent corroboration, and the accused is already known to them.

- Conclusion:**
- i) Conviction cannot be sustained without proof of safe custody or transmission.
 - ii) Investigation by the complainant in a case under the Control of Narcotic Substances Act, 1997 compromises the right to a fair trial.
 - iii) Justice is not served without eliminating potential bias or predetermined conclusion.
 - iv) A complainant-police officer is not legally barred from investigating a CNS case, but such investigation is open to challenge on grounds of bias.
 - v) Investigation under the Control of Narcotic Substances Act, 1997 must be free from objectionable features to ensure fairness.
 - vi) The complainant acting as investigating and raiding officer raises significant concerns under the principle that no one can be a judge in their own cause.
 - vii) There is a clear risk of false implication when all witnesses belong to the same police unit without independent corroboration.

12. Supreme Court of Pakistan
M/s Commander Agro (Private) Limited v. Customs Appellate Tribunal Bench-I, Lahore etc.
Civil Petition No.110 of 2023
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p._110_2023.pdf

Facts: The primary question involved in this petition is the one as to whether after issuance of show cause notice, the order-in-original was passed within the time contoured by section 179(3) of the Customs Act, 1969.

Issues:

- i) Whether time bound proceeding in terms of sections 179(3) and 179(4) of the Custom Act, 1969 is mandatory?
- ii) Whether after issuance of show cause notice, the order-in-original was passed within the time contoured by section 179(3) of the Customs Act, 1969?

Analysis: i) This time bound proceeding in terms of sections 179(3) and 179(4) is mandatory. The like provisions were adjudged as mandatory in the case of Collector of Sales Tax, Gujranwala and others Vs. Super Asia Mohammad Din and others (2017 SCMR 1427). Judgment then came for its application in another matter that is Wak Limited Vs. Collector Central Excise and Sales Tax reported as 2018 SCMR 1474 which expressed their concern over finding of Super Asia. The matter was then set at rest by larger bench of this Court in the case of Messers Wak Limited Multan Road, Lahore and others Vs. Collector Central Excise and Sales Tax, Lahore and others reported as 2025 SCMR 1280 which confirmed and

upheld the findings of Super Asia case *ibid*, confirming the time bound proceedings as mandatory....

ii) Since, in terms of the above calculation the order was passed much beyond the time limits and even the alleged extension was much beyond the limit prescribed, (as it ought to have been extended, if at all, within the time frame), leaving the decision that is order-in-original as time barred and consequently the proceedings under the aforesaid show cause notice could not continue any more.

Conclusion: i) Time bound proceeding in terms of sections 179(3) and 179(4) is mandatory.
ii) See analysis Para No.ii

13. Supreme Court of Pakistan
Rehmat Ali v. The State
Jail Petition No. 252 of 2020.
Mr. Justice Ali Baqar Najafi, Mr. Justice Muhammad Hashim Khan Kakar
& Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p._252_2020.pdf

Facts: The allegation in the FIR was that the appellant committed rape with his minor daughter. The appellant was tried and convicted under section 376(1) PPC by the trial court. He filed an appeal before the High Court but his conviction was maintained. Then he filed this jail petition before the Supreme Court of Pakistan.

Issues: i) What is authenticity of statement of a minor victim without certification of court as to test of her capacity to testify?
 ii) What is the effect if the time and date of occurrence is not narrated by the star witness in serious offences?
 iii) What is the value of testimony of child witness when the Rationality test is not conducted by the court?

Analysis: i) The statement of victim recorded without certification of the Presiding Officer about the capacity of the child creates doubt about her credibility and, therefore, requires strong corroboration.
 ii) According to the complainant (PW-1) no time and date of occurrence was narrated by the victim. Whenever a serious allegation of being an incestuous father is levelled higher standard of proof by the credible prosecution witnesses is required. A rare allegation of one of the most serious offences committed in the presence of other children and old father of the convict in the house had been levelled.
 iii) We have also noticed that the trial court had also not put the Rationality Test to the child witness (PW-3) prior to recording of her statement. Under Article 3 of the Qanun-e-Shahadat Order, 1984, a child is a competent witness if he/she passes a standard of the sufficient maturity of understanding about the facts which were to be narrated by her. A note/observation by the court, based on the relevant questions and their answers would make such statement credible. In the given situation the statement of victim (pw-3) needs strong corroboration. In the present

case the complainant (PW-1) and her brother (PW-2) are not the eye witnesses but are the hearsay witnesses, thus it was unseen occurrence.

- Conclusion:**
- i) Statement of a minor victim without certification of court creates doubt.
 - ii) See above analysis No.ii.
 - iii) See above analysis No.iii

14. Supreme Court of Pakistan
Muhammad Zaffar Khan and another v. Syed Shumaila Zaidi and others
Civil Appeal No. 209 of 2025 & CMA No.2936 of 2025
Mr. Justice Shahid Waheed, Ms. Justice Musarrat Hilali, Mr. Justice Ali Baqar Najafi.
https://www.supremecourt.gov.pk/downloads_judgements/c.a._209_2025.pdf

Facts: Brief facts are that a civil suit was also filed by the petitioners seeking enforcement of the alleged sale agreement and related reliefs. The legality of the transaction was contested, particularly in light of the termination of the GPA upon Salma Sultana's death and the alleged coercion in executing the mutation. Altaf Hussain, predecessor of Respondents No.1 to 6, was allegedly tortured while in police custody and coerced into executing a contract/mutation in favor of the petitioners concerning a property. An FIR was registered at Police Station Industrial Area, Quetta under Sections 406, 417, 419, 420, 424, 109, 465, 468, 471, 34, 504, 506 PPC, alleging fraud, forgery, and criminal breach of trust against Talib Hussain and Respondents No.4 and 5. Altaf Hussain was arrested on 02.12.2015 in Islamabad and brought to Quetta, where he was granted bail on 07.12.2015, and was acquitted under Section 249-A Cr.P.C. by the Magistrate, Quetta on 16.05.2015. Further, it was alleged that during police pressure, female family members were forced to produce the expired power of attorney, which was used to validate transactions before the Assistant Collector Grade-I, Quetta and authenticated by a Notary Public. Through this appeal under Article 185(2)(d) of the Constitution of Islamic Republic of Pakistan, 1973, the impugned judgment has been challenged whereby the learned Single Judge had reversed the findings given by both Civil Court/trial court as well as Additional District Judge/Appellate.

- Issue:**
- i) What is the legal value of an agreement executed bay one of the parties under police custody?
 - ii) What are the elements of a legally binding agreement?
 - iii) What is the difference between undue influence and coercion in contract law, and how are these two elements connected or related to each other?"
 - iv) "What is duress in contract law, and why does its presence render an agreement unenforceable or voidable?"
 - v) Under contract law, what legal provisions define free consent, and in what circumstances does the absence of free consent render an agreement void or voidable?"

- Analysis:**
- i) Under the law a transaction or an agreement executed under custody or detention could potentially be considered as having been made under coercion, duress or undue influence, if the free consent is not given or the expressed will was the outcome of such circumstances. A person in custody or detention may be particularly vulnerable to coercion or duress as his freedom or liability to resist is severely limited. A person under the custody of the law enforcement agencies having control over the situation if enters into an agreement against best interest has an option to avoid it hence can be challenged in the court as voidable.
 - ii) A legally binding contract requires several elements i.e. an offer, acceptance of that offer, consideration, the parties having legal capacity to contract but not for an unlawful purpose, surely with a free consent (meeting of the minds or consensus ad idem). If the consent is procured by coercion, undue influence, fraud, misrepresentation or mistake, the consent is not free.
 - iii) An undue influence is a demonstration of controlling the will of the other party because of the prevailing situation of the main party. While coercion is an act of enforcing a will but the undue influence or duress is the consequence of coercion. A contract procured under duress by one party over the other is void and any benefit received therefrom must be restored and the loss be made good to such party.
 - iv) Duress in its more extended sense means that the degree of constraint or danger either actually inflicted or threatened which creates sufficient insecurity or an apprehension to overcome the mind and will of a person of ordinary fairness. It does not necessarily imply that the means used should be in themselves unlawful, but includes the use of lawful means in an unlawful manner or for an improper purpose. A duress by imprisonment, both lawful or unlawful, to force the party into executing a contract is illegal.
 - v) The contract would be deemed void under section 2(g) of the Contract Act, 1872 since it lacked consent as defined under section 13 of the Act and free consent under section 14 of the Act *ibid*.

- Conclusion:**
- i) A person under the custody of the law enforcement agencies having control over the situation if enters into an agreement against best interest has an option to avoid it hence can be challenged in the court as voidable.
 - ii) See above analysis No. ii.
 - iii) See above analysis No. iii.
 - iv) Duress in its more extended sense means that the degree of constraint or danger either actually inflicted or threatened which creates sufficient insecurity or an apprehension to overcome the mind and will of a person of ordinary fairness.
 - v) See above analysis No. v.
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15. **Supreme Court of Pakistan**
Khurram Javed and another v. Ahmed Bilal and others
CPLA No.2788 of 2022
The Hon'ble Chief Justice Mr. Justice Yahya Afridi, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2788 2022.pdf

Facts: The Guardian Court dismissed the application u/s 25 of the Guardian and Wards At, 1890 of the respondent, resulting in the minor's custody to remain with her maternal grandmother/petitioner. The appeal also remained unsuccessful but the High Court allowed the writ petition by setting aside the judgments of courts below.

Issues: i) What obligation is cast upon the local judicial authorities, by the International Laws?
 ii) What is the importance of 'Mediation' in justice system?

Analysis: i) Article 3 of the United Nations Convention on the Rights of the Child (ratified by Pakistan on 12.11.1990) which obliges courts to act in the best interests of children. The General Comment No. 14 (2013) adopted by the Committee on The Rights of the Children at its 62nd session, stresses that this principle is not passive - it demands that judicial authorities facilitate participatory, child-sensitive mechanism including mediation.
 ii) The mediation in this case was a compassionate effort to shift the narrative from adversarial contestation to mutual understanding. The outcome of the mediation process in this case stands as a re-affirmation that this form of an alternative dispute resolution mechanism is a pathway to substantive justice. It is also a testament to the fact that the emotional wellbeing of a minor cannot be preserved through litigation alone.

Conclusion: i) Article 3 of the United Nations Convention on the Rights of the Child obliges courts to act in the best interests of children. It demands that judicial authorities facilitate participatory, child-sensitive mechanism including mediation.
 ii) The mediation is a compassionate effort to shift the narrative from adversarial contestation to mutual understanding; it's a pathway to substantive justice. The emotional wellbeing of a minor cannot be preserved through litigation alone.

16. **Supreme Court of Pakistan**
Qaiser Jabbar v. Syed Mati Ullah Shah and others
Crl.P.L.A. No. 1121 of 2021
Mr. Justice Jamal Khan Mandokhail, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 1121 2021 020 62025.pdf

Facts: Through the instant petition, the petitioner, assails judgment passed by the Islamabad High Court, whereby criminal revision filed by the petitioner under

sections 435 and 439 of the Code of Criminal Procedure, 1898 against the order passed by the court of the Additional Sessions dismissed. The court of the Additional Sessions Judge had dismissed the petitioner's complaint filed under sections 3 and 4 of the Illegal Dispossession Act, 2005. The said complaint was dismissed as not maintainable.

- Issues:**
- i) What is remedial scope of Illegal Dispossession Act, 2005?
 - ii) What are the conditions required to be fulfilled to attract the provisions of section 3 of the Illegal Dispossession Act, 2005?
 - iii) Whether mere pendency of civil litigation does not per se oust the jurisdiction of the criminal court nor does it render a criminal complaint under the 2005 Act non-maintainable?

- Analysis:**
- i) The 2005 Act is a remedial statute enacted for safeguarding lawful owners and occupiers against unlawful and often violent encroachments. The jurisdiction of the sessions court under the 2005 Act is not to be exercised for adjudicating complex questions of civil title but rather to assess, on the basis of available material. Whether a case of illegal dispossession is made out. The broad remedial scope of the 2005 Act, as judicially interpreted, ensures that the victims of such encroachments are provided with a swift, independent, and substantial legal remedy distinct from ordinary civil processes.
 - ii) The High Court appears to have been cognizant of the manner in which a complaint under the provisions of the 2005 Act is to be dealt with by the trial court. We say so because reference in the impugned judgment is also made to the case of *Mumtaz Hussain vs. Dr. Nasir Khan* (2010 SCMR 1254), wherein the following four conditions have been required to be fulfilled in order to attract the provisions of section 3 of the 2005 Act.

Firstly, the court is required to examine as to whether the property was an immovable property;

Secondly, that the person was the owner of the property or the property was in his lawful possession;

Thirdly, that the accused entered into or upon the property unlawfully; and

Fourthly, that such entry was with the intention to dispossess i.e. oust, evict or drive out of possession against the will of the person in actual possession of the property.

- iii) As regards the ground of the contesting parties being in litigation with each other, this by itself cannot be a valid ground for the trial court not to determine as to whether in fact the act of dispossession had taken place. In the case of *Muhammad Naseem vs. Fareeda Gul* (2016 SCMR 1931) this court has held inter alia that where an act constitutes both a civil wrong under civil law and an offence punishable under the 2005 Act, the perpetrator may be subjected to both sets of proceedings concurrently as each operates within its distinct legal domain. The said judgment further underscores that no person can be permitted to take the law into his own hands by unlawfully dispossessing the lawful owner or occupier of

an immovable property, and thereafter seek to defeat or frustrate criminal prosecution under the 2005 Act on the sole pretext that civil litigation pertaining to the same subject matter is pending adjudication before a competent forum...This principle was further reinforced in the case of Abdul Maheed vs. The State (2017 SCMR 390), wherein this court clarified that mere pendency of civil litigation does not per se oust the jurisdiction of the criminal court nor does it render a criminal complaint under the 2005 Act non-maintainable. The court reaffirmed that criminal liability must be adjudged on its own merits, and civil proceedings cannot be used as a shield to defeat criminal accountability in cases of illegal dispossession...A complaint filed under the provisions of the 2005 Act is maintainable even where civil proceedings between the parties are ongoing. The dual-trace nature of civil and criminal liabilities permits both to proceed independently and simultaneously. Any summary dismissal of a criminal complaint solely on the ground of the existence of a pending civil dispute is legally untenable and contrary to the settled jurisdiction, unless the trial court comes to the conclusion that the complainant is abusing the process of the law or the filing of the complaint is a nefarious design to convert a civil dispute into a criminal one.

- Conclusion:** i) See analysis Para No.i.
 ii) See analysis Para No.
 iii) Mere pendency of civil litigation does not per se oust the jurisdiction of the criminal court nor does it render a criminal complaint under the 2005 Act non-maintainable.

17. Lahore High Court
Nasira Ashfaq v. Director General Safe Cities Authority and others
Writ Petition No.78006/2023
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2024LHC6602.pdf>

Facts: Respondent No.6 lodged a criminal case against the petitioner's husband under Section 9(c) of the Control of Narcotic Substances Act, 1997 (CNSA). Acting on source information, he arrested him and seized 1,460 grams of charas from his possession. The investigation was assigned to Respondent No.7, who produced the arrestee before the Area Magistrate the following afternoon, who remanded him to judicial custody. The Petitioner lodged a cross-version alleging that her husband was abducted by unknown persons, including two in police uniforms, from her parents' house. Despite calling the police emergency helpline '15', no assistance arrived. She later received threatening calls from her husband's cell phone, including a ransom demand allegedly made by Respondent No.6. Unable to pay, her husband was framed in a narcotics case. The Petitioner claims to have recordings of these calls and filed applications with senior police officers and Respondents No.1 & 2 for CCTV footage and call data records, but her requests were declined. She then filed an application under sections 22-A & 22-B Cr.P.C.

before the Ex-officio Justice of Peace, seeking directions for Respondents No.1 & 2 to provide the evidence and for Respondent No.7 to incorporate it into the investigation. The application was dismissed on the ground that it would amount to interference in the investigation of criminal case. Hence, the instant petition repeats the same prayer.

Issues:

- i) Is the right to information recognized and protected under international human rights jurisprudence?
- ii) How is the right to information vital to the effective functioning of democratic societies?
- iii) What is the purpose of the right to information in empowering individuals to access information held by public authorities?
- iv) Is the right to information addressed in any provision of the Universal Declaration of Human Rights (UDHR), adopted in 1948?
- v) Article 19 of UDHR serves as the foundation for which fundamental right?
- vi) Is there another international human rights law that reinforces the right to information and emphasizes the significance of freedom of expression?
- vii) Apart from the UDHR and the International Covenant on Civil and Political Rights (ICCPR), which regional human rights instruments contain provisions related to the right to information?
- viii) In what ways is the United Nations (UN) actively promoting the right to information?
- ix) Is the right to information absolute? If not, why?
- x) Does the Constitution of the Islamic Republic of Pakistan, 1973, recognize the right to freedom of speech and expression?
- xi) Which constitutional amendment introduced Article 19A, granting the independent fundamental right of access to information?
- xii) What are the landmark judgments of the Supreme Court of Pakistan in which Article 19A of the Constitution was interpreted regarding its enforceability for citizens and the imposition of restrictions on state functionaries in matters of public importance?
- xiii) Which two factors limit the absoluteness of the right to information granted under Article 19A of the Constitution?
- xiv) In the absence of a definition, what is the meaning of the expression 'public importance' as used in Article 19A?
- xv) "What is the meaning of 'reasonable restriction' as specified in Article 19A?
- xvi) What are the legislative extensions of the Punjab Transparency and Right to Information Act 2013 and the Right of Access to Information Act 2017?
- xvii) Under which enactment, the Punjab Safe Cities Authority was established, and what was the purpose of its establishment?
- xviii) What is the legal basis for the Punjab Safe Cities Authority to frame the PSCA Electronic Data Regulations 2016 (EDR-16)?
- xix) What does Regulation 3(2) of EDR-16 state?
- xx) What does Regulation 2(1)(d) of EDR-16 explain?
- xxi) To whom can data can be provides in light of Regulation 9(1) of EDR-16?

- xxii) What are the officially assigned purposes for the use of PSCA's data?
- xxiii) What is the period of data preservation according to Regulation 3(3)?
- xxiv) What is the purpose served by the PSCA Act of 2016, EDR-16, and the SOPs?
- xxv) Are the PSCA Act of 2016, EDR-16, and the SOPs restrictive in allowing the PSCA to share data with either the accused or the complainant in a criminal proceeding?
- xxvi) Which entities are permitted to collect data, and what are the intended purposes for its collection?
- xxvii) "What are the respective scopes of the Information Act of 2013 and the PSCA Act of 2016, and which statute holds precedence over the other?"
- xxviii) Are provincial bodies subject to legal restrictions regarding the disclosure of information?
- xxix) "How do Paul B. Weston et al. characterize criminal investigation in *"Criminal Investigation: Basic Perspectives"*?"
- xxx) Which constitutional provisions safeguard the right to equal legal treatment, protection under the law, and a fair trial?
- xxxi) What is the statutory definition of 'investigation' under Section 4(l) of the Criminal Procedure Code, and what aspects does it encompass?
- xxxii) In what manner have the 'investigative process' and the concept of 'fair and proper investigation' been propounded by the Supreme Court of India in its judgments?
- xxxiii) What obligation is placed upon the Investigating Officer under Rule 25.2(3) of the Police Rules, 1934?
- xxxiv) What principles regarding the conduct of investigation were laid down by the Supreme Court in the case of Mst. Sughran Bibi v. The State (PLD 2018 SC 595)?
- xxxv) What remedies are available to a person who is dissatisfied with the investigation of a case under the Police Order, 2002?
- xxxvi) What is the redressal mechanism available to an aggrieved of investigation under the Criminal Procedure Code?
- xxxvii) What is the role of an Ex-officio Justice of Peace in helping an individual aggrieved by police conduct?
- xxxviii) What are the fundamental principles embodied in Sections 36 and 37 of the Code of Criminal Procedure?
- xxxix) What insights does the review of the Third Schedule provide?
- xl) Whether the doctrine—that when an authority is granted the power to do something, it also includes all incidental or implied powers necessary to ensure its proper execution—extends to the power to investigate non-cognizable offences under Section 155(2) of the Cr.P.C., and encompasses all ancillary powers required for a proper investigation?
- xli) Under what circumstances may a Magistrate intervene in an investigation, and what responsibilities must he fulfil in doing so?

- xlii) In what context has the Supreme Court of India highlighted the scope of Section 156(3) of the Code of Criminal Procedure, 1973, which mirrors Section 156(3) of the Code of Criminal Procedure applicable in Pakistan?
- xliii) What do the words 'whenever' and 'thing' used in Section 94 of the Code of Criminal Procedure indicate?
- xliv) Whether an accused can request the court, prior to the commencement of trial, to order the production of documents not covered under Section 265-C of the Code of Criminal Procedure and whether such a request can be made before presenting a defence, notwithstanding the provisions of Section 265-F(7) of the Code of Criminal Procedure?
- xlv) In what way do both provisions i.e. Sections 156(3) and 94(1) of the Code of Criminal Procedure play crucial roles within the legal framework?
- xlvi) What is the nature, scope, and accessibility of the redressal mechanisms for complaints regarding unsatisfactory police investigations, as provided under the Police Order 2002 and Sections 22-A(6), 551, 155(2), 156(3), and 94 of the Code of Criminal Procedure?
- xlvii) How does the Supreme Court of India view human rights and due process in criminal trials?
- xlviii) How does the High Court enforce fundamental rights?
- xlix) Does the High Court have jurisdiction to supervise the investigation of a criminal case or to control the agency conducting it? If so, under what circumstances?
- l) What are the determining factors for exercise of jurisdiction of High Court?

Analysis:

- i) The “right to information” is a fundamental human right recognized and protected by international human rights jurisprudence.
- ii) This right is often considered essential for the functioning of democratic societies and is closely linked to the principles of transparency, accountability, and the right to freedom of expression.
- iii) The right to information empowers individuals to access information held by public authorities, fostering informed decision-making and civic engagement and preventing corruption.
- iv) The Universal Declaration of Human Rights (UDHR), adopted in 1948, enshrines the right to information in Article 19, which states: “Everyone has the right to freedom of opinion and expression; this right includes freedom to seek, receive and impart information and ideas through any media and regardless of frontiers.”
- v) This provision lays the foundation for the right to information as an integral component of freedom of expression.
- vi) The International Covenant on Civil and Political Rights (ICCPR), another cornerstone of international human rights law, reinforces the right to information in Article 19. It echoes the sentiments expressed in the UDHR, emphasizing the significance of freedom of expression and recognizing the pivotal role of access to information.

- vii) Additionally, regional human rights instruments, such as the European Convention on Human Rights (ECHR) and the American Convention on Human Rights, incorporate provisions related to the right to information. For example, Article 10.1 of the ECHR states: “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”
- viii) On a global scale, the United Nations (U.N.) has been actively promoting the right to information. The U.N. General Assembly, in its Resolution 59/1, recognized that “freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated.” The U.N. also designated September 28 as the International Day for Universal Access to Information to emphasize the importance of this right.
- ix) The right to information is, however, not absolute. Legal provisions often allow for restrictions, particularly in national security, public order and safety, personal privacy, commercial interests, law enforcement, State secrets, intellectual property rights, and the prevention of hate speech and defamation. The challenge lies in balancing the right to access information and other societal interests. International human rights instruments stress that any restrictions should be prescribed by law, necessary, proportionate, and serve legitimate objectives.
- x) In Pakistan, Article 19 of the Constitution of 1973 guarantees every citizen the “freedom of speech and expression”.
- xi) In 2010, Article 19A was introduced into Part-II Chapter-I of the Constitution through the Constitution (Eighteenth Amendment) Act 2010. This Amendment established the right to access information as an independent fundamental right in matters of public importance.
- xii) In Watan Party and others v. Federation of Pakistan and others (PLD 2012 SC 292), the Supreme Court of Pakistan underscored the transformative impact of Article 19A in empowering citizens. It stated that this constitutional provision elevates access to information from a discretionary grant by the State to an enforceable right for the people. Article 19 has enabled every citizen to break free from the dominance of power centres that previously controlled information on matters of public importance. Additionally, the Supreme Court highlighted that this constitutional provision shields citizens from dependence on external sources or leaks for vital information, thus reinforcing the pillars of responsible and accountable governance as envisaged in the constitutional framework (...) In Justice Qazi Faez Isa and others v. President of Pakistan and others (PLD 2023 SC 661), the Supreme Court highlighted that Article 19A of the Constitution is framed in “positive” terms, which signifies that it grants citizens the proactive right to access information. It restricts the State from withholding information on matters of public importance and mandates it to take active measures to ensure citizens’ access to such information. The Supreme Court recognized that the State functions through its various organs – the Legislature, the Executive, and the

Judiciary – and stressed that the responsibility to uphold the fundamental right outlined in Article 19A rests on all these branches.

xiii) The right to information granted under Article 19A of the Constitution is not absolute. It is subject to two things: (a) it is restricted to matters of public importance, and (b) it is subject to regulation and reasonable restrictions imposed by law.

xiv) In the *Province of Punjab v. Qaisar Iqbal and others* (PLD 2018 Lahore 198), a Full Bench of this Court noted that Article 19A of the Constitution does not define the expression “public importance”. Therefore, it adopted its dictionary meaning according to which it means “question which affects and has its repercussions on the public-at-large, and it also includes the purpose and aim in which the general interest of the community, particularly the interest of individual, is directly or widely concerned.” In *Justice Qazi Faez Isa and others v. President of Pakistan and others* (PLD 2023 SC 661), the Supreme Court elucidated the phrase “matters of public importance” occurring in Article 19A in light of the jurisprudence developed in respect of Articles 184(3), 186(1) and 212(3) of the Constitution, which employ similar terminology. The Supreme Court stated:

“Therefore, as per the judicial definition, the expression ‘matters of public importance’ used in Article 19A means the matters that pertain to and affect the public at large, a whole community, and not an individual or a small group of individuals. In other words, it includes the matters in which the general interest of a whole community, as opposed to the particular interest of individuals, is directly and vitally concerned. The adjective ‘public’ necessarily implies a matter relating to the people at large, the nation, the State or a community as a whole. If a matter in which only a particular individual or group of individuals is interested, and the people at large or an entire community have no interest, that cannot be treated as a matter of public importance.”

xv) The second vital condition specified in Article 19A of the Constitution is that the right to information is subject to regulation and reasonable restrictions imposed by law. In *Pakistan Broadcasters Association and others v. Pakistan Electronic Media Regulatory Authority and others* (PLD 2016 SC 692), the Supreme Court defined the expression “reasonable restriction” as follows:

“It is certainly not easy to define ‘reasonableness’ with precision. It is neither possible nor advisable to prescribe any abstract standard of universal application of reasonableness. However, factors such as the nature of the right infringed, the duration and extent of the restriction, the causes and circumstances prompting the restriction, and the manner as well as the purpose for which the restrictions are imposed, are to be considered. The extent of the malice sought to be prevented and/or remedied, and the disproportion of the restriction may also be examined in the context of reasonableness or otherwise of the imposition. It needs to be kept in mind that ‘reasonable’ implies intelligent care and deliberation,

that is, the choice of course that reason dictates. For an action to be qualified as reasonable, it must also be just right and fair, and should neither be arbitrary nor fanciful or oppressive.”

xvi) The Punjab Transparency and Right to Information Act 2013 (the “Information Act”) seeks to actualize the right to information guaranteed by Article 19A of the Constitution to the extent of the provincial bodies mentioned in clause (h) of section 2 of the Act. This legislation extends to the whole of the Punjab. On the other hand, Parliament has enacted the Right to Access to Information Act, 2017, which applies to all public bodies of the Federal Government.

xvii) The Punjab Assembly has also enacted Act I of 2016. The Punjab Safe Cities Authority was established under Act I of 2016 (the “PSCA Act”) for the construction, development and maintenance of an integrated command, control and communication (IC3) system for police in major cities of the province for public safety through the use of modern technology, infrastructure and processes.

xviii) In exercise of the powers conferred on it under section 19 of the PSCA Act of 2016, the Authority has framed PSCA Electronic Data Regulations 2016 (“EDR-16”), which cover the whole process of collection, analysis, storage, presentation and use of the electronic data. These are supplemented by the Standard Operating Procedures (SOPs) for PPIC 3 Centre, Lahore

xix) Regulation 3(2) of EDR-16 states that, through the IC3 Project, a quantum of electronic data within the range of ancillary facility is generated (a) to help the prosecution in criminal cases, crime detection, investigating, inquiry or trial; and (b) to be used as an authentic piece of evidence in any investigation, inquiry, or trial; and (c) to maintain law and order.

xx) Regulation 2(1)(d) explains that “ ‘electronic data’ means any probative data or information in the form of videos/audio/picture, stored or transmitted in electronic format or on electronic media duly collected, recorded, generated or extracted through the ancillary facilities/equipment installed under the [PSCA] Act.”

xxi) Regulation 9(1) stipulates that the PSCA shall only provide the data it collects to the Investigating Officers, law enforcement agencies (LEAs), courts, tribunals or any other authorized person for investigation, inquiry or trial as evidence.

xxii) It follows that the PSCA’s data can be used for certain specific purposes only, i.e. for matters under inquiry, investigation or trial. Most importantly, under EDR-16, no person, institution or office other than those mentioned above can apply for and obtain any data from the Authority. EDR-16 prescribes a special form for electronic data requests (EDR Form), which means that a request to provide electronic data in any other mode is not entertainable.³

xxiii) According to Regulation 3(3) the electronic data generated through the IC3 facility shall be preserved and made available: (a) in the PSCA’s Data Centre for 30 days except otherwise required by the PSCA; (b) for two months after it is

stored in electronic data storage device [(defined in Regulation 2(1)(h)]; (c) upto seven years on instructions of the PSCA.

xxiv) The PSCA Act of 2016, EDR-16, and the SOPs serve as regulatory framework for the PSCA to share the information it gathers.

xxv) Notably, they do not prohibit the PSCA from sharing with the accused or the complainant party in a criminal case. Instead, they only establish procedural protocols and streamline the process to ensure that access is granted in a manner that prevents misuse and does not impede ongoing investigations.

xxvi) Only investigating officers, LEAs, courts, tribunals, or other authorized persons may collect specific data for a particular purpose in matters under inquiry or investigation or cases pending adjudication.

xxvii) The Information Act of 2013 is not a general law and both it and the PSCA Act of 2016 are special laws, the latter would take precedence as it was enacted subsequently. There is no clause in either statute giving it an overriding effect.

xxviii) It is noteworthy that section 13(1) of the Information Act of 2013 places certain restrictions on the disclosure of information by the provincial bodies. According to clause (f) of section 13(1), information required by an individual may be refused if deemed necessary for the administration of justice.

xxix) According to Paul B. Weston *et al.*, “criminal investigation is a lawful search for people and things useful in reconstructing the circumstances of an illegal act or omission and the mental state accompanying it. It is probing from the known to the unknown, backward in time, and its goal is to determine the truth as far as it can be discovered in any post-factum inquiry.”

xxx) Article 4 of the Constitution states that enjoying the protection of the law and being treated in accordance with the law is the inalienable right of every citizen, wherever he may be, and of every other person currently within Pakistan. Article 10A guarantees the right to a fair trial. Fair investigation is concomitant with this right. It is also recognized as essential to the right to life and personal liberty. It is a minimum requirement of the rule of law and necessary to ensure the integrity of the criminal justice system.

xxxi) Section 4(l) Cr.P.C. gives a statutory definition of the term “investigation”, stating that it encompasses all the proceedings under the Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) whom a Magistrate authorizes for this purpose.

xxxii) In Kailash Vijayvargiya v. Rajlakshmi Chaudhuri (2023), the Supreme Court of India noted the investigative process under the Code generally consists of the following steps: (a) proceeding to the scene of the incident; (b) establishing the facts and circumstances surrounding the case; (c) identifying and apprehending the suspected offender; (d) collecting evidence relevant to the alleged offence, which may involve examination of various persons, including the accused, and documenting their statements if deemed necessary by the investigating officer; (e) conducting searches at relevant locations and seizing items deemed necessary for the investigation and potential trial; and (f) forming an opinion based on the collected evidence as to whether there are sufficient

grounds to bring the accused before the Magistrate for trial, and if so, taking the necessary steps such as filing a report under section 173 Cr.P.C (...) In Vinay Tyagi v. Irshad Ali alias Deepak and others [(2013) 5 SCC 762], the Supreme Court of India explained that in criminal jurisprudence, the expression “fair and proper investigation” connotes two things: firstly, the investigation should be honest, unbiased and in accordance with law, and secondly, the entire emphasis should be to dig out the truth and bring it before the court of justice.

xxxiii) Rule 25.2(3) of the Police Rules, 1934, embodies this principle. It states that it is the duty of an investigating officer to find out the truth of the matter under investigation. His objective shall be to discover the actual facts of the case and arrest the real offender or offenders. He must not prematurely commit to any view of the facts for or against anyone.

xxxiv) In Mst. Sughran Bibi v. The State (PLD 2018 SC 595), the Supreme Court of Pakistan emphasized that investigations must not be confined solely to the narrative presented in the FIR or the allegations contained therein. The Investigating Officer should not feel obligated to validate the accuracy of the incident as described in the FIR and should not allow the contents of the FIR to influence his judgment or control his actions. If the information received by the local police about the commission of a cognizable offence also contained a version as to how the relevant offence was committed, by whom it was committed, and in which background it was committed, then that version of the incident was only the version of the informant and nothing more. The Investigating Officer should not unreservedly accept such a version as the truth or the whole truth. Instead, following the registration of the FIR, he should conduct an impartial inquiry to ascertain the facts of the matter, gathering information from various sources and arriving at their own conclusions. The final report submitted under section 173 Cr.P.C. should reflect the Investigating Officer’s independent opinion, uninfluenced by the statements or allegations made in the FIR.

xxxv) The Police Order 2002 provides various remedies for the individual dissatisfied with the investigation of a case. Firstly, under Article 18(9), he can approach the supervisory officer charged with the duty to ensure timely completion and verification of the investigation. The said officer may summon the investigation officer, review the case file, evaluate the evidence, and issue instructions to the investigation officer in the form of a case diary. Article 18(10) provides that a supervisory officer not below the rank of a Deputy Superintendent of Police may verify the correctness of the investigation and the accuracy of the conclusions of the investigation by writing a case diary before submitting a report to the court. Secondly, the aggrieved person can seek the transfer of the investigation for which Article 18-A provides a complete mechanism. Thirdly, he can file a complaint to the Provincial Police Complaints Authority under Article 106. The PPCA is an independent body that oversees the performance and accountability of the police. It can inquire into the complaint and direct the

investigating officer to take appropriate action or refer the matter to the competent authority for disciplinary or criminal action against him.

xxxvi) An individual dissatisfied with the investigation may also invoke section 551 Cr.P.C., which reads as follows:

551. Powers of superior officers of police. – Police officers superior in rank to an officer in-charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

xxxvii) An Ex-officio Justice of Peace can also be helpful to an individual aggrieved by police conduct. Clause (iii) of section 22-A (6) Cr.P.C. empowers him to issue appropriate directions to the concerned police authorities on a complaint regarding neglect, failure, or excess committed by a police officer concerning his functions and duties. However, it is crucial to note that this provision is limited in scope. In *Khizer Hayat and others v. Inspector General of Police (Punjab), Lahore and others* (PLD 2005 Lahore 470), a Full Bench of this Court ruled that the directives of the Ex-officio Justice of Peace under section 22-A Cr.P.C. must conform strictly to the relevant legal framework. He must not usurp the powers of other authorities and address grievances directly. Nevertheless, there is an exception to this principle in cases where a clear legal obligation mandates a specific action by a police officer. In such instances, the Ex-officio Justice of the Peace may issue directives to ensure compliance with legal obligations. The Court further stated that the role of an Ex-officio Justice of Peace under section 22-A(6) Cr.P.C. is primarily that of a facilitator and mediator between complainants and the relevant police authorities. Effective communication and cooperation are essential for addressing grievances under this jurisdiction.

xxxviii) Section 36 Cr.P.C. stipulates that all Magistrates have the powers specified in the Third Schedule. Such powers are called the “ordinary powers”. Section 37 further provides that, upon the High Court’s recommendation, the Provincial Government may empower any Magistrate with additional powers listed in the Fourth Schedule alongside their ordinary powers.

xxxix) A review of the Third Schedule reveals that Magistrates of the First and Second Classes have the ordinary power under section 155(2) Cr.P.C. to direct the police to investigate cases involving non-cognizable offences where they have the jurisdiction to try or send to the Court of Session or the High Court for trial.

xl) It is well-settled that when a power is given to an authority to do something, it includes such incidental or implied powers that would ensure the proper doing of that thing. In other words, when the statute expressly grants any power, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Therefore, the aforementioned power to order the police to investigate cases involving non-cognizable offences under section 155(2) Cr.P.C. includes all such incidental powers essential to ensure a proper investigation.

xli) Section 156 Cr.P.C. deals with the investigation of cognizable offences, and its sub-section (3) plays a vital role in maintaining the rule of law. It empowers Magistrates to intervene when the police fail to address complaints or information concerning cognizable offences and ensures that they are investigated fairly, impartially, and thoroughly.

xlii) In Mohd. Yousuf v. Smt. Afaq Jahan & another (AIR 2006 SC 705), the Supreme Court of India analyzed the scope of section 156(3) of India's Code of Criminal Procedure of 1973, which mirrors section 156(3) of our Code. It stated that while section 156(1) allows an officer in charge of a police station to investigate any cognizable offence without a Magistrate's order, section 156(3) empowers a Magistrate to intervene if needed. The Supreme Court highlighted that although the investigations under section 156(3) also end up with a report under section 173 – the same outcome as police-initiated investigations – the significant point is that investigations under section 156(3) occur before the Magistrate takes cognizance of the offence. Thus, it offers a pre-cognizance check on the police. The Supreme Court further stated that the investigation under section 156(3) is distinguishable from the one under section 202 of the Indian Code.¹¹ The latter is limited in scope and is only to help the Magistrate decide whether to proceed further with the complaint.⁴⁰ In Sakiri Vasu vs State of U.P. and others (AIR 2008 SC 907), the Indian Supreme Court ruled that section 156(3) provides for a check by a Magistrate on the police. If he finds that they have not done their duty of investigating the case at all, or have not done it satisfactorily, he can issue necessary directives to ensure its thoroughness. The Supreme Court said: "Section 156(3) Cr.P.C., though briefly worded, is very wide and will include all such incidental powers as necessary for ensuring a proper investigation." It further stated that the Magistrate can also monitor the investigation under this provision. ⁴¹ In M. Subramaniam v. Janki (AIR Online 2020 SC 387), the Indian Supreme Court reaffirmed the above view, clarifying that although the Magistrate is empowered to monitor the progress of the investigation, he is not authorized to conduct the investigation himself because this responsibility lies with the police. Citing State of Bihar and another v. J.A.C. Saldanha and others (AIR 1980 SC 326), it stated:

"17. In our opinion section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

"18. It is well settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant,

even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus, where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary for its execution.”

xliii) Here, I must also refer to section 94(1) Cr.P.C. It stipulates that whenever any court, or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for any investigation, inquiry, trial or other proceeding under the Code before it, such court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order. The words “whenever” and “thing” in section 94 Cr.P.C. are significant. “Whenever” indicates that a court can exercise the power to require the production of any document or other thing at any stage during an inquiry or trial. The only condition is that it must be necessary or desirable for the proceedings (...) In *Shakeel Akhtar v. The State etc.* (2023 LHC 7704), this Court determined that the word “thing” in section 94 Cr.P.C. should be broadly construed to encompass anything relevant to the offence, the production of which would promote the cause of justice

xliv) In *The State v. Chaudhry Muhammad Usman* (2023 SCMR 1676), the Supreme Court of Pakistan addressed two questions: (i) whether an accused can request the court, before the commencement of trial, to order the production of documents not covered under section 265-C Cr.P.C., and (ii) whether an accused can make such a request before presenting a defence, despite the existence of section 265-F(7) Cr.P.C., which provides that, after entering on his defence, an accused can apply to the trial court to issue any process for compelling the production of any document. The Supreme Court answered both questions in the affirmative. It ruled that any party may apply to the court for an order under section 94 Cr.P.C. and the court would allow its request if the condition mentioned above is satisfied. It clarified that section 265-F(7) does not control or limit the power of a court under section 94(1). “The provisions of these two sections differ from each other in their extent and scope. They are not opposed to each other. Section 94(1) affords both the parties to an inquiry or trial (not to the accused alone) the opportunity of causing the production of any document at any stage of such inquiry or trial, with the condition that the party applying for it must satisfy the court that the production of the required document is necessary or desirable for the purposes of the inquiry or trial. Section 265-F(7), on the other hand, only gives the accused another similar opportunity at the stage of his defence subject to a lesser condition, which is that his application should not be for the purpose of vexation or delay or defeating the ends of justice.”

xlv) Sections 156(3) and 94(1) of the Code play crucial roles within the legal framework, contributing to the fair and effective administration of justice. Nevertheless, they serve different purposes. Section 156(3) empowers Magistrates to intervene when the police do not adequately address complaints or information

regarding cognizable offences. It allows Magistrates to direct the police to investigate the alleged offence properly. In contrast, section 94(1) deals with the production of documents and evidence during legal proceedings (including investigation, inquiry, trial or other proceedings under the Code).

xlvi) In summary, the Police Order 2002 and sections 22-A(6), 551, 155(2), 156(3), and 94 of the Code effectively address complaints regarding an unsatisfactory police investigation. These remedies are not mutually exclusive. However, an individual must be vigilant and resort to the most effective one in a given situation (...) In this view of the matter, the remedies available against flawed or dishonest investigations are equally accessible to both the complainant/victim party and the accused.

xlvii) The right to a fair trial is as much to the accused as the complainant/victim party. *In Zahira Habibullah Sheikh and another v. State of Gujarat and others* (AIR 2004 SC 3114), the Indian Supreme Court stated that crimes are public wrongs that affect the entire community and emphasized the need to balance the interests of the accused, the victim, and society. The principles of the rule of law and due process are closely linked to human rights protection, and all parties involved in a criminal trial have the right to be treated fairly.

xlviii) The High Court is the guardian of the people's fundamental rights. Article 199 of the Constitution empowers it to enforce fundamental rights through the constitutional remedy of writs. These writs include habeas corpus, mandamus, prohibition, quo warranto, and certiorari.

xlix) In the seminal case of *Shahnaz Begum v. The Hon'ble Judges of the High Court of Sindh and Baluchistan and another* (PLD 1971 SC 677), the Supreme Court of Pakistan held that the general rule is that the High Court has no jurisdiction under the Constitution or any other law, including the Code, to supervise the investigation of a criminal case or to control the agency conducting it. The constitutional jurisdiction of the High Court may be invoked if the investigation is mala fide or without jurisdiction. In such a situation, the High Court may even exercise power under section 491 Cr.P.C. – though not under section 561-A Cr.P.C. – to release a person if he is in detention (...) the High Court retains the authority to intervene if the investigation appears to be conducted in bad faith or without jurisdiction. In specific situations where it is evident that an Investigating Officer is deliberately neglecting to secure crucial evidence, potentially motivated by ulterior motives, and the affected individual can demonstrate that he has no alternative adequate and efficacious remedy, which is a pre-requisite for invoking jurisdiction under Article 199 of the Constitution, the High Court may issue a writ of mandamus.

l) Factors such as the involvement of police officers in the dispute or their direct or indirect interest in the investigation's outcome, as well as the risk of evidence destruction if timely action is not taken (as exemplified by the PSCA's practice of destroying records after a specified period), are crucial in determining whether the alternative remedy is adequate and effective and whether the High Court should exercise its constitutional jurisdiction.

Conclusion: i) Yes

ii) Because it is closely linked to the principles of transparency, accountability, and the right to freedom of expression.

iii) Fostering informed decision-making, civic engagement and preventing corruption.

iv) Yes. Article 19 is relating to the right to information.

v) Freedom of expression

vi) Yes. The International Covenant on Civil and Political Rights (ICCPR)

vii) European Convention on Human Rights (ECHR) and the American Convention on Human Rights.

viii) The U.N. General Assembly recognised freedom of information in its Resolution 59/1... The U.N. also designated September 28 as the International Day for Universal Access to Information.

ix) See above analysis No. ix

x) Yes. Article 19 of the Constitution of 1973

xi) Eighteenth Amendment Act 2010

xii) 1) Watan Party and others v. Federation of Pakistan and others (PLD 2012 SC 292) and 2) Justice Qazi Faez Isa and others v. President of Pakistan and others (PLD 2023 SC 661)

xiii) Matters of public importance, and regulation and reasonable restrictions imposed by law.

xiv) See above analysis No. xiv

xv) See above analysis No.xv

xvi) The former legislation extends the right to information to provincial bodies as mentioned in section 2(h) while the later applies to all public bodies of the Federal Government.

xvii) It was established through Act I of 2016 and the purpose of establishment was the construction, development and maintenance of an integrated command, control and communication system for police for public safety through the use of modern technology, infrastructure and processes.

xviii) See above analysis No. xviii

xix) See above analysis No. xix

xx) See above analysis No. xx

xxi) It may be provided to the Investigating Officers, law enforcement agencies, courts, tribunals or any other authorized person for investigation, inquiry or trial.

xxii) Matters under inquiry, investigation or trial.

xxiii) See above analysis No. xxiii

xxiv) They serve as regulatory framework for the PSCA to share the information.

xxv) They do not prohibit the PSCA from sharing the data with the accused or the complainant party in a criminal case. Rather, they only establish procedural protocols.

xxvi) Investigating officers, LEAs, courts, tribunals, or other authorized persons.

xxvii) See above analysis No. xvii

xxviii) Yes

- xxix) See above analysis No. xxix
xxx) Article 4 and 10A
xxxi) See above analysis No. xxxi
xxxii) See above analysis No. xxxii
xxxiii) To find out the truth of the matter under investigation.
xxxiv) See above analysis No. xxxiv
xxxv) See above analysis No. xxxv
xxxvi) He may invoke section 551 Cr.P.C.
xxxvii) He may to issue appropriate directions to the concerned police authorities under section 22-A (6) (iii) Cr.P.C.
xxxviii) See above analysis No. xxxviii
xxxix) See above analysis No. xxxix
xl) Yes
xli) When the police fail to address complaints or information concerning cognizable offences and he has to ensure that police is conducting investigation fairly, impartially, and thoroughly.
xlii) See above analysis No. xlii
xliii) See above analysis No. xliii
xliv) See above analysis No. xliv
xlv) See above analysis No. xlv
xlvi) See above analysis No. xlv
xlvii) See above analysis No. xlvii
xlviii) Through the constitutional remedy of writs.
xlix) As a general rule, the High Court has no jurisdiction under the Constitution or any other law to supervise the investigation of a criminal case; however, its jurisdiction may be invoked where the investigation is conducted mala fide or without lawful authority.
l) i) direct or indirect involvement of police officers in the outcome of investigation, and 2) destruction of evidence if timely action is not taken

18. Lahore High Court
Jamshed and another v. The State and another
Criminal Appeal No. 36924/J/2022
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC5436.pdf>

Facts: The petitioner challenged their convictions in a trial of case FIR for murder, during the pendency of the instant appeal they also made a miscellaneous application for permission to compound the offence. The High Court finds that the charge of section 311 PPC remained unattended by the trial court.

Issues:

- i) What is honour killing and reasons behind the commission of this offence?
- ii) How the plea of sudden provocation operated in PPC inherited from colonial rule?
- iii) How the Federal Shariat Court made a shift from colonial legal framework to

Islamic philosophy?

- iv) What is the scheme of law under sections 305 & 311 of the PPC; and how affects '*fasad-fil-arz*' or *honour killing* upon the compounding of Qatl?
- v) Whether court can impose any term and condition upon compounding of Qatl committed as honour killing or the principle of '*fasad-fil-arz*'?
- vi) Whether any offence outside the section 345 CrPC could be compounded?
- vii) Whether the waiver or compounding of offence results in automatic acquittal of the convict/accused or section 311 PPC places any embargo?
- viii) Whether the court may decline to acquit the accused despite a complete compromise?
- ix) How the Criminal Law (Amendment) (Offences in the Name OR Pretext of Honour) Act, 2016 changed the law set up by august Supreme Court in PLD 2015 SC 77?
- x) Whether the provisions of Section 345(2A) CrPC & 311 PPC are contrary to each other or otherwise?
- xi) Whether the acquittal of an accused legal heir of a deceased affects his disqualification to waive or compound?

Analysis:

- i) Honour killing refers to the murder of a family member, usually a woman, by her relatives on the belief that she has brought shame or dishonour upon the family. This perceived dishonour typically relates to conduct deemed immoral, such as choosing a spouse independently, refusing an arranged marriage, or engaging in a relationship outside societal norms. Such killings are generally driven by entrenched patriarchal and tribal notions of family honour, where control over female autonomy is viewed as essential for preserving social standing.
- ii) Pakistan Penal Code 1860, inherited from British colonial rule, criminalized murder under section 302, and honour killings fell within its scope. However, the law recognized grave and sudden provocation as a valid defence to murder, codified in section 300 Exception 1 of the PPC. This defence allowed individuals to argue that they had acted in the heat of passion, deprived of self-control, due to provocation that was both grave and sudden. If successfully invoked, this defence could result in an outright acquittal or a reduction in the charge from murder to culpable homicide, not amounting to murder.
- iii) In 1990, the Federal Shariat Court (FSC) revisited the validity of the provocation defence to align Pakistan's Penal Code with Islamic principles. The FSC ruled that provocation – no matter how grave or sudden – does not absolve an individual of the crime of murder under Islamic law... This ruling marked a significant departure from the colonial legal framework, categorically rejecting provocation as a complete defence to murder. The same year, through the Criminal Law (Second Amendment) Ordinance No. XXI of 1990, the original Chapter XVI of the Pakistan Penal Code was omitted and substituted with new provisions. The newly inserted section 302 PPC created a distinction in the punishments awardable for qatl-e-amd (intentional murder), namely, qisas and

ta'zir. The re-enacted section 309 PPC permitted the waiver of the right of qisas where a Wali granted afw to the qatil (the murderer), while section 310 allowed compounding of that right through acceptance of Badal-e-sulh (compensation money). However, these provisions were frequently misused in honour killing cases, where the perpetrators and legal heirs often belonged to the same family, resulting in impunity. This led to further legislative reform. Parliament enacted the Criminal Law (Amendment) Act 2004, and then the Criminal Law (Amendment) (Offences in the Name or Pretext of Honour) Act 2016.

iv) Section 305 PPC stipulates that in cases of qatl, the Wali means the legal heirs of the victim determined according to the victim's personal law. However, in cases of qatl-e-amd committed in the name or on the pretext of honour, the Wali shall not include the accused or convict. If there is no heir, the Government shall be the Wali. Section 311 PPC addresses the imposition of ta'zir where the right of qisas has been waived or compounded in qatl-e-amd. It provides that, notwithstanding anything contained in sections 309 or 310 PPC, where all the Walis do not waive or compound the right of qisas, or if the principle of fasad-fil-arz is attracted, the court may, considering the facts and circumstances of the case, punish the offender with death, imprisonment for life, or imprisonment of either description for a term which may extend to fourteen years as ta'zir. The proviso to this section further states that if the offence has been committed in the name or on the pretext of honour, the punishment shall be imprisonment for life.

v) Section 345(2A) Cr.P.C. added by Criminal Law (Amendment) Act 2004 (I of 2005) states: "Where an offence under Chapter XVI of the Pakistan Penal Code, 1860 (Act XLV of 1860) has been committed in the name or on the pretext of karo kari, siyah kari or similar other customs or practices, such offence may be waived or compounded subject to such conditions as the court may deem fit to impose with the consent of the parties having regard to the facts and circumstances of the case."

vi) Section 345(7) categorically states that no offence shall be waived or compounded except as provided under section 345 Cr.P.C. and section 311 PPC...In *Muhammad Rawab v. The State* (2004 SCMR 1170), the Supreme Court emphasized that section 345 Cr.P.C. is exhaustive and courts cannot expand its scope on equitable or humanitarian grounds.

vii) In *Azmat and another v. The State* (PLD 2009 SC 768), the Supreme Court held that sections 309 and 310 PPC permit only the waiver or compounding of the right of qisas through afw or badal-e-sulh, but do not by themselves result in the acquittal of the accused. Such waiver remains subject to section 311 PPC, under which the offender may still be punished by ta'zir where the principle of fasad-fil-arz is attracted or where all the legal heirs have not joined the compromise. The Supreme Court clarified that acquittal in murder cases based on compromise is envisaged and regulated by sub-sections (2) and (6) of section 345 Cr.P.C., but such acquittal is not automatic.

viii) Even if all the Walis agree, it is contingent upon the court's permission, which may be withheld for valid reasons. In other words, the court may decline to

acquit the accused despite a complete compromise after judicial scrutiny. The Supreme Court further observed that laying down rigid categories for when permission should be granted or refused would be neither possible nor desirable. Each case must be assessed individually by the trial court, applying its judicial mind to all relevant facts and circumstances, such as the past conduct and character of the accused, the motive behind the act, the manner and brutality of its commission, and whether the offence amounts to fasad-fil-arz.

ix) It is noteworthy that the Supreme Court in *Zahid Rehman* interpreted section 311 PPC as applying only where the offence was otherwise punishable with qisas under section 302(a) PPC. However, the 2016 amendment introduced a clear statutory mandate that where the court finds that a murder has been committed in the name or on the pretext of honour, it must impose life imprisonment, irrespective of any waiver or compromise by the legal heirs. The object of this legislative change was to treat honour killings as public wrongs and to eliminate impunity in such cases, particularly where offenders seek to escape serious punishment through intra-family settlements. This statutory reform reflects a legislative departure from the earlier interpretation adopted in *Zahid Rehman*.

x) Section 345(2A) Cr.P.C. governs the procedural question of whether the court may accept a compromise. It enables the court to examine the voluntariness, legitimacy, and contextual fairness of the compromise. In contrast, section 311 PPC regulates the penal consequence of such compounding. Even if a compromise is accepted under section 345(2A), the court remains bound to impose life imprisonment under section 311 PPC if the offence is found to have been committed in the name or on the pretext of honour. The waiver affects only qisas and does not preclude the imposition of ta'zir, which becomes compulsory in such case.

xi) The disqualification under section 305(a) PPC applies only to a person who is an accused or a convict at the time the question of waiver or compounding is considered. Once acquitted and in the absence of any pending appeal, the disqualification ceases to apply, and such a person is restored to their status as a Wali under the law.

- Conclusion:**
- i) Honour killing refers to the murder of a family member, usually a woman, by her relatives on the belief that she has brought shame or dishonour upon the family.
 - ii) The Pakistan Penal Code inherited from the colonial era recognized grave and sudden provocation as a valid defence to murder.
 - iii) In 1990 the FSC ruled that provocation – no matter how grave or sudden – does not absolve an individual of the crime of murder under Islamic law. The same year, through the Criminal Law (Second Amendment) Ordinance No. XXI of 1990, the original Chapter XVI of the Pakistan Penal Code was omitted and substituted with new provisions. Further legislation was made as the Criminal Law (Amendment) Act 2004, and then the Criminal Law (Amendment) (Offences in the Name or Pretext of Honour) Act 2016.

- iv) See above analysis (iv).
- v) As per section 345 (2A) CrPC, honour killing may be waived or compounded subject to such conditions as the court may deem fit to impose with the consent of the parties having regard to the facts and circumstances of the case.
- vi) Section 345 Cr.P.C. is exhaustive, and courts cannot expand its scope on equitable or humanitarian grounds.
- vii) In *Azmat and another v. The State* (PLD 2009 SC 768), The Supreme Court clarified that acquittal in murder cases based on compromise is envisaged and regulated by sub-sections (2) and (6) of section 345 Cr.P.C., but such acquittal is not automatic.
- viii) Even if all the Walis agree, it is contingent upon the court's permission, which may be withheld for valid reasons. In other words, the court may decline to acquit the accused despite a complete compromise after judicial scrutiny.
- ix) See above analysis (ix).
- x) The two statutory regimes, section 345(2A) Cr.P.C. and section 311 PPC, are not in conflict but operate sequentially.
- xi) Once an accused legal heir of deceased, acquitted and in the absence of any pending appeal, the disqualification u/s 305 PPC ceases to apply, and such a person is restored to their status as a Wali under the law.

19. Lahore High Court
Sardar Amber Maqood v. Federation of Pakistan, Privatisation Commission, PIACL etc.
Writ Petition No.2010 of 2024
Mr. Justice Jawad Hassan
<https://sys.lhc.gov.pk/appjudgments/2025LHC5392.pdf>

Facts: This petition, pro bono publico, filed the instant petition challenging the privatisation process of Pakistan International Airlines on the ground of violation of Sections 23 & 24 of the Privatisation Commission Ordinance, 2000.

Issues:

- i) What is the role of Competition Commission of Pakistan in privatisation process?
- ii) What is the importance of jurisdiction under Article 199 of the Constitution by the High Court under Public Interest Litigation and what are its restrictions?
- iii) What remedy is available to a person, when a statutory forum is non-existent or not constituted?
- iv) What is the legislative scheme governing privatisation of the “PIACL” in Pakistan?
- v) What is the role of court in privatisation process?
- vi) What is the importance of ‘Preamble’ in a statute?
- vii) What sort of powers and functions are entrusted upon the Privatization Commission under the section 5 of the Privatization Commission Ordinance, 2000?
- viii) What procedural requirements are to be followed by the Privatisation

Commission under Section 23 of the Privatization Commission Ordinance, 2000 and what are the consequences of its non-compliance?

ix) What are the basic requirements to initiate the Public Interest Litigation?

x) What is the globally recognized approach of judicial review of administrative actions by the government; and principles of interference under Article 199 of the Constitution of Pakistan?

xi) How the judicial overreach in economic and contractual matters, affects the economic progression of the country?

xii) What is the object behind restricted disclosure of documents by the Privatization Commission under the Regulation 3 of the Privatisation Commission (Confidentiality and Secrecy of Documents) Regulations 2003?

Analysis:

i) The role of the Competition Commission of Pakistan (the “CCP”) in the privatisation of the “PIACL” is both pivotal and exemplary, reflecting its statutory mandate as an independent, quasi-judicial regulatory authority established under Section 3 of the “Act of 2010”. The CCP’s involvement in the acquisition of 100% shareholding of the “PIACL” by PIA Holding Company Limited (Holdco) underscores its critical function in scrutinizing mergers and acquisitions to prevent any appreciable adverse effect on competition within relevant markets... This decision not only facilitated the government’s privatisation agenda by enabling a streamlined, legally compliant restructuring but also demonstrated the Privatisation Commission’s commitment to preserving competitive integrity, protecting consumer welfare, and fostering an environment conducive to investment and economic efficiency, all while upholding its broader responsibilities to educate market participants and enforce compliance with competition principles in alignment with the legislative framework.

ii) Public Interest Litigation is an extraordinary jurisdiction enabling this Court under Article 199 of the Constitution to address questions of public importance involving the enforcement of fundamental rights of the public at large, particularly where disadvantaged or unorganized segments of society are unable to approach the Court themselves. Such jurisdiction has been exercised in matters of environment, human rights, detention, labour, prisoners, health, education, and transparency in governance. However, it is settled by now that Public Interest Litigation cannot be misused for private motives or publicity and the Petitioner must establish bona fide intent supported by credible material to justify judicial intervention.

iii) It is a settled principle of law that ordinarily when a statute provides for an alternate forum, a party must first exhaust such remedy before invoking constitutional jurisdiction. However, where the statutory forum is non-existent or has not been constituted, the litigant cannot be left remediless. The extraordinary jurisdiction of this Court under Article 199 is therefore available in such exceptional circumstances to ensure that justice is not defeated merely on account of the failure of the executive to establish the requisite forum.

iv) The legislative scheme governing privatisation of the “PIACL” in Pakistan has

evolved progressively over the years. Its genesis may be traced to the Economic Reforms Order, 1972, which was later substituted by the Transfer of Managed Establishments Order, 1978. In order to strengthen investor confidence and to provide for a liberalized economic regime, the legislature thereafter enacted the Protection of Economic Reforms Act, 1992. These enactments collectively provided the foundation, policy framework, and objectives relating to privatisation, which ultimately culminated in a comprehensive statutory regime through the promulgation of the “Ordinance”. Section 3 of the Ordinance formally established the Privatisation Commission as a statutory body, while Section 5 thereof delineates its powers and functions.

v) The role of the Court, in this context, is not to interfere in matters of economic policy per se, but to ensure that the process of privatization, as mandated by law, is carried out in strict conformity with statutory requirements, principles of transparency, and constitutional guarantees, so that public assets are disposed of in a manner that safeguards both public interest and investor confidence.

vi) It is well-settled principle of interpretation that the preamble to a statute is though not an operational part of the enactment but it is a gateway, which opens before us the purpose and intent of the legislature, which necessitated the legislation on the subject and also sheds clear light on the goals which the legislator aimed to secure through the introduction of such law. The preamble of a statute, therefore holds a pivotal role for the purposes of interpretation in order to dissect the true purpose and intent of the law.

vii) A careful and joint reading of Section 5 of the Ordinance makes it abundantly clear that the Privatization Commission has been entrusted with a broad spectrum of functions. Its role is twofold: firstly, to act as an advisory body to the Federal Cabinet by recommending policy guidelines, preparing comprehensive programmes, and suggesting necessary legislative or regulatory measures; and secondly, to serve as an implementing agency to plan, manage and control the privatization process once it has been duly approved by the Cabinet. This provision further ensures transparency, accountability and fairness by requiring the Commission to submit reports, invite public participation, evaluate bids on predetermined criteria, and prevent the creation of monopolies. Equally important is the Commission’s responsibility to safeguard labour interests through rehabilitation and severance schemes, while also advising on the efficient functioning of public sector units pending privatization. Thus, the legislative scheme strikes a balance between operational autonomy of the Commission and supervisory control of the Cabinet, ensuring that privatization is conducted not only in accordance with law but also in line with constitutional principles of transparency, competition, and protection of public interest.

viii) The Section *ibid* mandates two essential procedural requirements for the Privatisation Commission before proceeding with privatisation. First is with regard to consultation which the Commission is legally bound to consult both the Federal Government and the concerned enterprise, (whether fully or partially owned/controlled by the Government), prior to issuing any privatisation notice.

Second requirement is regarding public notice, which the Privatisation Commission must advertise its intention to privatise in at least two English and two Urdu newspapers having national circulation and such advertisements must appear on separate occasions with a minimum interval of seven days. For the said purpose, the advertisement must also be placed in international newspapers to attract foreign investors. The purpose of this section is to ensure transparency, competitive bidding, and wide public participation in the privatisation process. It protects against secretive or discriminatory deals and ensures that all stakeholders, including the general public and potential investors (domestic and international), are adequately informed and given a fair opportunity to participate. Failure to comply with these procedural requirements would render the privatisation process legally defective and open to judicial review.

ix) Public interest litigation, though entertained with a liberal approach, must be founded upon some credible material demonstrating violation of law or infringement of fundamental rights. Mere bald assertions, unaccompanied by documents or evidence, cannot constitute a valid cause for invoking the extraordinary jurisdiction of this Court under Article 199 of the Constitution.

x) A position that has been recognized by the judiciary over the globe upholding the government's right to disinvest from public sector undertakings, stating that economic policy decisions fall within the exclusive domain of the executive, and courts should not interfere unless the process violates constitutional or legal provisions... As earlier mentioned, the preamble of the “Ordinance” clearly states to provide for an expeditious mechanism to resolve all disputes relating to privatisation. It is a well-established constitutional principle that this Court is empowered under Article 199 of the Constitution to review executive actions for illegality, mala fides, or infringement of fundamental rights, unwarranted judicial interference in complex economic and foreign investment matters may disturb the balance between the judiciary, executive, and market economy.

xi) Excessive judicial intervention in contractual and investment affairs has historically contributed to regulatory uncertainty, impairing investor confidence and hindering foreign investment. Therefore, constitutional courts must exercise judicial restraint in economic and commercial matters, particularly in relation to the ongoing privatisation policy, to prevent disruption of national economic objectives and divestment from lossmaking State-Owned Enterprises. This Court cannot ignore the instances of judicial overreach wherein extensive interference by courts in contractual and investment matters has, over time, contributed to uncertainty in the regulatory landscape, adversely affecting Pakistan's ability to attract and retain foreign investment... The judicial review of economic decisions is confined to assessing whether the policy is arbitrary, irrational, discriminatory, or violative of constitutional mandates.

xii) The scheme of the Regulations thus reflects a deliberate legislative intent to create a regime of restricted disclosure, under which sensitive documents containing financial evaluations, due diligence assessments, and negotiation details are insulated from public domain in order to protect the integrity of the

privatisation process, preserve the confidentiality of commercial information, and safeguard national interests. Transparency, though a fundamental principle of governance, must operate within the statutory boundaries laid down by the legislature.

- Conclusion:**
- i) The role of Competition Commission of Pakistan in privatisation process is to facilitate the government's privatisation agenda by enabling a streamlined, legally compliant restructuring but also to demonstrate the Privatisation Commission's commitment to preserving competitive integrity, protecting consumer welfare, and fostering an environment conducive to investment and economic efficiency, all while upholding its broader responsibilities to educate market participants and enforce compliance with competition principles in alignment with the legislative framework.
 - ii) The extra-ordinary jurisdiction under Article 199 of the Constitution is to be used for the enforcement of fundamental rights of the public at large, particularly where disadvantaged or unorganized segments of society are unable to approach the Court themselves. The Public Interest Litigation cannot be misused for private motives or publicity.
 - iii) Where the statutory forum is non-existent or has not been constituted, the litigant cannot be left remediless. The extraordinary jurisdiction of this Court under Article 199 is available in such exceptional circumstances.
 - iv) See above analysis (iv).
 - v) The role of the Court is not to interfere in matters of economic policy per se, but to ensure that the process of privatization, as mandated by law.
 - vi) The preamble of a statute holds a pivotal role for the purposes of interpretation in order to dissect the true purpose and intent of the law as a gateway to the legislation.
 - vii) Section 5 of the Privatisation Commission Ordinance, 2000 bestows two folded powers upon the commission. Firstly, to act as an advisory body to the Federal Cabinet by recommending policy guidelines, preparing comprehensive programmes, and suggesting necessary legislative or regulatory measures; and secondly, to serve as an implementing agency to plan, manage and control the privatization process once it has been duly approved by the Cabinet.
 - viii) The Section 23 of the Ordinance mandates two essential procedural requirements, first is to consult both the Federal Government and the concerned enterprise prior to issuing any privatisation notice. Second is to advertise its intention to privatise in at least two English and two Urdu newspapers having national circulation and such advertisements must appear on separate occasions with a minimum interval of seven days.
 - ix) PIL must be founded upon some credible material demonstrating violation of law or infringement of fundamental rights.
 - x) See above analysis (x).
 - xi) The extensive interference by courts in contractual and investment matters contributes to uncertainty in the regulatory landscape, adversely affecting

Pakistan's ability to attract and retain foreign investment.

xii) In order to protect the integrity of the privatisation process, preserve the confidentiality of commercial information, and safeguard national interests, the Regulation 3 of the Privatisation Commission (Confidentiality and Secrecy of Documents) Regulations 2003 allows the restricted disclosure of information.

20. Lahore High Court
Qaiser alias Aaun v. The State & another.
Crl. Appeal No. 24404/2019.
Mr. Justice Ali Zia Bajwa & Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2024LHC6623.pdf>

Facts: The appellant was tried and convicted by the trial court under Section 9(c) of CNSA for four years and six months with fine. The appellant preferred an appeal before the High Court against his conviction and sentence.

Issues:

- i) What is the purpose of statement of an accused under section 342 of CrPC?
- ii) What is meant by “*audi alteram partem*”, a principle of natural justice?
- iii) What are the forms of examination of an accused under section 342 Cr.P.C and what are its stages?
- iv) Whether an accused can be convicted without the accused being fully aware of the evidence against him?
- v) What is the duty of a court in recording the statement of an accused under section 342 Cr.P.C?
- vi) How and in which manner the questions under section 342 Cr.P.C can be put to the accused?
- vii) Whether a piece of incriminating evidence not brought to the attention of the accused can be the basis of his conviction?
- viii) What is the effect of non-confronting the chain of safe custody while examining the accused under section 342 Cr.P.C?

Analysis:

- i) The purpose of examining an accused under Section 342 of the Code is clearly articulated within the provision itself. It lays down the purpose as to “enable the accused to explain any circumstances appearing in the evidence against him.” It offers an accused a vital opportunity to present his defense, ensuring that no adverse conclusions are drawn without first considering his perspective. This reflects the very essence of justice and fairness, safeguarding the rights of the accused and upholding the integrity of the judicial process.
- ii) The term “*audi alteram partem*” translates to “hear the other side” or “let no person be condemned unheard”. This principle safeguards the fundamental right that no individual shall face punishment or adverse judgment without being afforded a fair opportunity to present his case and challenge the evidence laid against him.
- iii) Under Section 342 of the Code, there are two distinct forms of examination. The first may occur at any stage during the inquiry or trial and is discretionary in

nature. To allow the accused to explain any incriminating circumstances arising from the evidence, the court may, at any stage of an inquiry or trial and without prior notice, pose questions it deems necessary. In contrast, the second form of examination is conducted after the prosecution witnesses have been examined but before the accused is called upon to present his defense. This examination is general and mandatory, requiring the trial court to give the accused a formal opportunity to explain the entirety of the incriminating evidence presented against him. It ensures that the accused is fully aware of the case he must meet and provides a critical opportunity for him to offer any explanations or rebuttals before the defense is presented.

iv) Recording the statement of the accused under this provision is far from a mere formality. It is a critical safeguard ensuring that no conviction is handed down without the accused being fully aware of, and responding to, every aspect of the evidence against him.

v) Section 342 of the Code imposes a solemn and unyielding duty upon the trial court, in the course of a trial, to pose direct and precise questions to the accused, ensuring he is given every opportunity to explain all circumstances arising from the evidence against him. (---) And equally crucial was the obligation of the trial court to confront the appellant with the same during his examination under Section 342 of the Code.

vi) It follows as an unassailable principle that every material circumstance presented in the prosecution evidence must be put to the accused with clarity, precision, and distinctly. The inability to do so undermines the core principles of judicial fairness and integrity. Such a lapse is not merely a procedural defect, rather, it is a fatal flaw that leaves the prosecution's case hollow, with no outcome but the acquittal of the accused.

vii) The law is now firmly settled that if a piece of incriminating evidence or a circumstance is not brought to the attention of the accused during his examination under Section 342 of the Code, such evidence or circumstance cannot be relied upon to secure his conviction. It's a core principle of criminal jurisprudence that no one should be condemned based on evidence he has not had the chance to confront or challenge. To act otherwise would be turning a fair trial into a hollow process.

viii) Without confronting the appellant with this crucial piece of incriminating evidence, i.e. the chain of safe custody, the foundation of the case collapses, leaving no choice but to acquit him.

- Conclusion:**
- i) See above analysis No.i
 - ii) The term "*audi alteram partem*" means to "hear the other side" or "let no person be condemned unheard".
 - iii) See above analysis No.iii
 - iv) An accused cannot be convicted without the accused being fully aware of the evidence against him.
 - v) See above analysis No.v

- vi) See above analysis No.vi
- vii) A piece of incriminating evidence not brought to the attention of the accused cannot be the basis of his conviction.
- viii) Non-confronting the accused with incriminating evidence, results in his acquittal.

21. Lahore High Court
Muhammad Sarfraz v. The State
Crl. Misc.No764-B/2025
Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC5342.pdf>

Facts: The petitioner filed pre-arrest bail under Section 498 Cr.P.C. in FIR No. 1795/2023, registered under Section 392 PPC. Despite the criminal case having been cancelled by the order of the Magistrate pursuant to a case cancellation report prepared by the investigating officer, the police remain resolute in their attempt to arrest the petitioner. The cancellation report was duly endorsed by the Magistrate in the spirit of Rule 24.7 of The Punjab Police Rules, 1934, which remained unchallenged thereafter. Rather than challenging the order of the Magistrate, an astonishing course was taken and an application was filed before the District Standing Board under Article 18-A of the Police Order, 2002, seeking the first change of investigation. However, the Board declined the request, deeming it inappropriate to transfer the investigation. Subsequently, an application was submitted to the Regional Standing Board seeking a transfer of investigation. As a result, on 06.03.2024, the case was handed over to the Regional Investigation Branch for further investigation, blatantly disregarding the fact that the cancellation report had already been endorsed by the Magistrate and that no criminal case was legally in the field at the time. The Regional Standing Board transferred the investigation to the Regional Investigation Branch; it was subsequently reverted to the local police station. During this process, one of the accused was arrested and following his physical remand.

Issue:

- i) Whether, after a cancellation report is prepared by the investigating officer and approved by the Magistrate, any further investigation can lawfully be carried out?
- ii) Whether the transfer of an investigation of a criminal case from one investigating officer to another is absolute and final or merely a provisional measure, requiring the case to revert to the original investigating officer after a certain stage of investigation or investigating the specific accused?
- iii) What are the directions issued to investigating agency to ensure due process of law?

Analysis: i) Once a cancellation report has been prepared and duly endorsed by the Magistrate, the case effectively reaches its logical conclusion, leaving no

room for further investigation. It is now a firmly entrenched legal proposition that once a cancellation report has been prepared by the investigating agency and duly endorsed by the competent Magistrate, the matter stands extinguished in the eyes of the law. With the legal substratum of the criminal case no longer in existence, the prospect of further investigation becomes unwarranted. The acceptance of the cancellation report marks the terminus of the investigative process, bringing the case to its logical conclusion and leaving no lawful room for the investigating agency to further investigate the case

ii) The legal response is clear and unequivocal that the transfer of investigation is not a mere temporary procedural formality but a definitive and permanent measure, undertaken to ensure the comprehensive conduct of the entire investigation. It is not intended as a provisional deviation or a partial reassignment for a limited purpose, rather, it signifies a complete shift in investigative authority, entrusting the new officer with the exclusive responsibility of carrying the investigation to its logical conclusion. Any notion that the investigation must revert to the original or previous officer after a certain stage is misconceived and contrary to the very essence of such a transfer. Once an investigation is transferred, it shall be conducted exclusively by the entrusted officer and cannot revert to the previous investigating officer/officers.

iii)

- I. Once a cancellation report is prepared and approved by the Magistrate, no further investigation shall be conducted by the investigating agency unless the Magistrate's order is set aside.
- II. As soon as the cancellation report prepared by the investigating agency is concurred with by the concerned Magistrate, this fact must be promptly entered into the relevant police register. The investigating officer should likewise record this development in the case file, duly noting it in the police diary.
- III. Before ordering the transfer of investigation, the relevant Board, as envisioned under Article 18-A of the Police Order, 2002, must meticulously examine the entire record to ascertain whether the criminal case remains legally in existence and has not been cancelled or quashed.
- IV. When the investigation of a criminal case is transferred, it shall be conducted exclusively by the entrusted officer and shall not revert to the previous investigating officer under any circumstances.
- V. The Magistrates handling remand or pretrial matters must exercise strict vigilance and closely examine the record, lest their orders inadvertently legitimize an illegality.

Conclusion: i) See above analysis No. i
 ii) See above analysis No. ii.
 iii) See above analysis No. iii.

22. Lahore High Court
Farid Bakhsh (deceased) v. Kiran Naz etc.
C.R.No.285-D of 2020.
Mr. Justice Syed Ahsan Raza Kazmi
<https://sys.lhc.gov.pk/appjudgments/2025LHC5430.pdf>

Facts: The revision petitioner (plaintiff) filed earlier suit which was dismissed by the trial court due to want of evidence. Without challenging the said dismissal through an appeal, a fresh suit was filed by adding more parties. The trial court dismissed the subsequent suit under section 11 of CPC by applying principle of res judicata. Appeal against the order was filed before ASJ but of not avail. Hence, the revision petition was filed before the High Court.

Issues: i) Whether a dismissal under Order XVII Rule 3 CPC for want of evidence amounts to a decision on merits?
 ii) Whether the subsequent suit, involving the same mutation and property, is barred by res judicata under Section 11 CPC ?
 iii) Whether impleadment of additional parties in the later round constitutes a fresh cause of action?
 iv) Whether failure to file an appeal against a decree amounts to finality and what is its effect on the subsequent suit?

Analysis: i) Once issues have been settled and opportunities to lead evidence afforded, a dismissal under Order XVII Rule 3 for want of evidence is dismissal on merit and after lapse of limitation same attained finality.
 ii) Section 11 CPC prohibits re-litigation of matters directly and substantially in issue in a former suit between the same parties, litigating under the same title, once decided by a competent court. In the present matter, the subject matter of both suits was identical: the same mutation and the same immovable property arising out of the same cause of action. The decree dated 05.11.2015 having attained finality, the subsequent suit was barred by res judicata.
 iii) The addition of official respondents or witnesses in the second suit neither altered the nature of the lis nor generated a new cause of action. The relief remained the same and the controversy unchanged in substance; multiplication of parties or re-phrasing of pleadings cannot be employed to circumvent Section 11.
 iv) It is of significance that the decree dated 05.11.2015 was never challenged by way of appeal. The finality of that decree is beyond cavil. To allow the petitioner to reopen the controversy in a subsequent suit would be to undermine the principle of finality of litigation, which is the very foundation of Section 11 C.P.C.

- Conclusion:**
- i) A dismissal under Order XVII Rule 3 for want of evidence is a dismissal on merit.
 - ii) The subsequent suit, involving the same mutation and property, is barred by res-judicata under Section 11 CPC
 - iii) Impleadment of additional parties in the later round does not constitute a fresh cause of action.
 - iv) See above analysis No.iv

23. Lahore High Court
Jamshed Khan & 05 others v. Akbar Khan & 15 others
Regular Second Appeal No. 17025 of 2020
Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC5297.pdf>

Facts: This is a Regular Second Appeal against the judgment of the Addl. District Judge, which partially reversed the Trial Court's judgment and decreed the suit filed by the Respondents/Plaintiffs for the cancellation of a mutation and subsequent mutations, along with possession and permanent injunction as their mother was name was excluded from mutation of inheritance.

Issues:

- i) Whether the property devolved under Customary Law, if death occurred before the Shariat Act, 1948?
- ii) Whether the civil court's jurisdiction was barred under the Settlement Laws, given that the mutation was sanctioned by the Rehabilitation authorities?
- iii) Whether the suit, though framed as an inheritance claim, was barred by limitation if it was filed after the heir's death?
- iv) Whether an inheritance claim can succeed without overcoming limitation, waiver, and acquiescence?

Analysis:

- i) Impugned Mutation in this case was sanctioned subsequent to the promulgation of the Shariat Act and rights of inheritance were 'formally acquired' by Majeed and Mst. Sifta, subsequent to March 15, 1948, therefore, inheritance had to be governed under the Shariat Act and not under the Custom or Usage existing prior thereto. There is another important aspect of the case, which has also rightly been noted by the Trial Court, that if it was an inheritance under the customary law, whereby females were deprived of inheritance, there was no question of devolving of land upon Mst. Sifta (widow of Abdul Ghafoor).
- ii) This question has also been authoritatively settled by the Supreme Court of Pakistan to the effect that jurisdiction of the Civil Court is barred viz the matters arising out of the claims under settlement laws, however, this settled position of law escaped the attention of both the Courts below and thus, the findings in this respect are not sustainable. As per the law settled by the Supreme Court of Pakistan, the Respondents/Plaintiffs had to exhaust the remedies available to them, if any, before the Settlement Authorities under the dispensation of Settlement Laws.

iii) Lack of challenge by the donor within her lifetime was declared fatal by the Supreme Court and bar of limitation was accordingly applied. The principle is also followed in plethora of other judgments, whereby it is held that any heir, who was directly affected by wrongful record of mutation of inheritance, failed to challenge such mutation for a considerable length of time until his death, deprives his own heirs of the locus standi to dispute such mutation on the ground of estoppel, abandonment of claim/cause of action.

iv) The above judgments authoritatively settle the law on the subject that a claim of inheritance must cross the bridge of limitation, waiver and acquiescence. An unchecked tendency of encouraging a relief in the guise of inheritance is not warranted under the law. The encouragement of such claims and long drawn trials in statute barred suits is counterproductive for genuine and bona fide claims of female heirs.

- Conclusion:**
- i) See above analysis No.1
 - ii) Jurisdiction of the Civil Court is barred viz the matters arising out of the claims under settlement laws.
 - iii) The suit, under inheritance claim, was barred by limitation if it was filed after the heir's death.
 - iv) It is settled law that a claim of inheritance must cross the bridge of limitation, waiver and acquiescence.

24. Lahore High Court
Tariq Rehman Chohan v. The State and another
Crl. Misc. No. 43725-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC5337.pdf>

Facts: The petitioner/accused approached the High Court for post-arrest bail in a case FIR for the offence u/s 489F of the PPC.

Issues:

- i) What is an 'entrustment' to attract the offence as defined in section 405 of the PPC?
- ii) What is the extent of the expression 'in any manner' as used in section 405 PPC?
- iii) Whether the grant of bail in offences not falling under the prohibitory clause has any exceptions?

Analysis:

- i) Entrustment requires a deliberate act of placing confidence in another person to hold or use property for a specific purpose, which then must be followed by misappropriation or conversion by that person. Normally such like episode shall not fulfill the essential ingredients of Section 405 of PPC because the amount is not given by a person for safe keeping and specific fiduciary purpose, unless there is further evidence of dishonest intention to misappropriate the funds received by mistake.

ii) The words “in any manner” used in Section 405 of PPC is of wider import. It extends to and covers all kinds of entrustment. It may be expressed or implied..

iii) Honourable Superior Courts were pleased to hold in plethora of the judgments that it is not a rule of universal application that bail should be allowed in each and every case not falling within prohibitory clause. Each case has to be seen in the light of its own peculiar circumstances. The Court may refuse the bail to an accused even in the cases not falling within the embargo, if exceptional circumstances of the case so require.

Conclusion: i) Entrustment requires a deliberate act of placing confidence in another person to hold or use property for a specific purpose, which then must be followed by misappropriation or conversion by that person.

ii) The words “in any manner” used in Section 405 of PPC is of wider import. It extends to and covers all kinds of entrustment. It may be expressed or implied.

iii) The grant of bail in offences not falling under the prohibitory clause is not a rule of universal application. The Court may refuse the bail to an accused even in the cases not falling within the embargo, if exceptional circumstances of the case so require.

25. Lahore High Court
Aqsa Noreen alias Asima Bibi v. The State and another
Crl. Misc.No.34187-B of 2025
Mr. Justice Tanveer Ahmad Sheikh.
<https://sys.lhc.gov.pk/appjudgments/2025LHC5332.pdf>

Facts: Aqsa Noreen, accused in a cross-version of FIR No. 1152/2024 (under Sections 336-B, 382, 302, 411 PPC), sought post-arrest bail. The complainant alleged she, along with two unknown men, burned Shoukat Ali after attempting to rob him. Petitioner claimed Shoukat had trespassed and assaulted her, and the case involved cross-versions, raising factual disputes. She sought bail on statutory grounds—being a female and in custody since 02.04.2024—with trial not concluded within a year and delay not attributable to her. When both the parties come forward with their respective cross-version, which of the version was true and correct, was a question of further inquiry.

Issue: i) Whether a female accused is always entitled to be released on bail as a matter of right on the ground of statutory delay accrued in the conclusion of trial or her case may hit by exception provided in 4th proviso to Sub-Section (1) of Section 497 of Cr.P.C.?

ii) What are the Meanings and scope of the phrase “hardened, desperate or dangerous criminal?”

iii) In what circumstances a court can show restraint in exercising of discretion to decide a petition for grant of post arrest bail, filed by a female petitioner?

Analysis: i) Normally a female accused of an offence punishable with death, has to be released on bail if she has passed a continuous period of one year behind the bar and her trial has not yet been concluded, but she shall not be so released, if she happened to be a person convicted for an offence punishable with death or imprisonment for life, or she, in the opinion of the Court is found to be a hardened, desperate or dangerous criminal, or is accused of an act of terrorism punishable with death or imprisonment for life, vide the proviso to Sub-Section (1) of Section 497 of Cr.P.C, which is being produced below for the facility of reference:-

“Provided further that the provisions of the foregoing proviso shall not apply to a previously convicted offender for an offence punishable with death or imprisonment for life or to a person who, in the opinion of the Court, is a hardened, desperate or dangerous criminal or is accused of an act of terrorism punishable with death or imprisonment for life”.

ii) Meaning and scope of the phrase “hardened, desperate or dangerous criminal “ has been explained by August Supreme Court in Shakeel Shah’s case, holding that the above words denotes a person, who is likely to seriously injure and hurt others without caring for the consequences for his violent act and can pose a serious threat to the society if set free on bail, such tentative opinion as to the character of the accused is to be formed by the Court upon careful examination of the facts and circumstances of the case. The Court may also refer to the previous criminal record of accused, if available for forming such opinion. The very gravity and severity of the offence alleged against the accused and mode and manner adopted by the accused for the commission of same may also be taken into consideration for that purpose.

iii) Mode and manner of the occurrence adopted by petitioner and her companions was horrible and atrocious, which was suggestive of the fact that she was a hardened, desperate or dangerous criminal. I am of the confirmed view that case of the petitioner was squarely covered by the exception, set out in 4th proviso to Sub-Section (1) of Section 497 of Cr.P.C. I, therefore, restrained myself from exercising my discretion in favour of the petitioner despite of the fact that she was a female and behind the bar for a continuous period of more than one year and her trial has not yet been concluded.

Conclusion: i) See above analysis No. i
 ii) “hardened, desperate or dangerous criminal “ has been explained by August Supreme Court in Shakeel Shah’s case, holding that the above words denotes a person, who is likely to seriously injure and hurt others without caring for the consequences for his violent act and can pose a serious threat to the society if set free on bail,
 iii) See above analysis No.ii

26. Lahore High Court
Muhammad Uzair Bin Rafi v. The State and other
CrI. Misc.32072-B/2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC5326.pdf>

Facts: The petitioner has sought his post-arrest bail in criminal case, for the offences under Section 420, 468, 471, 406 of PPC, registered with Police Station, under the authorship of complainant, after the same was declined to the petitioner by the learned Addl. Sessions Judge. complainant has also sought the cancellation of order, passed by learned Addl. Sessions Judge, whereby respondents/accused were allowed pre-arrest bails.

Issues i) Whether Cheque is a valuable security?
 ii) Whether putting signature in a different style amounts of forgery and provisions of section 467 PPC are attracted?

Analysis: i) Since, cheque is a document which purports to give authority to a person to receive or deliver any money, as such it shall fall within the preview of “valuable security” as defined in Section 30 of PPC.
 ii) Putting of signatures by the petitioner in different style was amount to forgery... If any reference in this regard is required that can be had from a precedent judgment “Sachidanand Prasad Vs. Emperor” (AIR 1993 Patna 488), wherein a cheque was treated to be a valuable security and penal provision of Section 467 of PPC was applied upon the forgery of the same.

Conclusion: i) cheque is a valuable security.
 ii) the provisions of section 467 are applicable upon such a forgery.

27. Lahore High Court
Kainat. v. Director General ACE and 03 others
Writ Petition No. 45714 of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC5385.pdf>

Facts: The petitioner challenged a call up notice u/s 160 Cr.P.C, being an accused person, by the Anti-Corruption Establishment.

Issues: i) Whether investigating agency can summon any person u/s 160 of Cr.P.C during the course of an investigation?
 ii) Whether an accused person on prearrest bail could be summoned u/s 160 of Cr.P.C, by the investigating officer ?
 iii) Whether a notice issued u/s 160 of Cr.P.C could be challenged under article 199 of the Constitution of Pakistan?

Analysis: i) The word “any person” used in Section 160 of Cr.P.C. is of wider import. It

covers all the persons who are acquainted with the circumstances of the case. It may include a witness, complainant, accused or even a suspect or any other person familiar with the facts of the case. Said persons can be summoned by the Investigating Officer in order to unearth the true facts, but the said power of the Investigating Officer is not unfettered and he cannot act arbitrarily or capriciously.

ii) It was further held by this Court in another case ‘Maqbool Ahmad v. Station House Officer, etc’ (1999 P.Cr.LJ 1198) that an accused can be summoned by the Investigating Officer under Section 160 Cr.P.C. even if he was enjoying the concession of pre-arrest bail, because he was bound to do so under Rule 25.2 of Police Rules, 1934 (Volume III).

iii) I have placed my reliance mainly on a recent judgment of this Court rendered by full Bench in case titled ‘Ch. Fawad Ahmad and others v. Government of the Punjab through Chief Secretary and others’ (2024 P.Cr.LJ 1903), wherein it was ruled in clear terms that notice issued under Section 160 of Cr.P.C. cannot be challenged under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, before High Court, unless it is patently illegal, malafide, without jurisdiction, or coram non judice.

- Conclusion:**
- i) The expression” any person” used in section 160 of Cr.P.C covers all the persons who are acquainted with the circumstances of the case. It may include a witness, complainant, accused or even a suspect or any other person familiar with the facts of the case.
 - ii) an accused can be summoned by the Investigating Officer under Section 160 Cr.P.C. even if he was enjoying the concession of pre-arrest bail, because he was bound to do so under Rule 25.2 of Police Rules, 1934 (Volume III).
 - iii) Notice issued under Section 160 of Cr.P.C. cannot be challenged under Article 199 of the Constitution

LATEST LEGISLATION/AMENDMENTS

1. Vide The Extradition (Amendment) Act, 2025 dated 01.08.2025; Section 7 of the Extradition Act, 1972 (Act XXI of 1972) is amended.
2. Vide the Federal Board of Intermediate and Secondary Education (Amendment) Act, 2025 dated 01.08.2025; amendments are made in sections 5, 8, 11, 12 and 13 of the Federal Board of Intermediate and Secondary Education Act 1975.
3. Vide notification No. S.R.O.1480(I)/2025; The Supreme Court Rules, 2025 are promulgated.
4. Vide The Punjab Letters of Administration and Succession Certificate (Amendment) Act, 2025; Section 3 of the Punjab Letters of Administration and Succession Certificates Act 2021 (IX of 2021) is amended and Section 10 of the same act is omitted.
5. Vide the Universities and Institutes Laws (Amendment) Act, 2025; the laws specified in the second column of the schedule appended to the Act are

amended to the extent and manner mentioned in the third column of the schedule.

6. Vide Official Gazette of Punjab dated August 05, 2025; The Punjab Control of Narcotic Substances Act, 2025 (Act LXIV of 2025) is enacted to provide for control, production, processing, trafficking and transportation of narcotic substances and for prevention of such illicit activities.
7. Vide Official Gazette of Punjab dated August 05, 2025; The Punjab Autism School and Resource Centre Act, 2025 is enacted to provide for establishment of the Autism School and Resource Centre in Punjab.
8. Vide The Punjab Urban Immovable Property Tax (Amendment) Act, 2025 (Act LXVI of 2025) amendments are made in section 2 of the Punjab Urban Immovable Property Tax Act, 1958 (V of 1958) and Sections 15 A and 15 B are inserted.
9. Vide the Punjab Agricultural Income Tax (Amendment) Act, 2025, amendments are made in sections 2 of The Punjab Agricultural Income Tax Act, 1997 and Section 4-A clause (h) of the same Act is omitted.
10. Vide The Punjab Education Foundation (Amendment) Act, 2025, amendments are made in sections 5 of The Punjab Education Foundation Act, 2004.
11. Vide the Punjab Price Control of Essential Commodities (Amendment) Act, 2025 amendments are made in sections 3 and 5 of The Punjab Price Control of Essential Commodities 2024.
12. Vide Official Gazette of Punjab dated August 05, 2025; The Punjab Horticulture Authority Act, 2025 is enacted to provide for establishment of Punjab Horticulture Authority.
13. Vide Official Gazette of Punjab dated August 11, 2025; The Abdul Ghafoor Niazi University Act, 2025 is enacted to provide for establishment of Abdul Ghafoor Niazi University.
14. Vide Official Gazette of Punjab dated August 11, 2025; The Asian University for Research and Advancement Act, 2025 is enacted to provide for establishment of Asian University for Research and Advancement.
15. Vide Notification No.SOR-III(S&GAD)2-29/2025 dated 13.08.2025; Substitution is made in Schedule-II in note, serial No. i. of the Punjab Provincial Management Service Rules, 2004.
16. Vide Notification No.1327-2025/1350 ST(I) dated 01.08.2025; reduction in fee was made in Schedule I, sr. No. 5, 6 and 8 in the Court fee Act, 1870 (VII of 1870).
17. Vide Notification No.SOR-III(S&GAD)1-2/2023 dated 19.08.2025; Home Department (Legal Cell) Employees Service Rules, 2025 were promulgated.
18. Vide Notification No.SOR-III(S&GAD)1-23/2023 dated 15.08.2025; Amendments are made, after rule (3) of The Punjab Forestry and Wildlife (Wildlife Executive) Service Rules, 1978, rule (4) is inserted. Amendments are also made in the Schedule at Sr. No 1, 2, 3, 5, 14-A, 19-A, 23-A of The Punjab Forestry and Wildlife (Wildlife Executive) Service Rules, 1978.

SELECTED ARTICLES

1. THE CAMBRIDGE LAW JOURNAL

[THE DISSOLUTION OF DUALISM | The Cambridge Law Journal | Cambridge Core](#)

The Dissolution Of Dualism By Roger Masterman And Matthew Nicholson

This article argues that the concept of dualism has ceased to operate as a reliable indicator of, or guide to, the relationships between domestic and international laws in the UK's constitutional order. Dualism, it is argued, provides only a partial account of the complex interactions between domestic and international laws, cannot accommodate the hybrid products of interactions with European legal orders and ignores the post-“incorporation” processes of domestication through which international and domestic norms are reconciled. The connections between domestic and international laws are – in contrast to dualism's binary simplicity – multi-dimensional and interconnected with the UK's (recently turbulent) constitutional politics.

2. SPRINGER LINK

<https://link.springer.com/article/10.1007/s10462-025-11341-4>

(Ir)rationality in AI: state of the art, research challenges and open questions By Olivia Macmillan-Scott and Mirco Musolesi.

The concept of rationality is central to the field of artificial intelligence (AI). Whether we are seeking to simulate human reasoning, or trying to achieve bounded optimality, our goal is generally to make artificial agents as rational as possible. Despite the centrality of the concept within AI, there is no unified definition of what constitutes a rational agent. This article provides a survey of rationality and irrationality in AI, and sets out the open questions in this area. We consider how the understanding of rationality in other fields has influenced its conception within AI, in particular work in economics, philosophy and psychology. Focusing on the behaviour of artificial agents, we examine irrational behaviours that can prove to be optimal in certain scenarios. Some methods have been developed to deal with irrational agents, both in terms of identification and interaction, however work in this area remains limited. Methods that have up to now been developed for other purposes, namely adversarial scenarios, may be adapted to suit interactions with artificial agents. We further discuss the interplay between human and artificial agents, and the role that rationality plays within this interaction; many questions remain in this area, relating to potentially irrational behaviour of both humans and artificial agents.

3. SPRINGER LINK

<https://link.springer.com/article/10.1007/s10462-025-11327-2>

Fault-tolerant control strategies for industrial robots: state of the art and future perspective on AI-based fault management By Zeashan Khan, Ali Nasir and Samir Mekid

Fault-tolerant control schemes are essential for affirming the safe and dependable operation of industrial robots. In this detailed review, we discuss the current developments in fault-tolerant control strategies for industrial robots. The main focus is given to highlight some major contributions in fault-tolerant control systems used in robotic manipulators with single or multiple joints, incorporating any linear or non-linear robust approach for industrial robots, design, and implementation. The paper also discusses adaptive fault-tolerant control of robots with sensor and/or actuator faults and unknown parameters, and fault-tolerant cooperative control of multiple robot teams for collaborative tasks. The present work provides a comprehensive overview of the recent advancements in fault-tolerant control strategies for industrial robots using both classical nonlinear methods as well as intelligent approaches using AI and machine learning, which will be useful for researchers and engineers working in this field.

4. HUMAN RIGHTS LAW REVIEW

<https://academic.oup.com/hrlr/article/25/3/ngaf027/8240173?searchresult=1>

Disability human rights standards before the European Court of Human Rights—false convergence and methodologically-driven divergence? By János Fiala-Butora, Michael Ashley Stein, Matthew S Smith

The UN Convention on the Rights of Persons with Disabilities (CRPD) has positively impacted the European Court of Human Rights (ECtHR). Overall, the ECtHR has delivered significant judgments in favour of persons with disabilities and is moving towards a disability-sensitive interpretation of facts. However, in specific areas such as legal capacity, inclusive education, voting, and involuntary treatment, the ECtHR has sharply distanced itself from the CRPD following some initial attempts at harmonizing its norms with that of the treaty. This emerging divergence does not arise from differences in underlying substantive norms, but rather from the ECtHR's different jurisprudential methods and views on its role relative to the CRPD's treaty body, as well as the polycentric nature of their respective decisions. Explaining the nature of the disagreement is key to understanding what role adjudicative bodies can play in promoting disability rights, and whether their norms can be harmonized.

5. HUMAN RIGHTS LAW REVIEW

<https://academic.oup.com/hrlr/article-abstract/25/3/ngaf025/8212023?redirectedFrom=fulltext>

Child Rights, Legal Theory and Social Advocacy By Maria Grahn-Farley

*In the monograph *Child Rights, Legal Theory and Social Advocacy*, Prof. Maria Grahn-Farley offers a comprehensive, well-written and novel legal critique of child rights. The book's ambition is to 'open up the taboos of the child rights discourse' (p 4) through internal critique. This ambition is in line with a new wave of 'critical child rights studies'¹ which, for over a decade now, has called for internal critique in the child rights field.² Grahn-Farley's original contribution is the application of critical race theory's narrative method to critique child rights, and through that, a thorough unpacking of what she calls the 'monist child-rights identity' and its theoretical and practical consequences.*

The monist child-rights identity refers to a very simple fact, namely that the United Nations Convention on the Rights of the Child (CRC) defines children as those under eighteen years old. In other words, a rights-identity is constructed based on a single data point: age. Grahn-Farley analyses this seemingly uncontroversial fact in fascinating detail throughout the book. For instance, she highlights how the monist child-rights identity 'lacks the interplay between the social and the legal to be found in other forms of identity constructions' (p 25). As such, it is the only rights identity which is not socially constructed³ (p 91), making it in itself 'a radical theoretical suggestion, considering it is being made out of time and not matter' (p 106). Furthermore, it is a rights-identity which excludes self-identification, but is externally imposed. Because of all this, 'the child identity cannot be examined with the same methods analysts use to critique the essentialization of raced and gendered identities' (p 22). This, in turn, means that child rights have not been able 'to serve as a critique of society and provide an alternative imaginary', but rather 'get stuck in the static question of compliance and violation' (p 25).
