

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 deems 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 Pirvani 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, Satta. 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 detenu 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 Plaint 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.
CrI. 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, CrI. 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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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.
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- 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 proposition 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 safe 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 allotable 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).

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- 21. Lahore High Court**
Maqbool Ahmad v. The State etc.
CrI. 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.

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 Cri.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 BULLETIN



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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5.	Notification No. SO(CAB-I)2-30/2013(ROB) dated 27 th January 2025; The Punjab Government Rules of Business, 2011 (Amendment).	57
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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 conjecturers, due to which it is not discernable whether the charges of misconduct are proved against the delinquent in the disciplinary proceedings triggered against him. In all such contingencies, the de novo trial or enquiry may be ordered or directed in order to meet the ends of justice and due process of law and further to ensure strict observance of the conditionality envisioned for fair trial under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973.
- vi) In a de novo trial or de novo disciplinary proceedings, the Court or the competent authority is not required to refer to or rely on any conclusion or outcomes of previous decisions or adjudications of courts or authorities that had earlier seized the matter referred for the de novo trial or inquiry.

Conclusion:

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

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

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

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

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

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 1 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 decreed. 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

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.

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 lesser 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. 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.
CrI. 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 (صلى الله عليه وسلم) (emphasized that a child is considered to have reached maturity when they experience signs of puberty, such as:
 - i. The onset of menstruation for girls.
 - ii. 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 (صلى الله عليه وسلم) demonstrated immense love for children and considered showing affection as a sign of kindness.

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

(Hadith – Sahih Muslim)

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

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

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

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

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. FEROUZE 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) 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, unsuspecting, 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 BULLETIN



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 trail 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.4 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_1_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 breed 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.

- 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 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
CrI. 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_1_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.

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 unsuspecting 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.
CrI. Appeal No.27878-J of 2022
Muhammad Rafique v. The State, etc.
CrI. Appeal No.27874 of 2022
Muhammad Rafique v. Zafar Iqbal alias Ilam Din, etc.
CrI. 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 vary 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.
CrI. 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

CrI. 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
CrI. Appeal No. 175 of 2021
Wali Muhammad v. The State and another
CrI. 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 Crl. Appeal No. 175 of 2021 and Crl. 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 deposited 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 am`endment 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

Munza 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.
