LAHORE HIGH COURT

BULLETIN

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

Disclaimer

Due care and caution has been taken in preparing and publishing this bulletin. Where required, text has been moderated, edited and re-arranged. The contents available in this Bulletin are just for Information. Users are advised to explore and consult original text before applying or referring to it. Research Centre shall not be responsible for any loss or damage in any manner arising out of applying or referring the contents of Bulletin.

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

	Supreme Court of Pakistan	actions taken by a public body.		
6.		Issues falling within exclusive jurisdiction of Gas Utility Courts; Control of Provision of law by preamble; preferential interpretation of provisions.	Civil Laws	9
7.		Retraction of an earlier statement does not make a witness hostile; Hostility and Retraction are two different concepts; effect of sending the crime empties together with the weapon.	Criminal Law	10
8.		Requirements of filing Election Petition u/s 139/142 of the Election Act, 2017, Powers and procedure; Legal principles to consider documents 'Formal Exhibit' or otherwise.	Elections Law	11
9.		Conviction under FCR; Appeal before High Court when it is not provided by statute; examination of orders passed by FATA hierarchy before omission of Article 247 of the constitution.	Criminal Law	13
10.		Jurisdictional bar under Article 247(7); Exceptions to jurisdictional bar under Article 247(7).	Constitutional Law	14
11.	Lahore High Court	Conviction under section 9(c) CNSA, 1997 requires specifying the kind and quantity of narcotics; lack of medical examination or evidence weakens the prosecution's case, chain of custody and documentation must follow proper protocols, harsh CNSA sentences demand rigorous evidence scrutiny, prosecution must prove beyond reasonable doubt.	Criminal Law	15
12.		Significance of maintaining the chain of custody and obtaining a positive forensic report in narcotics cases; key factors for the admissibility of photographs as evidence in criminal trial; definition of photographs as documentary evidence under the Qanun-e-Shahadat Order, (QSO) 1984 and requirements for their authentication and proof; distinction between primary and secondary evidence; conditions and legal provisions under the QSO for the admissibility and use of photographs as evidence in court; limitations on using inadmissible photographs and derivative testimony under the QSO; burden of proof required for the prosecution in criminal cases; prohibition on prosecution relying on weaknesses in the defence to secure a conviction.		17

13.	Lahore High Court	Habeas corpus petition under Article 199 of Constitution of Pakistan; Recovery of custody of minor children.	Constitutional Law	20
14.		Proceedings under Section 182 PPC cannot be initiated during a pending complaint on the same subject matter; police can reinvestigate even after a discharge order.	Criminal Law	21
15.		Power of High Court to convert Habeas Petition into Bail Application.	Constitutional Law	21
16.		Non-mentioning of personal guarantee in subsequent finance renewal agreements discharge the guarantors from their obligations; 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.	Banking Law	22
17.		Articles to be produced and exhibited in accordance with Rule 14-F & 14-H of Rules & Orders of the Lahore High Court Lahore Volume-III, Chapter-24 Part-B; scope of presumption from possession of illicit article U/S 29 of CNSA.	Criminal Law	23
18.		Anatomical definition and boundaries of the hypochondrium; Definition and significance of a body cavity in relation to internal organs; Criteria for classification of an injury as Jaifah injury; Validity of evidence despite the unavailability of surgical notes.		24
19.		Second marriage without permission of first wife and Arbitration Council, Complaint under section 6(5)(b) of the Muslim Family Laws Ordinance 1961, jurisdiction.	Family Law	26
20.		Contesting a sale agreement under unsubstantiated claims; Admissibility of oral statements to vary the terms of a written agreement; Interference with concurrent findings of fact by lower courts in revisional jurisdiction.	Civil Law	27
21.		Fate of the "judgment" recorded without considering the evidence; mandate of first appellate court while hearing appeal and legal components of the "judgment" of the appellate Court		28
22.		Appointment of Receiver; Parameters to be kept in mind while exercising discretion for appointing a receiver; Principles to protect the rights of a bona fide purchaser and co-sharer in property disputes while appointing a receiver.		29

23.	Lahore High Court	Remedy provided under section 417 of Code of Criminal Procedure against an order of acquittal; non-entertainment of revision proceedings under section 439(5) Cr.P.C; if an appeal lies, bar on revision under section 439 Cr.P.C. when appeal lies under section 417 Cr.P.C., restriction imposed by section 417(2-A) Cr.P.C on revision when appeal is available.	Criminal Law	30
24.		Evidentiary value of delayed statements under Section 161 Cr.P.C; reliability of chance witnesses in criminal cases; contradictions between medical and ocular evidence in murder trials involving throttling; application of the doctrine Falsus in Uno, Falsus in Omnibus in Criminal Justice; burden of proof and Article 122 of the Qanun-e-Shahadat, 1984 in cases of unnatural deaths.		31
25.		Power of Review as Provided Under Section 114 and Order XLVII, Rule 1 of the Code of Civil Procedure, 1908; Maintainability of Review Application: Exercise of Power of Review: Points of Considerations; Circumstance when a Judgment can be Reviewed and Cannot be Reviewed.	Civil Law	33
26.		Competency of a child to testify; Testimony of a child witness is worthy of reliance to award conviction by relying upon his / her sole evidence; Delay in reporting the crime involving person's honour; Requirement of DNA; Impact of minor contradictions appearing in evidence on the fate of the case;	Criminal Law	34
27.		CCTV footage, documentary evidence or the real evidence, data in the form of video/audio/pictures, IC3 under Punjab Safe City Authority Act 2016 and regulations, made in due course of process, Punjab Forensic Science Agency, photogrammetry test etc, Electronic Data Certificate, genuineness of such data, conflict in ocular and medical account, medical evidence, identity of the accused person.		36
28.		Amendment in pleadings, factors influencings amendment of pleadings	Civil Law	37

LATEST LEGISLATION/AMENDMENTS

SELECTED ARTICLES

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.

---

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_l_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 Pirkani and others
Civil Appeal NO.1349 OF 2024
Mr. Justice Shahid Waheed, Mr. Justice Irfan Saadat Khan, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1349_2024.pdf

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

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

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

Analysis: i) Within the prescribed time alongwith requisite receipt of amount paid as security for the costs of the petition…Perusal of the memo of petition further reveals that specific allegations and detail of rigging of election, manipulation and tampering in Form45 have been made by the Respondent No.1 while filing the subject election petition before the Election Tribunal, in the memo of petition which is duly verified on Oath before the Oath Commissioner whereas, all the evidence and documents including duly sworn affidavits of Respondent No.1 alongwith fourteen (14) witnesses were also attached, whereas, list of witnesses and list of documents was also provided.

ii) The Election Act, 2017, empowers Election Tribunals with the same powers as of a civil court under the Civil Procedure Code (CPC). Sections 139-144 of the Act specifically deal with the Tribunal's powers regarding taking of evidence, the manner in which the proceedings are to be conducted by the Election Tribunal and the necessity of compliance with the procedural norms.

iii) The Election Tribunal, while exercising the powers of a Civil Court, has to adopt the procedure as provided under CPC as well as under the Qanun-e-Shahadat Order, 1984 when recording evidence, however, in appropriate cases, stricto sensu adherence or compliance can be relaxed, provided the purpose is served, and fair opportunity is provided to the parties to the litigation while confronting with the material and the documents being relied upon by either party. The Qanun-e-Shahadat Order governs the admissibility of evidence in Pakistan.

iv) It may be observed that in case of substantial compliance of legal procedure, the formal exhibition requirement is not absolute and can be relaxed under certain circumstances, particularly, in election matter pending before the Election Tribunal, which can adopt any course of action to regulate its proceeding instead of following the technicalities of CPC, except such provisions specifically made applicable for limited purposes.

v) When the question of admissibility of document arises in a court, the court focuses solely on the relevance of the document and if it has met the legal requirements laid down in Qanun-e-Shahadat Order or it follows the evidentiary law of Pakistan. The formal exhibition of a document solely doesn't' guarantee its proof or admissibility. Similarly, the absence of a formal exhibit marking doesn't necessarily mean that the document cannot be considered as evidence, provided other evidentiary requirements are met.

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

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

---

9. **Supreme Court of Pakistan**
Abdul khaliq v. The state
Jail Petition No.441 of 2019
Mr. Justice Sardar Tariq Masood, Mr. justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/j.p._441_2019.pdf

Facts: Petitioner was convicted by Additional District Magistrate / Assistant Political Agent under section 121-A of the PPC and Regultion 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.l-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 judice. Hence, no basis for interfering with the impugned judgment of the High Court arises.

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

Conclusion: i) See above analysis (i)

ii) High Court itself cannot assume appellate jurisdiction when not provided by statute.

iii) Orders passed by FATA hierarchy, prior to omission of Article 247 of the Constitution, have attained finality and cannot be reviewed by constitutional courts.

---

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

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

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

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

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

---

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

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

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

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

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

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

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

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

Conclusion: i) Charges must specify narcotics' type and quantity; otherwise conviction is invalid.

ii) See above analysis No.ii.

iii) Procedural lapses and conflicting witness accounts cast doubt on the case.

iv) Severe penalties require strict evidence scrutiny.

v) Doubt entitles the accused to acquittal as a right.

---

12. **Lahore High Court**
Awais Qarni v. The State and another
Criminal Appeal No.531/2020
Mr. Justcie 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 Ghafoor (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 detenue 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 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.

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, adverting 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 *corum 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 substract the terms of a written agreement?
iii) Under what circumstances can concurrent findings of fact by lower courts be interfered with in revisional jurisdiction?

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

---

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

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

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

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

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

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

---

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

---

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

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

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

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

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

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

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

---

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

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

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

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

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

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

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

Conclusion: i) When it is being used as documentary evidence it must be shown to the witness while recording his statement and when it is used as real evidence then court must inspect it with some observations and mere marking it as "P" does not fulfill the requirement.

ii) Such data if obtained from IC3 in due course of process shall be deemed genuine and admissible in evidence without sending such video/audio/pictures to Punjab Forensic Science Agency, however, there should be photogrammetry test etc. of accused visible therein.

iii) conflict in ocular and medical account is damaging for prosecution.

iv) It does not establish the identity of the accused person.

---

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

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

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

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

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

Conclusion: i) See above analysis No. i

LATEST LEGISLATION/AMENDMENTS

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

SELECTED ARTICLES

1. **ASIAN JOURNAL OF LAW AND SOCIETY**
   https://www.cambridge.org/core/journals/asian-journal-of-law-and-society/article/abs/in-response-to-constitutional-crisis-the-latent-carl-schmitt-in-zhang-junmais-political-thought/B5F983F1D0C97841023B42AA61F7E068

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

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

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

2. **ASIAN JOURNAL OF LAW AND SOCIETY**
https://www.cambridge.org/core/journals/asian-journal-of-law-and-society/article/paper-in-the-age-of-the-digital-the-curious-case-of-65b-certificates-in-india/B4CFA2448482C029AB59B10EBC2A0730

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

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

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

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

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

4. **LAWYERS CLUB INDIA**
https://www.lawyersclubindia.com/articles/what-are-the-laws-that-govern-stock-markets-in-india--17315.asp

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

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

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

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

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

LAHORE HIGH COURT

BULLETIN

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

Disclaimer

Due care and caution has been taken in preparing and publishing this bulletin. Where required, text has been moderated, edited and re-arranged. The contents available in this Bulletin are just for Information. Users are advised to explore and consult original text before applying or referring to it. Research Centre shall not be responsible for any loss or damage in any manner arising out of applying or referring the contents of Bulletin.

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

JUDGMENTS OF INTEREST

5.	Supreme Court of Pakistan	Essential conditions for the validity of a gift (Hiba) under Muslim law, requirements for delivery of possession under Muslim law, physical departure by the donor is not required if both donor and donee reside in the gifted property, valid overt acts for delivery of possession in a gift, formal delivery of possession is not required when a husband gifts property to his wife while residing together, a husband living in a gifted house or collecting rent does not invalidate the gift to his wife, the concept of *spes successionis* is not recognised under Mohammedan Law, writing or registration is not mandatory for a valid gift under the law, Constitutional jurisdiction cannot override existing legal remedies, questioning a trial judge's decision undermines judicial independence.	Civil Law	8
6.		Determination of proper and necessary party under Order I Rule 10 CPC		11
7.		Authority of Apex Supreme Court to transfer family cases to a court of another Province; Definition of the word "proceedings" in the context of judicial business before a court; Authority of the Apex Supreme Court to transfer guardianship and custody cases from the Islamabad Capital Territory to another province under Section 25A(2-B) of the Family Courts Act, 1964.	Family Laws	11
8.		Eviction petition, evidentiary value of utility bills.	Rent Law	13
9.		Requirement of an unbroken chain of circumstantial evidence; ii Impact of unexplained delay in lodging the FIR. iii. Necessity of proving motive beyond a reasonable doubt. iv. Admissibility of an exculpatory judicial confession against a co-accused. v. Requirement of forensic evidence for corroborating crime tool recovery; vi. Application of benefit of doubt in cases of prosecution inconsistencies.	Criminal Law	14
10.		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, A party is always bound by the statement of his counsel unless there is anything contrary in the power of attorney	Civil Law	15
11.		Nominee, legal status.		16

12.	Lahore High Court	Attorney is bound to get permission of principle to transfer the property in his name or to his kin, the plea having not been taken in the Written Statement could not be allowed to be introduced during evidence, consequences of withholding of best available evidence, cancellation of criminal case and dismissal of application for initiation of proceedings neither preclude to file civil suit nor operates as estoppel or res-judicata, status of concurrent findings of fact.	Civil Law	17
13.		Jurisdiction of adjudicating authorities to modify final orders; Application of functus officio to quasi-judicial authorities; Legality of modifications under the Customs Act, 1969.	Custom Law	18
14.		A negotiable instrument is presumed under Section 118 of the Negotiable Instruments Act, 1881 to be for consideration unless contradicted, shifting the burden of proof to the plaintiff, effect of lack of valid consideration under Section 43 of the Negotiable Instruments Act, 1881, agreements involving consideration to settle non-compoundable offences are void as they violate public policy and justice, private settlements undermine the justice system and create opportunities for blackmail, agreements made under threat of prosecution are legally void and unenforceable.	Civil Law	19
15.		Authority of State Bank of Pakistan under Sub-section (3) of Section 20 regarding directions to authorized dealers; Provisions addressing cases where export proceeds are not realized within 120 days; and the actions permitted to the Adjudicating Officer under Sub-section (4) of Section 23B in cases of contravention, including violations of Section 12(1) and Section 20(3).	Commercial Law	21
16.		Purpose of the Land Reforms Regulation 1972 (MLR 115)., Remedy available under the Land Reforms Regulation 1972 and the time limit for filing a revision., Prospective or retrospective application of the Land Reforms Act, 1977; Conditions imposed by the proviso to Section 27 of the Land Reforms Act, 1977 on revisional jurisdiction.	Civil Law	22

17.	Lahore High Court	Service integrity through compulsory retirement; Fairness and proportionality in disciplinary penalties.	Service Law	23
18.		Power of Syndicate to hold authority under the King Edward Medical University Lahore Act, 2005 to create teaching posts and appoint individuals to positions equivalent to BPS-19; limitations on the government's administrative control; distinction between an "aggrieved party" and an "aggrieved person" under Article 199 of the Constitution; key members and authorities responsible for the governance and administration of the King Edward Medical University; legal status and capacity of the King Edward Medical University as a corporate entity; authority of university to create and fill academic posts; responsibilities and appointment powers of the Vice-Chancellor; role of the Senate in the university's administration; powers of the Syndicate regarding appointments and the creation or abolition of posts; interpretation of proviso in a statute; High Court's discretionary jurisdiction under Article 199 of the Constitution.	Civil Law	24
19.		Applicability of Prevention of Trafficking in Persons Act, 2018, to Organized Begging; Legal Authority of Immigration Officers to Restrict Travel; Judicial Interference in Criminal Investigations	Criminal Law	26
20.		Value of promptness of FIR; Ingredients of Inquest Report and signing; Evidentiary value of Medical Evidence and Site Plan; Re-examination of a witness and when to declare Hostile; Difference between re-examination and Hostile witness.		27
21.		Police must adhere to fundamental legal and ethical principles to maintain public confidence and legitimacy.		31
22.		Determination of adequacy of compensation under constitutional jurisdiction; Raising of objections regarding inadequacy of quantum of compensation and nature, and their remedy; Purpose of notice under S.9 of the Act; Challenge of constitutionality of the acquisition or legality of notifications under	Civil Law	32

	Lahore High Court	section 4 and section 17 of the Act; Effect of non-appearance of interested on Award.	Civil Law	
23.		Legal standard for determining the religious sect of a deceased individual in inheritance matters; evidentiary burden in proving the religious sect of a deceased individual in inheritance disputes; presumption regarding the sect of a Muslim individual in the Indo-Pak Subcontinent; application of the burden of proof in cases where a party claims a different religious sect for inheritance purposes; distinction between Ushar and Khums in Islamic financial obligations, role of Revenue Officers in inheritance disputes involving religious sect determination, limitations on disturbing concurrent findings of fact in revisional jurisdiction under Section 115 of the CPC.		33
24.		Special procedure U/S 195 Cr.P.C regulates trial of offence Contempt of lawful authority of a public servant & false evidence and offences against public justice under Chapters X & XI of PPC which consist of sections 172 to 190 & 191 to 229.	Criminal Law	35
25.		Claim of compensation for losses in writ petitions,	Constitutional Law	36
26.		Depreciation on dowry articles during litigation; Limits on financial obligations for child maintenance; Reduction of child maintenance due to financial changes.	Family Law	37

LATEST LEGISLATION/AMENDMENTS

SELECTED ARTICLES

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_2712025.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_20012025.pdf

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

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

Issues: i) Does a Civil Court or the Commission have the jurisdiction to determine whether the member concerned is a member of the Parliamentary Party of a political party in proceedings under clauses (3) and (4) of Article 63A of the Constitution, for the purpose of determining his alleged defection from that political party?

ii) How the doctrine of jurisdictional fact has been expounded in various judicial pronouncements?

iii) What would be the effect if a tribunal or authority with jurisdiction limited to a particular matter assumes jurisdiction over a matter not conferred upon it by erroneously deciding the jurisdictional fact?

iv) What is the constitutional role of the Election Commission of Pakistan while hearing the matter of defection under Article 63A of the Constitution of the Islamic Republic of Pakistan, 1973?

Analysis: i) The original jurisdiction conferred upon the Commission, as well as the appellate jurisdiction of this Court, to confirm or otherwise the declaration made by the Party Head, extends to examining whether the Party Head has exercised this power justly, fairly and reasonably. Article 63A of the Constitution does not explicitly entrust the Commission with the power to determine the preliminary state of facts— jurisdictional facts—on which its jurisdiction to confirm the declaration depends. Its finding on a jurisdictional fact, such as whether the member concerned belongs to the Parliamentary Party of a political party, is not conclusive; rather, it is subject to correction by this Court, as its appellate forum, and ultimately to final determination by a Civil Court of plenary jurisdiction.

ii) The doctrine of jurisdictional fact connotes that if a certain state of facts must exist before a tribunal or authority can exercise the jurisdiction vested in it, such tribunal or authority may inquire into those facts to determine whether it has jurisdiction but cannot confer jurisdiction upon itself by making an erroneous decision regarding them. As per this doctrine, when a tribunal or authority is vested with jurisdiction limited to decide on a particular matter, it generally has the ancillary power to inquire into and ascertain the existence of facts collateral to that matter when their existence is disputed before it. This power to ascertain collateral facts—referred to as jurisdictional facts— forms the foundation for the exercise of its jurisdiction. A jurisdictional fact is, thus, one upon whose existence the assumption and exercise of jurisdiction by a tribunal or authority depend. It is a prerequisite fact whose existence must be ascertained before jurisdiction over a particular matter can be properly assumed and exercised. Its existence is a sine

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

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

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

Conclusion: i) See Analysis i above.

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

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

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

---

3. **Supreme Court of Pakistan**

Federation of Pakistan through Revenue Division & others etc v. Dewan Motors (Pvt) Ltd.etc.

Civil Petitions No.836-k to 887-k, 951-k,1056-k,1296-k of 2020 and Civil Petitions No.741-k to 743-k, of 2021 and Civil Petition No.165-k of 2022 and Civil Petitions No.1143-k to 1173-k of 2024.

Mr. Justice Amin-ud-Din Khan, Senior Judge, Mr. Justice Jamal Khan Mandokhail, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Justice Musarrat Hilali, Justice Naeem Akhter Afghan, Mr. Justice Shahid Bilal Hassan.

https://www.supremecourt.gov.pk/downloads_judgements/c.p._836_k_2020_2812025.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).

---

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,

---

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) ection (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_l_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_l_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 Socities Act, 1925 substitute legal heir(s) after death of member of society?

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

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

---

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

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

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

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

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

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

statement of respondent No.1(DW-1) could not be read to decide the fate of the suit filed by the petitioners….
iii)… it is crystal clear that he failed to produce the most crucial document. It is trite law that when a party withholds the best available evidence, it is bound to face its consequences. The Apex Court of the country in the cases of *Muhammad Boota through L.Rs. v. Mst. Bano Begum and others* (**2005 SCMR 1885**) has held that when a party withholds best available evidence he is bound to face its consequences…. there leaves no doubt that the said document had important bearing upon the outcome of the *lis* between the parties and there was no valid justification to withhold the same….
iv) even if the criminal case, registered against the respondents, was cancelled, the said fact did not preclude the petitioners to bring civil suit against the respondents. Similarly, dismissal of the application of the petitioners for initiation of proceedings under section 476 Cr.P.C. against the respondents on account of filing unauthorized suit on behalf of their father did not operate as estoppel or *res-judicata* as prior to the year 2019 the petitioners did not seek cancellation of sale deed executed in favour of respondent No.2.
v) There is no cavil with the preposition that ordinarily concurrent findings of facts recorded by the courts below cannot be interfered, however, the same cannot be considered as sacrosanct especially when they are found arbitrary or perverse. Reliance in this regard is placed on the case reported as *Hajid Wajdad v. Provincial Government through Secretary, Board of Revenue Government of Balochistan, Quetta and others* (**2020 SCMR 2046**) and *Subedar (Retd.) Jamil Khan (deceased) through legal heirs v. Salim Khan (deceased) through legal heirs and 06 others* (**2017 SCMR 860**).

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

---

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

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

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

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

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

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

---

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

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

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

Analysis: i) It is well settled law that under section 118 of the Negotiable Instruments Act, 1881, there is an initial statutory presumption that the negotiable instrument is made, drawn, accepted or endorsed for consideration and in a case to contrary, the onus is on the person who is denying the consideration to prove the same. However, if the plaintiff presents facts contrary to the stated consideration in the pronote or which militate against the presumption then the presumption is lost/destroyed and the burden of proving the validity shifts to the plaintiff to prove that the pronote was executed by the defendant for consideration.
ii) Hence, the alleged negotiable instrument is made or transferred without valid consideration and the negotiable instrument without consideration creates no obligation for the payment between the parties, according to Section 43 of the Negotiable Instruments Act 1881.
iii) Section 23 of the Contract Act, 1872 also invalidates agreements if their considerations, objects or purposes are illegal, including those that violate public policy. Non-compoundable offenses are regarded as matters of public concern and permitting private agreements to settle such offences would compromise public interest and proper administration of justice. No court of law can countenance or give effect to an agreement which attempts to take administration of law out of hands of the judges and put it in the hands of private individuals.
iv) This policy is based on the principle that criminal prosecution in non-compounding offenses cannot be compounded at the free will and choice of the parties which is not a private dispute between them but is one in which society at large is interested and any private agreement by the person ostensibly aggrieved, in return for a reward, to forbear from or withdraw or abandon the prosecution knocks at the root of criminal justice. If such agreements are allowed to be enforced by the courts, the doors will be opened to blackmailing on large scale.
v) For instance, a man who loses or believes that he has lost something may frighten another by starting or threatening to start a case for theft against him or somebody in whom he is interested, then the later will often come around and in his anxiety to 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 arid 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 has to create and fill academic posts?
viii) What are the responsibilities and appointment powers of the Vice-Chancellor?
ix) What is the role of the Senate in the university's administration?
x) What are the powers of the Syndicate regarding appointments and the creation or abolition of posts?
xi) How should a proviso in a statute be interpreted?
xii) When does the High Court exercise its discretionary jurisdiction under Article 199 of the Constitution?

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

ii) By its plain language of proviso to section 20(2) of the KEMU Act, the proviso allows the Government to transfer employees who opted to remain with the Government back to the University, subject to terms determined by the Government. This mechanism was intended to address transitional exigencies and does not grant the Government perpetual or unrestricted power to make appointments or transfers beyond the scope of the initial transition.

iii) Section 5 further grants KEMU exclusive jurisdiction over teaching in its attached hospitals. However, the administrative control of these hospitals remains with the Government.

iv) The High Court must be moved by an aggrieved party in respect of the matters mentioned in clauses (i) & (ii) of Article 199(1)(a), while any person may approach it for an order under clauses (i) & (ii) of Article 199(1)(b). As for the matters falling within the ambit of Article 199(1)(c), it can exercise jurisdiction only on the application of an aggrieved person. It is important to note that Article 199 has used two expressions: "aggrieved party" and "aggrieved person".

v) Section 3(2) of the KEMU Act stipulates that KEMU shall consist of the Chancellor, the Pro-Chancellor, the Vice Chancellor, the Pro-Vice Chancellor and members of the Senate, the Syndicate, the Academic Council, and other authorities.

vi) Section 3(3) of the Act states that the University shall be a body corporate and shall have perpetual succession and a common seal. It may sue and be sued by the said name.

vii) Section 4 of the Act outlines the University's functions. Clause (j) of section 4 empowers it to create jobs of Professors, Associate Professors, Assistant Professors, and Demonstrators and other posts for research, publication, extension, administration, and other related purposes and to appoint persons thereto.

viii) Section 14(1) of the KEMU Act designates the Vice-Chancellor as the chief executive of KEMU, responsible for controlling all offices, teachers, and employees and enforcing the provisions of the Act, Rules, and Regulations. Clause ix) of section 14(4) grants the Vice-Chancellor the authority to make appointments to posts in BPS-1 to BPS-18.

ix) Section 23 declares the Senate as the highest administrative and executive body of the University and describes its functions.

x) Section 25 defines the Syndicate's powers, including appointing honorary visiting faculty (clause xiv), creating or abolishing posts for teaching, administrative, and research positions (clauses xv and xvi), and appointing teachers and officers for posts equivalent to BPS-19 or above (on the recommendations of the Selection Board), determining their terms and conditions, including pay (clause xvii). Clause (xviii) empowers the Syndicate to appoint a Professor Emeritus under prescribed terms.

xi) Craies on Statute Law has enumerated the following principles: "The effect of an excepting or qualifying proviso, according to the ordinary rules of construction, is to except out of the preceding portion of the enactment, or to qualify something enacted therein, which but for the proviso would be within it; and such a proviso

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

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

Conclusion: i) Such actions constitute unlawful interference in the University's affairs, compromise its autonomy, and violate the objective and structure of the Act.

ii) This mechanism does not grant the Government perpetual or unrestricted power to make appointments or transfers beyond the scope of the initial transition.

iii) See above analysis no iii.

iv) See above analysis no iv.

v) See above analysis no v.

vi) University shall be a body corporate and shall have perpetual succession and a common seal.

vii) See above analysis no vii.

viii) See above analysis no viii.

ix) Senate is the highest administrative and executive body of the University

x) See above analysis no x.

xi) See above analysis no xi.

xii) See above analysis no xii.

---

19. **Lahore High Court**

Sadiq Hussain and another v. Deputy Director, Federal Investigation Agency, and others

Writ Petition No.12935/2024

Mr. Justice Tariq Saleem Sheikh

https://sys.lhc.gov.pk/appjudgments/2024LHC6351.pdf

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

Issues: i) Whether sections 3 and 4 of the Prevention of Trafficking in Persons Act, 2018, apply in cases of suspected organized begging?

ii) Whether an immigration authority can restrict travel under domestic and international legal obligations?

iii) Whether the High Court can interfere in the investigative process under its constitutional jurisdiction?

Analysis: i) Under the PTPA, beggary does not inherently constitute trafficking unless it involves elements meeting the legal threshold of trafficking as stipulated in section 3(1), i.e., coercion, fraud, manipulation, or other forms of exploitation by a third party. Even when beggary is limited in duration – such as cases bound by visa restrictions – it can still be classified as trafficking under the PTPA if exploitative elements are present.

ii) Pakistan has a comprehensive legal framework to regulate the entry and exit of individuals, including both citizens and foreigners, at its borders. Standing Order No. 31/2005 empowers the Special Checking Officer to scrutinize passengers whose profiles appear inconsistent with their stated purpose of travel. In the context of human trafficking, the FIA must adhere to the PTP Rules. Recently, the FIA Risk Analysis Unit developed a standardized set of interview questions to assist immigration staff in identifying individuals suspected of travelling abroad for organized beggary.

iii) The Supreme Court has consistently held that the High Court should not interrupt or divert the ordinary course of criminal procedure as prescribed by the procedural statute by invoking Article 199 of the Constitution or section 561-A Cr.P.C. The grounds ordinarily considered for quashing an FIR are: (a) a jurisdictional defect evident on record, (b) a patent violation of some provision of law, or (c) the allegations contained in the FIR do not constitute an offence… The Supreme Court has underscored that determining the guilt or innocence of an accused person is a rigorous judicial process… The Court cautioned against invoking section 561-A Cr.P.C. to prematurely decide criminal cases, as such a deviation risks undermining the purpose of a fair trial. It held that extraordinary circumstances must exist to justify departing from the prescribed procedural path.

Conclusion: i) The determination of trafficking requires a factual inquiry into coercion, fraud, or economic exploitation.

ii) Immigration authorities have the legal authority to impose travel restrictions to prevent exploitation and uphold international commitments.

iii) The High Court should not interfere in ongoing investigations unless there is clear abuse of legal authority.

---

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion: i) The claim of registration of FIR without delay is a factor which is not to be projected through rhetoric but is to be substantiated through impeccable evidence.

ii) See above analysis (ii).

iii) Conviction of co-accused can only be sustained on the same evidence if it receives independent strong corroboration from some other source of irreproachable nature.

iv) The fresh facts introduced during trial are discarded from consideration.

v) The medical evidence, needless to mention, is furnished by an expert and is aimed at enabling the court to adjudge the veracity of the accusations set out by the eyewitnesses in murder or hurt cases.

vi) When it is proved that site plan is prepared at the pointation of eye witnesses, it could be contradicted only if so established and attains evidentiary value.

vii) Failure to mention crime empties in Inquest Report would amount that recover of empties, if any is planted.

viii) See above analysis (viii).

ix) See above analysis (ix).

x) See above analysis (x).

---

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

Facts: The case involves the alleged sale of substandard fertilizer, where a sample taken from a shop was found unfit upon chemical analysis. The petitioner, a sales officer, was booked along with the shop and factory owners, despite no allegation of tampering or adulteration against him. The court also noted the department' 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 unitize 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. 51697of 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

BULLETIN

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

Disclaimer

Due care and caution has been taken in preparing and publishing this bulletin. Where required, text has been moderated, edited and re-arranged. The contents available in this Bulletin are just for Information. Users are advised to explore and consult original text before applying or referring to it. Research Centre shall not be responsible for any loss or damage in any manner arising out of applying or referring the contents of Bulletin.

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

JUDGMENTS OF INTEREST

	Supreme Court of Pakistan	Inquisitional nature of Family Court, applicability of precedents in future cases.		
7.		Benefit of doubt must accrue in favour of accused as matter of right and not of grace	Criminal Law	9
8.		Effect of dishonest improvements in statements of witnesses; Effect of inconsistencies between the complainant's statement and the site plan; Effect of lack of independent corroboration for the weapon's recovery; Effect of prosecution's failure to produce the injured passer-by witness.		10
9.		Substituted service can only be affected when ordinary summons cannot be served or defendant deliberately avoids to receive summons of the Court; satisfaction can be achieved by recording statement of the process server; setting aside ex parte judgment and decree; one should not be condemned unheard	Civil Law	11
10.	Lahore High Court	Habeas corpus in custody matters requires exceptional circumstances; Foreign custody orders are not binding; child's welfare prevails; Child's welfare is paramount under Guardian and Wards Act, 1890; High Court and Family Court jurisdictions are concurrent; Hague Convention not enforceable between Pakistan and Canada; High Court's habeas corpus intervention requires urgency or criminality; Habitual residence guides custody but yields to	Family Law	12
11.		Pre-requisite of assumption of jurisdiction for a court before adjudicating the case; Pre-defined territorial limits for allocation of cases to High Court Benches; Parameters of assumption of jurisdiction if cause of action arose elsewhere.	Civil Law	16
12.		Inquiry and Prosecution Procedure under the Cooperative Societies Act, 1925:, Offences and Penalties under the Cooperative Societies Act, 1925:, Distinction between 'Penalty' by the Registrar and 'Punishment' by the Court:, Cognizance of Offences and Role of the Registrar:, Status of Officers of a Cooperative Society as Public Servants:, Judicial Forum for Trial of Offences under the Cooperative Societies Act, 1925:, Authority of the Registrar to Refer Cases to the Anti-Corruption Establishment.	Criminal Law	17

13.	Lahore High Court	Adoption permissible under Islamic law, preferential right of biological parents over custody of adoptive parents, Muhammadan Law and Islamic principles regarding biological parents over custodial parents in child custody matters, child welfare as the primary consideration, need for legislation to regulate adoption in Pakistan.	Family Law	20
14.		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	Service Law	22
15.		Treatment of leave to defend as a written statement; Consequences of not filing a written statement after leave to defend.	Civil Law	23

LATEST LEGISLATION/AMENDMENTS

1.	Official Gazette of Pakistan dated 2^{9th} January 2025; The Digital Nation Pakistan Act, 2025.	24
2.	Official Gazette of Pakistan dated 29th January 2025; The Prevention of Electronic Crimes (Amendment) Act, 2025.	24
3.	Official Gazette of Punjab dated 27th January 2025; The Punjab Protected Areas (Amendment) Act, 2025.	24
4.	Official Gazette of Punjab dated 27th January 2025; The Punjab Wildlife (Protection, Preservation, Conservation and Management) (Amendment) Act, 2025.	24
5.	Official Gazette of Punjab dated 29th January 2025; The Punjab Alternate Dispute Resolution (Amendment) Act, 2025.	25
6.	Official Gazette of Punjab dated 29th January 2025; The Punjab Prohibition of Kite Flying (Amendment) Act, 2025.	25
7.	Official Gazette of Punjab dated 29th January 2025; The Probation of Offenders (Amendment) Act, 2025.	25
8.	Official Gazette of Punjab dated 29th January 2025; The Punjab Education, Curriculum, Training and Assessment Authority Act, 2025.	25
9.	Official Gazette of Punjab dated 29th January 2025; The Punjab Water and Sanitation Authority Act, 2025.	25
10.	Official Gazette of Punjab dated 29th January 2025; The Defence Housing Authority Rawalpindi (Amendment) Act, 2025.	25
11.	Official Gazette of Punjab dated 29th January 2025; The Punjab Establishment of Special Courts (Overseas Pakistanis Property) Act, 2025.	25
12.	Official Gazette of Punjab dated 29th January 2025; The Punjab Tianjin University of Technology Lahore (Amendment) Act, 2025.	25
13.	Official Gazette of Punjab dated 29th January 2025; The Mir Chakar Khan Rind University of Technology Dera Ghazi Khan (Amendment) Act, 2025.	25
14.	Official Gazette of Punjab dated 29th January 2025; The Punjab University of Technology Rasul (Amendment) Act, 2025.	25
15.	Official Gazette of Punjab dated 16th January 2025; The Punjab Border Military Police and Baluch Levy Service Rules, 2009 (Amendment).	25

SELECTED ARTICLES

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_l_2015_31012025.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 inquisitional 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 inquisitional in nature.--- The procedural framework established for the Family Court is notably inquisitional 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_l_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's[1] 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's[2] case further reiterates the principle of Tariq Parvez (supra) in the following terms:

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

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

---

8. **Supreme Court of Pakistan**
Muhammad Nasir Butt etc. v. The State etc.
Jail Petitions No.314 & 315/2017 and Crl.P.L.A.576-L/2017
Mr. Justice Jamal Khan Mandokhail, Mr. Justice Musarrat Hilali, Mr. Justice Naeem Akhter Afghan.
https://www.supremecourt.gov.pk/downloads_judgements/j.p._314_2017.pdf

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

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

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

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

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

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

Conclusion: i) Dishonest improvements creates serious doubt about the veracity of their testimony.

ii) See above analysis No ii.

iii) See above analysis No iii.

iv) Non production of the injured passer-by witness creates an adverse inference under Article 129(g) of the Qanun-e-Shahadat Order, 1984.

---

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

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

Issues: i) What are the mandatory requirements for effecting substituted service?

ii) What factors court should observe while taking up application seeking setting aside ex parte judgment and decree?

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

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

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

Conclusion: i) See above analysis No.i

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

---

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

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

Issues: i) Which is the core provision of the U.N. Convention on the Rights of the Child (CRC) and what does it obligate the States?

ii) What are the dimensions of the concept of "best interests of the child" in light of General Comment No.14 (2013) and what do they have repercussions?

iii) Under what circumstances can the High Court exercise its habeas corpus jurisdiction under Article 199 of the Constitution in matters involving the custody of minors?

iv) What is the legal effect of a foreign custody order on custody proceedings in Pakistan?

v) How does the welfare of the child's principle under the Guardian and Wards Act, 1890, influence the court's decision on interim and permanent custody?

vi) What is the scope and limitation of the doctrine of election of remedies in custody disputes involving parallel proceedings before the Family Court and the High Court?

vii) How does the non-enforceability of the Hague Convention between Pakistan and certain countries affect the adjudication of international child abduction cases?

viii) To what extent can the High Court direct law enforcement agencies to recover minors in custody-related matters under its constitutional jurisdiction?

ix) What is the significance of the concept of habitual residence in determining the jurisdiction and custody rights in international child abduction cases?

Analysis:

i) The U.N. Convention on the Rights of the Child (CRC) is the most comprehensive international instrument safeguarding children's rights across all facets of their lives. At its core lies Article 3, which asserts that the best interests of the child must be the paramount consideration in all matters concerning them. This provision obligates States to ensure the protection and well-being of children under all circumstances, serving as a fundamental principle guiding policy and practice globally.

ii) In General Comment No.14 (2013), the Committee on the Rights of the Child (the "CRC Committee") has stated that the concept of "best interests of the child" has three dimensions: (a) a substantive right,(b) a fundamental interpretative legal principle, and (c) a rule of procedure. The "substantive right" entitles the child to have their best interests assessed and prioritized whenever decisions affecting them are made. This right imposes an inherent obligation on States to ensure its implementation, which can be invoked directly before a court. As a "fundamental interpretative legal principle", the concept mandates that if a legal provision is open to more than one interpretation, the construction which most effectively serves the child's best interests should be chosen, guided by the rights enshrined in the Convention and its Optional Protocols. As a "rule of procedure", it requires that whenever a decision is to be made that will affect a specific child, an identified group of children, or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child requires procedural guarantees.

iii) The Supreme Court of Pakistan has consistently maintained that the High Court's jurisdiction under Article 199(1)(b)(i) of the Constitution (and section 491 Cr.P.C.) should be sparingly invoked for the custody of minor children and only under specific circumstances. In Nadia Perveen v. Almas Noreen and others (PLD 2012 SC 758), the Supreme Court ruled that the High Court may entertain matters related to the custody of minor children while exercising its habeas corpus jurisdiction if the following conditions are met. Firstly, the children involved must be of very tender age. Secondly, they should have quite recently been snatched away from lawful custody. Lastly, there must be a real urgency in the matter. The Supreme Court further stated that even if these conditions are fulfilled, the High

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

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

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

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

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

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

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

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

Conclusion: i) The U.N. Convention on the Rights of the Child (CRC) obligates States to ensure the protection and well-being of children under all circumstances, serving as a fundamental principle guiding policy and practice globally

ii) There are three dimensions of the concept of the best interests of the child in General Comment No.14 (2013) and those are (a) a substantive right, (b) a fundamental interpretative legal principle, and (c) a rule of procedure.

iii) The High Court's habeas corpus jurisdiction under Article 199 should only be exercised in exceptional circumstances, primarily for interim custody, while final custody remains within the Family Court's domain.

iv) Foreign custody orders are not binding but are entitled to due consideration by Pakistani courts, with the child's welfare being the paramount consideration.

v)The welfare of the child is the overriding principle under section 17 of the Guardian and Wards Act, 1890, guiding both interim and permanent custody decisions.

vi)The High Court's constitutional jurisdiction and the Family Court's jurisdiction under the Guardian and Wards Act are distinct and can operate concurrently without excluding one another.

vii) The Hague Convention is not enforceable between Pakistan and Canada due to the lack of reciprocal acceptance, requiring Pakistani courts to treat such cases as non-Convention matters.

viii) The High Court must exercise great caution in custody-related habeas corpus petitions, intervening only in cases involving exceptional circumstances such as criminal conduct.

ix) Habitual residence is a significant factor in international child abduction cases, but it can be displaced by the need to protect the child from serious harm…

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.

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

Disclaimer

Due care and caution has been taken in preparing and publishing this bulletin. Where required, text has been moderated, edited and re-arranged. The contents available in this Bulletin are just for Information. Users are advised to explore and consult original text before applying or referring to it. Research Centre shall not be responsible for any loss or damage in any manner arising out of applying or referring the contents of Bulletin.

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

JUDGMENTS OF INTEREST

10.	Supreme Court of Pakistan	Conviction of accused of rape under section 496-B instead of rape under section 376	Criminal Law	11
11.		Summary suit under O.XXXVII; Promissory note need not to be attested by two witnesses; Contents of plaint or written statement do not equate evidence; Evasive denial is disapproved.	Civil Law	12
12.		Applicability of Section 14 of the Limitation Act, 1908; Discretionary Relief for indolent persons and Limitation; Condonation of Delay in Filing Appeals; Applications, or Suits; Equal status of Government and Ordinary Litigants; Time Spent in Wrong Forum and Section 5 of the Limitation Act, 1908.		13
13.		Jail Superintendent's duty in appeals of convicted prisoner; Liberal exercise of Section 5 of the Limitation Act, 1908, for justice; Interested witness; Eyewitness evidence not discarded due to relation with deceased; Trustworthy ocular evidence prefers over medical; Prosecution suffers for failing to prove motive.	Criminal Law	14
14.		Divorce by husband then accused her of zina, the rules of li'an would not be applicable; Non-Requirement of Tazkiyat-ul-shuhud as proof where accused commits *Qazf* in the presence of the Court; Legitimacy of a child.	Hudood Law	16
15.	Lahore High Court	Definition of The term 'foreign arbitral award'	Civil Law	17
16.		Competency of a suit instituted during the pendency of previous: Legality of inconsistent pleas.		18
17.		High Court's suo motu jurisdiction under Article 199; Caretaker Government's powers under Section 230 of the Elections Act, 2017; Legal validity of Chairman NADRA's appointment under the Ordinance, 2000; Issuance of quo warranto in executive appointments. v. Judicial overreach and separation of powers.	Constitutional Law	19
18.		Rejection of plaint;Principle for validity of a Will; Registration of a Will .	Civil Law	21

19.	Lahore High Court	Legal effect of delay in lodging the First Information Report (FIR) in a murder case; applicability of Section 302(c) PPC to cases under Exception 4 of Former Section 300 PPC; applicability of Section 302(c) PPC for murder committed in a sudden fight and heat of passion; evidentiary value of medical opinion on time between injury and death in relation to ocular testimony; Impact of delay in sending crime empties to the forensic lab on the prosecution case; principles governing sentencing in murder cases.	Criminal Law	22
20.		Meaning of microfinance; Regulatory bodies of Non-Banking Microfinance Companies (NBMFCs) and Microfinance Banks (MFBs); Scope of Financial Institutions (Recovery of Finances) Ordinance 2001 (FIO) and Microfinance Institutions Ordinance, 2001 (MIO); Procedure for trial of offences under FIO and its applicability.		24
21.		Proper stage for deletion of offence by a special court established under Anti-Rape (Investigation & Trial) Act, 2021?		26
22.		Legislative history of registration of FIR; registration of Criminal cases under regulations of Bengal and united provinces:- Scheme; comparison of Codes of Criminal procedures, 1981, 1872, 1882 and 1898; scope of repealed laws in interpretation of prevailing laws; books to enter the substance of information of cognizable and non-cognizable offences; preliminary investigation and competent authority to issue directions: Scope of quashing of FIR due to non-cognizable offense and cognizance by Magistrate, if investigated without permission.		27
23.		Comparison Section 328 & 328A of PPC; Islamic and legal concept of age of majority; Procedure to be adopted by the Child Protection Court for the trail of offences under the Punjab Destitute and Neglected Children Act, 2004; Responsibilities of parents in Islam and state.		33
24.		Competence of Pakistan Rangers to exercise powers under the CNSA.		34
25.		Situation, when a person charged with offence under section 205 PPC; Procedure prescribed for initiation and taking cognizance; Meaning of the "proceeding; Meanings of the "documents produced"; Meanings of "such Court"; Meanings of "documents given in		35

		evidence"; Bail bond produced for inspection of the court qualifies for evidence; Rationale behind the introduction of offences mentioned in section 195 Cr.P.C; Documents produced during the course of proceedings in compliance with order of court, furnish the base of prosecution under section 195 Cr.P.C.; Procedure for declaration of tout; Merits of the case while deciding pre-arrest bail petition.	Criminal Law	
26.		Limitation for Filing Review Petitions before Member Board of Revenue; Scope of Review Under Section 8(1) of the Revenue Act and the Applicability of Section 21 of the Punjab Waqf Properties Ordinance, 1979.	Revenue Law	38
27.		Maintainability of Constitutional Petition against contractual powers of government bodies; Level playing field and responsibility of procurement agency; Restrictions to freedom of trade, business or trade; Split tendering is an obligation or not; Split tendering and international principles; Directions/proposal to procurement agencies across the province.	Civil Law	39
28.	Lahore High Court	Determination of territorial jurisdiction of the Family Court; determination of the "territorial jurisdiction" of the Family Court, 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)	Family Law	42
29.		Appeal against a conditional decree does not suspend its conditions; a decree for specific performance is usually preliminary but becomes final if it includes automatic consequences for default; a decree with an automatic dismissal clause does not require the judgment debtor to seek rescission; an appellate court's power to extend the deposit time.		43
30.		Standard of proof to establish gift particularly, if the donee is a housewife and the donor/husband is a socially active person; Mere allegation of fraud by the donor (husband) of gift, without disclosing the particulars thereof; Allegation of fraud and burden of proof from the donor to the donee and the presumption of truth in revenue records; Burden of proof between introducing evidence and establishing a fact; Presumption regarding existence of certain facts and rebuttal of such Presumption; Burden to prove allegations of fraud, and particulars to be stated in the pleadings; Impleading the revenue officials as a party in	Civil Law	44

	Lahore High Court	case of allegations of connivance of Revenue Staff.	Civil Law	
31.		Filing of the suit and the dismissal thereof does not ipso facto result in establishment of fraud; Nature of proceedings before the Revenue Court is consistent; Plea of setting aside sale mutation obtained through fraud etc fall within the domain and jurisdiction of the Courts of plenary jurisdiction.		47
32.		Impact of Crime's Nature on Guilt Determination; Effect of Unexplained Delay in FIR Registration; Legal Consequences of Delay in Post-Mortem Examination; Evidentiary Value of Deceased's Open Eye at Autopsy; Unnatural Conduct of Eyewitnesses and Its Impact on Testimony; Dishonest Improvements in Testimony and Its Evidentiary Impact; Failure to Produce Key Witnesses and Adverse Inference under Article 129(g) QSO, 1984; Reliability of Medical Evidence in the Absence of Eyewitness Testimony; Significance of Weapon Recovery with a Negative Forensic Report; Failure to Prove Motive and Its Effect on Prosecution's Case; Presumption of Innocence and the Benefit of Doubt.	Criminal Law	48
33.		Inference when the prime target remains unharmed; Significance of non-recovery of blood-stained clothes; Identification of accused in night-time occurrences; Admissibility of recovered evidence under criminal law; Limitations of medical evidence in proving guilt; Benefit of doubt in criminal proceedings.		51
34.		Application for setting aside exparte proceedings; limitation period; Civil servants' liability for acts done in official capacity; Constitutional Jurisdiction and ordinary legal remedy.	Civil Law	53
35.		Legal status of executive instructions contradicting statute; mistake in job advertisement; applicability of stopple against statue; public sector appointments made in violation of statutory framework.	Service Law	54
36.		The principle of reverse burden of proof under Section 29 of the CNSA does not absolve the prosecution of its duty to establish a prima facie case; a break in the chain of custody of seized contraband weakens the prosecution's case and it's affects on the reliability of forensic evidence; failure to comply with procedural requirements regarding safe custody and forensic testing invalidates prosecution evidence; the Punjab Police Rules 1934	Criminal Law	56

4.	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	60
5.	Blockchain and Corporate Governance: A Game-Changer or a Gimmick? by Aayushi Bhargava and Ayushi Malik	60

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_l_2022.pdf

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

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

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

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

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

---

7. **Supreme Court of Pakistan**
Mushtaq and others v. Mst. Fatima and others
C.P.L.A.559-P/2024
Mr. Justice Yahya Afridi, Mr. Justice Shahid Waheed
https://www.supremecourt.gov.pk/downloads_judgements/c.p._559_p_2024.pd

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

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

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

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

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

---

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

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

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

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

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

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

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

---

9. **Supreme Court of Pakistan**
The Commissioner Inland Revenue, Lahore v. M/s Eagle Cables (Pvt), Lahore
C.P.L.A.2400-L/2022
Mr. Justice Munib Akhtar, Mr. Justice Athar Minallah, Mr. Justice Shahid Waheed.
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2400_l_2022.pdf

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

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

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

Conclusion: i) See above analysis No. i

---

10. **Supreme Court of Pakistan**
1. Asif Masih 2. Qasim Iqbal 3. Sajid Majeed v. The State
Jail Petition No. 481 of 2019
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._481_2019.pdf

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

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

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

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

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

---

11. **Supreme Court of Pakistan**
Muhammad Adnan v. Salah-Ud-Din
CPLA No.1618 of 2024
Mr. Justice Naeem Akhter Afghan & Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1618_2024.pdf

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

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

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

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

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

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

Conclusion: i) A promissory note is not required to be attested by two witnesses.
ii) Contents of pliant 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.

---

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

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

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

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

Conclusion: i) Delay in FIR is justified if the complainant prioritizes saving the victim's life, especially without enmity.

ii) See analysis No.ii.

iii) Exception-4 applies only to unpremeditated killings in sudden fights without undue advantage.

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

---

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

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

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

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

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

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

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

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

Conclusion: i) Microfinance is an activity by NBFCs to a poor person having annual income equal to or less than Rs.1200000/; or microenterprise having permanent work force of 10 or less.

ii) NBMFCs are registered as not-for-profit entities regulated SECP. MFBs are regulated by SBP, similar to conventional banks but adopted in the microfinance sector.

iii) MIO is a sector-specific law focused exclusively on microfinance institutions

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

iv) See above analysis (iv).

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

---

21. **Lahore High Court**
Azra Yasmin v. Judicial Magistrate Sec-30, etc.
Cr. Revision No.1836 of 2025
Mr. Justice Muhammad Waheed Khan, Mr. Justice Farooq Haider
https://sys.lhc.gov.pk/appjudgments/2025LHC380.pdf

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

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

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

Conclusion: i) See above analysis No. i

---

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

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

Issues: i) What is the legislative history of registration of FIR and the "Books Prescribed" under Section 154 and 155 CrPC?
ii) What was the scheme of registration of criminal case under the Police Act, 1861 and Police Regulations of Bengal framed thereunder; as well as Code of Criminal Procedure, 1861?
iii) What changes were introduced in the provisions of registration of FIRs by the second Code of Criminal Procedure, 1872?
iv) What was the scheme of case registration under Police Regulations of United Provinces?
v) Whether the repealed enactments and regulation have any significance in understanding the concept of section154 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 dairy"* 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 (...) The **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 رپٹ 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 Macauly. Then the Police Act in 1861and Regulations under its section 44 in different states from time to time; latest the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Analysis: i) Section 328 PPC shall only be applicable if the child is under 12 years of age, whereas Section 328A PPC, picks up child of every age under 18 years. Both the offences are cognizable yet offence under section 328 is non-bailable and 328A bailable as per second schedule of Cr.P.C. Section 328 PPC is limited to a situation when father or mother, or any person having care of such child, exposes or leaves such child in any place with the intention of wholly abandoning such child. This section is verbatim of original section 317 of PPC (…) Whereas Section 328A PPC inserted later in year 2016 though accommodates the act of abandoning the child yet it is wider in scope so as to cover assault, ill-treatment, neglect, or an act of omission or commission, that results in or have potential to harm or injure the child by causing physical or psychological injury to him. Thus, stands at different conceptual pedestal than to section 328 PPC.
ii) In Islam, adulthood (or ―Bulugh‖) 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. ii. The growth of pubic hair or the production of semen for boys.

Once a person reaches puberty, they are no longer considered a ―child‖ 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 ―child‖ 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.
Crl. 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.
Crl. 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. FEROZE 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.

---

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 biding of different projects beyond his/their maximum ceiling through this Constitutional Petition, which stood dismissed.

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

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

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

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

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

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

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

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

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

(i) It is imperative in terms of Regulation 5 of the Regulations 2024 and Rule 8 of the Rules 2014, that annual development plan by each procuring agency with respect to the procurement to be carried out in that fiscal year is devised within one month of the beginning of fiscal year and the same must be made public. This would rule out possibility of tinkering and/or manipulation in any tender at the time of inviting bids;

(ii) (ii) There is an administrative and executive discretion vested in the procuring agency to formulate and design the procurement plan by grouping and/or splitting the works for the purposes of ensuring widest possible competition and obviating the possibility of favouritism, however, once the said discretion is exercised, through an annual development plan, the procuring agencies are obligated to adhere to the same without splitting and/or regrouping the same in terms of Rule 9 of the Rules 2014;

iii) Adherence to Rule 8 of the Rules 2014 as to announcement of proposed annual procurement plan in a financial year is a legal obligation which stands as a bar and check upon the procuring agency to arbitrarily split and/or regroup the subject matter of procurement to tailor-make the same to extend favouritism; and

(iii) A procuring agency should at least, at the planning stage, consider splitting of the work when it is tendering the same that are comprised of different geographical locations and different types of services/activities; and if it still decides to group them together in one contract then it should, at a minimum, state its reasons for doing so. This should be encouraged as a “best practice” amongst the procuring agencies to avoid any such challenges during the procurement process.

Conclusion: i) In order to prevent arbitrariness or favouritism the judicial review cannot be denied upon exercise of contractual powers of government bodies.

ii) The principle of level playing field could be protected by the principle of transparent and open competitive bidding.

iii) To ensure the widest possible competition is the core responsibility of the procurement agency.

iv) The fundamental right to freedom of trade, business or profession is not

absolute but is subject to qualification and restrictions prescribed by the law.
v) The procuring agencies are not under any statutory obligation for split bidding, splitting or regrouping of works against the annual procurement planning is prohibited.
vi) After scanning international procurement principles, no hard and fast rule could be spelt out, but the decision has to be made on case to case basis.
vii) See above analysis (vii)

---

28. **Lahore High Court**
Sadia Yasmeen v. Zeeshan Ahmed etc.
T.A. No.76469/2024
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC266.pdf

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

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

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

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

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

---

29. **Lahore High Court**
Ch. Jang Sher v. Amanat Ali
Civil Revision No.17850/2019
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC354.pdf

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

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

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

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

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

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

Conclusion: i) Filing an appeal does not suspend a conditional decree, the decree holder must still comply if consequences are specified.

ii) A decree is generally preliminary but becomes final if it includes a condition with automatic consequences for default.

iii) If a decree provides for automatic dismissal upon non-compliance, court intervention is unnecessary, and rescission is not required.

iv) An appeal continues the suit, but extending time for deposit depends on the case's specific circumstances.

---

30. **Lahore High Court**
Mst. Tahira Altaf v. Mian Ghulam Dastgeer
Civil Revision No.37990/2024
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC293.pdf

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

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

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

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

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

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

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

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

ix) The suit was not proceedable on account of non-joinder of necessary party in view of the judgment of the Apex Court, reported as rendered in "Sikandar Hayat and another v. Sughran Bibi and 6 others" (**2020 SCMR 214**), wherein it has been held that where the mutation is alleged to have been effected with active connivance between the revenue officials and the defendant in order to deprive the plaintiff, the impleadment of the said revenue officials is mandatory as neither any valid adjudication could take place nor their connivance could be declared in their absence as parties in the suit.

Conclusion: i) A housewife is not required to prove the execution of a gift by her husband with the same standard of proof as a general donee.

ii) See above analysis No ii.

iii) A donee is required to prove all the ingredients of valid gift.

iv) See above analysis No iv.

v) See above analysis No v.

vi) See above analysis No vi.

vii) A gift, executed in favour of wife by husband would not place the onus on wife with the same standard of proof to prove the gift as is otherwise required from a done.

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 prejudge 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 statue?
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 againt statute or rule?
v) What is the legal status of public sector appointments made in violation of statutory frame work?

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 statue.

ii) A mistaken or misleading job advertisement cannot be a ground for bypassing the statutory rules governing recruitment.

iii) Mere participation in a selection process does not confer a vested right to appointment.

iv) No estoppel can operate against a statute or rules framed under it.
v) Any appointment outside statutory rules is void and illegal.

---

36. **Lahore High Court**
The State v. Nusrat etc.
Nusrat etc. v. The State
Capital Sentence Reference No.03 of 2021
Criminal Appeal No. 728-J of 2021
Mr. Justice Syed Shahbaz Ali Rizvi, Mr. Justice Muhammad Jawad Zafar
https://sys.lhc.gov.pk/appjudgments/2025LHC404.pdf

Facts: Brief facts of the case are that the driver and a passenger were apprehended by a patrol team upon interception of a truck at a checkpoint and a significant quantity of contraband was recovered from the vehicle and their possession. The trial court convicted both accused and sentenced them to death.

Issues: i) Whether the principle of reverse burden of proof under Section 29 of the Control of Narcotic Substances Act, 1997 (CNSA) absolves the prosecution of its duty to establish a prima facie case?
ii) What is the effect of a break in the chain of custody of seized contraband on the prosecution's case?
iii) Whether failure to maintain compliance with procedural requirements regarding safe custody and forensic testing invalidates prosecution evidence?
iv) Is it mandatory under the Punjab Police Rules 1934 to maintain Register No. XIX for storing and tracking seized articles in the police station?
v) Whether a single reasonable doubt in the prosecution's case is sufficient to warrant acquittal?

Analysis: i) Under the law, due to the provision of Section 29 of the CNSA, the burden of proof in cases pertaining to narcotics substances, unlike prosecution under the Pakistan Penal Code 1860 ("PPC"), is inverted. This principle of reverse burden of proof is not alien to our law as the scheme of CNSA is akin to the Offences in Respect of Banks (Special Courts) Ordinance 1984 ("Ordinance of 1984") and National Accountability Ordinance 1999 ("NAO"), where too there is reverse burden of proof as per Section 9 of the Ordinance of 1984; and, Section 14(c) of NAO, since omitted vide Section 10 of Act XI of 2022. However, just because the burden of proof is inverted does not mean that the prosecution does not have to establish its case.
ii) Insofar as the recovery of contraband is concerned, it needs no reminding that the chain of custody begins with the recovery of the seized drug by the investigating agency and is inclusive of separation of the representative sample(s) of the seized drug and their dispatch to the laboratory for forensic analysis. It is the bounden duty of the prosecution to establish that the chain of custody of sample parcels was unbroken, unsuspicious, indubitable, safe and secure because any break in the chain of custody or lapse in the control of possession of the sample, casts doubt on the safe custody and safe transmission of the sample(s),

which in turn impairs the conclusiveness and reliability of the Report of the Government Analyst, thereby rendering it incapable of sustaining conviction.

iii) The break in the chain of one day, as noted above, is sufficient to cast doubt about the safe custody of the sample parcels, as well as the safe transmission of the same to the laboratory, thereby impairing the credibility and reliability of the PFSA Report

iv) Furthermore, the Punjab Police Rules 1934 ("Police Rules") mandate that register No. XIX (Store-Room Register as prescribed in Rule 22.70 of the Police Rules) shall be maintained in the police station wherein, with the exception of articles already included in Register No.XVI, every article placed in the store room (Malkhana) shall be entered and the removal of any such article shall also be noted in the appropriate column.

v) To this end, it is trite that it is not necessary that there be multiple infirmities in the prosecution case or several circumstances creating doubt. A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle the accused to its benefit, not as a matter of grace and concession but as a matter of right.

Conclusion: i) The reverse burden of proof under the CNSA does not exempt the prosecution from its duty to first establish a prima facie case.

ii) The prosecution must ensure an unbroken and secure chain of custody for seized contraband, any lapse undermines the reliability of forensic evidence.

iii) A break in the chain of custody raises serious doubts about the safe handling and transmission of evidence, weakening the prosecution's case.

iv) The Punjab Police Rules 1934 require strict maintenance of Register No. XIX to record and track seized articles in police custody.

v) Even a single reasonable doubt in the prosecution's case is sufficient to grant the accused an acquittal as a matter of right.

LATEST LEGISLATION/AMENDMENTS

1. Vide The Trade Organizations Act, 2025 dated 21-02-2025, amendments in sections 2, 3, 4, 7, 8, 9, 11, 12, 13, 15, 16, 17, 19, 20, 21, 22, 23, 27, 33 & 34 are made in The Trade Organizations Act, 2013.
2. Vide The Imports and Exports (Control) Act, 2025 dated 21-02-2025, amendment in section 3 is made in The Trade Organizations Act, 1950.
3. The National Institute of Technology Act, 2025 dated 21-02-2025 was promulgated for the establishment of the National Institute of Technology.
4. The National Excellence Institute Act, 2025 dated 21-02-2025 was promulgated for the establishment of National Excellence Institute.
5. Vide notification No. SO(CAB-I)2-30/2013(ROB) dated 27-01-2025, amendment was made at serial No.18 of first schedule & serial No.14 of the second schedule of The Punjab Government Rules of Business, 2011.

6. Vide notification No.SO (M) HR & MAD 4-78/2013 dated 04-02-2025, The Punjab Hindu Marriage (Marriage Registrar) Rules, 2024 are made.
7. Vide notification No. SOFT(EXT)IV-01-2023 dated 10-02-2025, The Punjab Forest Transit Rules, 2024 are made.
8. Vide notification No. SOFT(EXT)IV-3/2023 dated 10-02-2025, The Punjab Forest Depot Rules, 2024 are made.
9. Vide notification No. SOP (WL) 12-1/2019 (G) (P) dated 23-01-2025, Management Board under Punjab Protected Areas Act, 2020 is reconstituted for three years.
10. Vide notification No. SOP (WL) 12-8/2001-XIII dated 23-01-2025, amendments in first & third schedule are made in The Punjab Wildlife (Protection, Preservation, Conservation and Management) Act, 1974.
11. Vide notification No. SOP (WL) 12-14/2019 (P-I) dated 10-02-2025, amendment is made in the second schedule of The Punjab Wildlife (Protection, Preservation, Conservation and Management) Act, 1974.
12. Vide notification No. SOP (WL) 12-14/2019 (P-I) dated 10-02-2025, amendment is made in The Punjab Wildlife (Protection, Preservation, Conservation and Management) Rules, 1974.
13. Vide notification No.SO(A-I) 8-39/2012(P-II) dated 10-02-2025, The Punjab Free and Compulsory Education Rules, 2024 are made.
14. Vide notification No. SOP (WL) 12-33/2001-II dated 23-01-2025, Punjab Wildlife Management Board under Punjab Wildlife (Protection, Preservation, Conservation and Management) Act, 1974 is reconstituted for three years.

SELECTED ARTICLES

1. **MANUPATRA**
   https://articles.manupatra.com/article-details/INTER-GENERATIONAL-INTRA-GENERATIONAL-EQUITY-UNDERSTANDING-THE-BASICS-OF-SUSTAINABLE-DEVELOPMENT

   Inter-Generational & Intra-Generational Equity by Nancy Aggarwal & Ritika Guj

   You pick up today's newspaper, and it's the same news of environmental degradation. You loudly disapprove of what is going on in the world, smack the paper on the table, and go on with your day. When we sit with our elders and hear their life stories, they are full of moments when they are out in the lap of nature, and this is what has changed now, the stories we'll be telling our younger generation will be about days where we spent a whole week inside our houses due to increased pollution and decreased human efforts to improve such situations. What if our parents and grandparents left the kind of environment for us that we will be leaving for ours? Would this level of developmental progress be possible? An ideal society is well aware of environmental conditions and is working towards the betterment of the same. Environmental awareness is vital so that society can exist efficaciously. Living in a healthy environment should be deeply rooted in

young minds so that the idea does not remain just an idea but becomes a habit. When we talk about the environment we talk about the world as a whole society and not just a few countries. As resources like air, water, etc are res communes and no one country is the absolute owner of them. This raises the question of equity. A healthy society can seek a balance between intergenerational and intragenerational equity, this is also known as the doctrine of sustainable equity. This paper will focus on the same and will be an attempt to thoroughly understand intergenerational and intragenerational equity, this will include understanding its meaning, its relevance, the issues faced today and the solutions for the same.

2. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/navigating-the-complexities-of-domestic-violence-cases-17465.asp

   Navigating the Complexities of Domestic Violence Cases by Yaksh Sharma

   Domestic violence cases are among the most emotionally charged and legally intricate challenges one can face. Securing the services of an experienced and empathetic domestic violence lawyer can be the deciding factor in achieving a fair outcome. Whether you are navigating the legal system in a specific community like Rancho Cucamonga or elsewhere in California, it is crucial to have a lawyer who combines local expertise with a deep understanding of the broader legal framework. The right legal advocate not only defends against criminal charges but also ensures that your constitutional rights are protected at every stage of the legal process. By conducting thorough research, assessing the lawyer's experience and client rapport, and understanding the tailored defense strategies available, you can take a proactive step towards safeguarding your future. Ultimately, a dedicated legal professional transforms a daunting and emotionally taxing experience into a structured, manageable process-providing clarity, support, and the best possible defense in the face of serious allegations.

3. **MANUPATRA**
   https://articles.manupatra.com/article-details/Understanding-Forbearance-to-Sue-Implications-for-Contractual-Rights

   Understanding Forbearance to Sue: Implications for Contractual Rights by Reva Sharma

   When the promisor fails to perform his promise under the contract, it becomes open to the promisee to hold the promisor liable for the breach of the contract. However, if in such a situation, the promisee fails to take action against the promisor for the breach i.e., forbears to sue, it has a substantial bearing on the contractual rights of both parties. The crucial question that then arises is, whether forbearance to sue upon the failure of the promisor to fulfil a promise, would amount to a waiver of the rights of the promisee and if such forbearance would also inextricably qualify for an extension of time granted by the promisee for the performance of the contract.

4. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/trump-s-power-troubles-legal-conflicts-over-agency-control-presidential-immunity-and-birthright-citizenship-in-light-of-the-constitutional-accountability-center-s-actions-17459.asp

   Trump's Power Troubles: Legal Conflicts over Agency Control, Presidential Immunity, and Birthright Citizenship in light of the Constitutional Accountability Center's actions by Shivani Negi

   Since President Donald Trump's return to the White House, his administration's activities have been subjected to quick and rigorous judicial examination, fueling disputes over the nature of presidential power and constitutional restrictions. Several lawsuits have been filed contesting his policies and executive actions in a variety of fields. Hampton Dellinger, a federal officer fired by President Trump earlier this month, is at the center of a major court struggle. The administration has asked the Supreme Court to step in, hoping to accelerate judiciary rulings that might increase executive power. This case centers on the unitary executive theory, which advocates for wide presidential control over the executive branch. The Court's ruling may significantly alter the balance of power and procedural rules, suggesting its possible attitude on presidential authority. In an effort to impose presidential control, President Trump signed an executive order forcing independent regulatory agencies, such as the Securities and Exchange Commission (SEC) and the Federal Trade Commission (FTC), to submit new policy ideas and obtain budget approval from the White House. This decision, based on the unitary executive principle, has provoked legal challenges and arguments regarding the constitutionality of expanding presidential oversight over traditionally independent agencies.. The Constitutional Accountability Center (CAC), a legal policy think tank that advocates for a more progressive interpretation of the Constitution, has emerged as a major actor in these judicial disputes. The CAC has filed amicus papers in crucial instances, questioning the administration's actions and interpretations of presidential authority. Their involvement emphasizes the active role of legal groups in shaping the debate over constitutional boundaries and presidential authority.

5. **MANUPATRA**
   https://articles.manupatra.com/article-details/Blockchain-and-Corporate-Governance-A-Game-Changer-or-a-Gimmick

   Blockchain and Corporate Governance: A Game-Changer or a Gimmick? by Aayushi Bhargava and Ayushi Malik

   The swift progress of technology has transformed industries, economies, and governance systems, bringing both new opportunities and challenges. Among these advancements, blockchain has surfaced as a groundbreaking element, changing the landscape of data security, transparency, and decentralization. In contrast to conventional databases, blockchain functions as an unchangeable ledger, guaranteeing that once data is recorded, it cannot be modified or erased.2 These characteristic boosts trust and reduces the risks linked to fraud and data tampering. Corporate governance, which lays down the

framework for corporate management and decision-making, has historically faced issues of inefficiency, lack of clarity, and dependence on intermediaries. Blockchain technology presents a possible remedy by simplifying governance processes, enhancing transparency, and mitigating the risks of corporate mismanagement.3 The idea of Decentralized Autonomous Organizations (DAOs) illustrates this transformation, allowing governance systems to function through smart contracts and decentralized decision-making.4 Nonetheless, despite its potential, the use of blockchain in corporate governance brings forth considerable concerns. The heightened transparency of ownership could lead to issues related to regulation and privacy, while the shift from conventional governance structures to blockchain-based systems introduces various logistical and legal obstacles. This article examines the convergence of blockchain technology and corporate governance, evaluating its ability to improve accountability and shareholder rights, while also critically reviewing the limitations and practical difficulties associated with its implementation.

LAHORE HIGH COURT

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

Disclaimer

Due care and caution has been taken in preparing and publishing this bulletin. Where required, text has been moderated, edited and re-arranged. The contents available in this Bulletin are just for Information. Users are advised to explore and consult original text before applying or referring to it. Research Centre shall not be responsible for any loss or damage in any manner arising out of applying or referring the contents of Bulletin.

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

JUDGMENTS OF INTEREST

	Supreme Court of Pakistan	based on distance effect of acquittal of co-accused on the credibility of the same eyewitness testimony.	Criminal Law	
18.		Uncorroborated voice recognition; Retracted confession in capital cases; Lack of corroborative evidence.		21
19.		Residence of labour and work place is shown as "one unit" and is also registered as "one manufacturing unit, the registered cannot be vexed twice, provisions of Section 7 of Sales Tax Act, 1990 provide a facility to adjust input tax at time of payment of output tax	Tax Law	22
20.		A special oath cannot be administered to decide an application under Order IX Rule13 of the CPC when the ex-parte judgment is a past and closed transaction.	Civil Law	24
21.		Thirty years old document, can be presumed genuine under the Qanun-e-Shahadat Order, 1984, if subject document is produced by person having proper custody in terms of Article 100 of the Qanun-e-Shahadat Order, 1984; competency of court of revision.		24
22.		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, the phrase "definite information" mentioned in the text of Income Tax Ordinance 1979 and Income Tax ordinance, 2001and the effect of definite information.	Tax Law	26
23.		Judicial approach to sentencing in cases of sudden provocation; legal impact of sudden provocation on the classification of Qatl-i-Amd under section 302 PPC.	Criminal Law	27
24.		Effect of office objections on limitation; Necessary factors involved in determination of compensation for land acquired; Potential value and its distinction with market value; Consideration of time consumed in announcement of award for land acquired.	Civil Law	28
25.		Conviction on improbable prosecution story; FIR delay impact; Withholding material witnesses; Uncorroborated medical evidence.	Criminal Law	29
26.		Evidentiary value of FIR registered on confessional statement of accused; evidentiary value of FIR; presumption against non-production of material witness by the prosecution; legal consequences of non-associating private witnesses, role of medical evidence in identifying the culprits.		31

27.	Supreme Court of Pakistan	A bid at an auction does not create a legal right without confirmation or approval by the competent authority; the competent authority has the right to cancel an auction without assigning any reason; the rejection of the highest bid and the decision to re-auction do not violate the principles of natural justice; an auction bid subject to approval or confirmation by the competent authority does not result in a concluded contract prior to such approval.	Civil Law	32
28.		A declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms; it is not 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.		33
29.		The market value of the land to be acquired, market value prevailing at the date of publication of the notification under Section 4(1) is to be considered for determination of the market value.		34
30.	Lahore High Court	Effect of FIR delay on Prosecution's case and credibility; legal consequences of non-production of injured witnesses and medical evidence;evidentiary value of an unproduced recovered weapon in trial; standard for appellate interference with an acquittal order.	Criminal Law	34
31.		Effect of non-mentioning the names of witnesses in inquest report; time duration for blood disintegration.		36
32.		Effect of delay in FIR and postmortem; Circumstances o allow a party to ask questions to its own witness and stage to allow; nature and effect of absconsion.		36
33.		Applicability of Res Judicata upon appeals; Decision of main case pending miscellaneous applications; Effects of omission to give property descriptions in gift deed; Ingredients of valid gift; Proxy acceptance of gift; Evaporation of presumption attached to registered document; Effect of non-production of a person filing conceding statement.	Civil Law	38
34.		Rectification of register of directors, jurisdiction regarding addition/deletion of the name from register of directors; cognizance of civil court v) Whether the court while deciding application under order VII rule 11 CPC can see into the contents of the plaint alone?		40

35.	Lahore High Court	Principle of law for giving benefit of doubt.	Criminal Law	42
36.		Date of attestation of mutation triggering the limitation period under Section 30 of the Punjab Pre-emption Act, 1991; Mandatory requirements for valid performance of *Talb-e-Ishhad* under the Punjab Pre-emption Act, 1991.	Civil Law	42
37.		Retrospective application of fiscal amendments; Legal scope of provisos in tax statutes; Discriminatory tax treatment and constitutional implications; Strict interpretation of tax laws imposing liabilities.	Taxation Law	43
38.		Arbitration proceedings require a mandatory court reference under Section 20(4) of the Arbitration Act, 1940, an arbitration award is invalid without a formal court reference under Section 20(4).	Civil Law	45
39.		Bar in the statute ousting the jurisdiction of civil court cannot operate as absolute; Exercise jurisdiction by Civil Court despite a statutory bar where acts are tainted with *mala fide*, *coram non judice* or void; Question of jurisdiction is always pivotal to be decided at the very outset.		45
40.		The Sales Tax Act, 1990 requires adherence to the search procedures outlined in the Code of Criminal Procedure, 1898, Non-appearance of two witnesses on the recovery memo under Sections 102 & 103 of CrPC constitutes a procedural or technical infirmity, The Finance Act 2004 amendments regulate and limit the powers of sales tax authorities to prevent taxpayer harassment.	Tax Law	46
41.		The concept of diet money in criminal cases; who to bear the expenses of diet or travel; award of compensation to victims or legal heirs; striking off the right of cross examination of accused.	Criminal Law	47
42.		Objections of Taxpayer before determining liability under Section 52 of the Punjab Sales Tax on Services Act, 2012; legal provisions applying to withholding agents and tax collection procedures; Comparison between "Section 52" and "Section 14" of Punjab Sales Tax on Services Act, 2012; Judicial Precedent regarding definition of Tax payer, his liabilities, principles for issuance of show cause notice; Scope of Article 10 A of the Constitution of Islamic Republic of Pakistan, 1973; Interpretation of tax laws .	Taxation Laws	49

43.	Lahore High Court	Modes of determining the status of child, biological father is morally bound to maintain biological child; paternity has to be established while granting maintenance allowance	Family Law	52
44.		Effect of delay in reporting the incident to the police; Effect of prolonged delay in the post-mortem examination; Effect of delay in filing the private complaint; Effect if the witnesses fail to justify their presence at the crime scene; Effect of failure of the eyewitnesses to describe specific injuries on the deceased; Legal and evidentiary value of a supplementary statement in Pakistani law; belated implication of the appellant by related witness ; Effect of absence of the names of eyewitnesses in the inquest and post-mortem reports; Credibility of testimony of prosecution witnesses against one accused if it has already been disbelieved for a co-accused; Evidentiary value of recovery of a pistol from an open and accessible place; Evidentiary value of CDR, without proof of the conversation's content; Evidentiary value of recovery of the motorcycle due to the lack of it's details in the FIR and its non-recovery from the appellant's possession; Failure to prove the alleged motive upon prosecution's case; benefit of doubt in the prosecution's case.	Criminal Law	54
45.		Show cause notice mandatory before Drugs Act prosecution; Section 103 Cr.P.C. compliance in drug recovery; Benefit of doubt on procedural lapses in drug cases.	Drug Law	57
46.		Evidentiary value of circumstantial evidence must form a complete and unbroken chain to establish guilt; reliability of last seen evidence requires independent corroboration to be credible, legal standing of DNA evidence admissible but dependent on proper handling and transmission; limitations of DNA as sole evidence insufficient for conviction without supporting proof; medical reports as evidence confirm injuries but do not directly link the accused, inadmissibility of recovery memo invalid if based on prior knowledge rather than new disclosure; conviction based on weapon recovery cannot be sustained without credible supporting evidence; benefit of doubt in criminal trials must be granted if any reasonable doubt exists.	Criminal Law	58

47.	Lahore High Court	The nature of duties determines a worker's status under labour laws; Parks & Horticulture Authority (PHA) qualifies as a Commercial Establishment under labour laws; a daily wage worker employed for over 10 years qualifies as a workman under labour laws; regularization of service is distinct from being declared a permanent workman and the Tribunal erred in directing regularization.	Labour Law	60
48.		Essential elements of a valid gift; Meaning of undue influence and powers of Revisionary Court.	Civil Law	62
49.		Applicability of doctrine of lis pendens when the provisions of Section 41 of the Transfer of Property Act, 1882 are applicable to a case; compromise obtained through collusion or fraud and exclusion of application of Section 52 of the Transfer of Property Act, 1882; Fraud between parties, without misrepresentation before the court; Invoking provisions under section 12(2) of CPC by a third party who was not a party to the decree; Summary dismissal of application under section 12(2) of CPC.		63
50.		Effect of dishonest improvements, inference on withholding best piece of evidence by prosecution; purpose of medical evidence; role of motive in criminal proceedings.	Criminal Law	64
51.		Discretionary powers of Courts to allow the amendments in pleadings are subject to certain conditions/limitations; Barring Amendments Based on Prior Knowledge;	Civil Law	65
52.		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; sufficient cause and how the courts should exercise discretion to condone the delay keeping in view finality clause provided by The Punjab Consumer Protection Act,2005.	Consumer Protection Law	66
53.		Confession of co-accused before police is not as statement of accomplice before court; effect of conflict between medical and ocular accounts upon the case of prosecution; PFSA report on CCTV footage without photogrammetry test is insufficient to decipher identity of unknown assailant; the trial court is duty bound to check the admissibility of evidence before it was allowed to come on record.	Criminal Law	67

54.	Lahore High Court	Scope and conditions to invoke Revisional Jurisdiction; effect of non-exhibition of articles/documents; non-production of witness transmitting the samples,		71
55.		The right to appeal or revise is determined by the law at the suit's institution, not at its decision or filing; suo motu revisional jurisdiction beyond limitation is allowed only under specific conditions; condonation of delay requires strict adherence to limitation laws; wrong legal advice alone is not sufficient for condoning delay without specific reasons and evidence, unjust enrichment does not justify suo motu revisional jurisdiction; restitution requires factual determination, suit continuation on assignment of interest requires court approval and litigant acceptance.	Civil Law	73
56.		Writ petition against transfer of Civil Servant; jurisdiction of Service Tribunal,		75
57.		Enforcement of final opportunity order by the Court, impact of repeated adjournments on the judicial systems; necessary conditions before applying the penal provision of Order XVII Rule 3 CPC; granting of adjournment with warning, failure to act diligently in producing evidence constitute an abuse of the legal system.		76
58.		The communication and correspondence inter se the departments as a ground for condonation of delay; Any extraordinary clemency, compassion or preferential treatment for the Government department; autonomous bodies or private sector/organizations to condone the delay; Any differently treatment for Government departments from the ordinary litigants, while deciding the question of limitation.	Limitation Law	78
59.		Use of former statement of a person to impeach his credit.	Criminal Law	79
60.		Scope of Revisional Jurisdiction Under Section 164 of the Land Revenue Act, 1967, and Section 115 of the Civil Procedure Code; Types of Admissions and Their Legal Basis Under the Law of Evidence; Inadmissibility of Statements Recorded Without Administering an Oath; Retractability of Admissions Made During Proceedings.	Civil Law	80

LATEST LEGISLATION/AMENDMENTS

SELECTED ARTICLES

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 dismal from service—whichever it deems fit—if the charge stands proved against the officer. The proviso restricts and limits the general discretion of the competent authority under Section 13(5)(ii) only in case where there is a charge of absence from duty for a period of more than one year. The proviso has no application in other cases including cases of absence from duty for a period of less than one year, where the competent authority continues to enjoy its general discretion under Section 13(5)(ii) to impose any one or more of the penalties under Section 4 of PEEDA Act. Nonetheless, the exercise of such discretion must be structured, reasoned, and supported by cogent justification in accordance with the principles of proportionality and administrative fairness.

ii) We, therefore, concur with the interpretation rendered by the High Court that the second proviso to Section 13(5)(ii) does not restrict the authority of the competent authority in imposing any of the three major penalties, even where the period of absence from duty is less than one year. However, where the competent authority elects to impose a major penalty in cases of absence from duty for less than a year, it must do so in accordance with the principle of proportionality.

iii) The principle of proportionality, in the context of structured discretion, mandates that the exercise of discretionary power must be reasonable, balanced, and commensurate with the objectives sought to be achieved. It serves as a check against arbitrariness and excess, ensuring that disciplinary action remains fair, just, and legally sustainable.

iv) Proportionality is assessed through a structured three pronged test5: First, whether the measure in question is suitable and bears a rational connection to the legitimate objective it seeks to achieve. Second, whether the measure is necessary, meaning no less restrictive or less onerous alternative exists to accomplish the same purpose. Third, whether the measure maintains a fair balance between the public interest and the rights of the individual, ensuring that the burden imposed is neither excessive nor oppressive in relation to the intended benefit.

Conclusion: i) The major penalty is required only for absence over one year, for shorter

absence the authority retains discretion but must justify its decision.
ii) A major penalty in cases of absence from duty for less than a year are allowed and must follow principle of proportionality.
iii) To check against arbitrariness and excess, ensuring that disciplinary action remains fair, just, and legally sustainable
iv) See above analysis No. iv.

---

3. **Supreme Court of Pakistan**
Abdul Shakoor(deceased)through legal heirs v. Muhammad Hanif (deceased) through legal heirs, etc.
C.P.L.A. No.1808-L/2015
Mr. Justice Munib Akhtar, Mrs. Justice Ayesha A. Malik
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1808_l_2015.pdf

Facts: In first round of litigation, suit for deceleration was filed to get cancel the sale deed which was executed through attorney after the death of principal. The first suit was decreed and sale deed was cancelled. The appeal was also dismissed. In second round of litigation, the legal heirs of one of the defendant of first suit, filed suit for specific performance of pre-existing agreement to sell, which was decreed and appeal was failed. Resultantly, the revision was filed in the High Court by the present leave petitioner, which was dismissed. Hence, this leave to appeal before the Supreme Court.

Issues: i) What is effect and scope of an assignment?

Analysis: i) An assignment and a sale of immoveable property are not the same thing. The leave petitioner derived his claimed interest (which would, as a matter of law, be the title) through the sale of the land to him by the aforementioned Shafi during the pendency of the second suit. If at all valid, this was not an assignment but would be a sale, i.e., a divestment by Shafi of the whole of his claimed interest (which itself, as a matter of law, would be the title) in the suit land... To accept the leave petitioner as an assignee of an interest on the basis of the sale to him by Shafi in such circumstances would be to, in effect, recognize the creation of assignments in what could be (effectively) an endless chain, with each link being a attenuated claim than the one before it. The finding that Shafl was not a bona fide purchaser without notice set up an insuperable barrier which the leave petitioner could not surmount.

Conclusion: i) See analysis Para No. i.

---

4. **Supreme Court of Pakistan,**
The Government of Balochistan through, Additional Chief Secretary Development, P&D Department, Quetta and another v. Muhammad Akhtar and others
Civil Petition No. 100-Q of 2023
Mr. Justice Amin-ud-Din Khan, Mr. Justice Muhammad Ali Mazhar,
Mr. Justice Syed Hasan Azhar Rizvi.

https://www.supremecourt.gov.pk/downloads_judgements/c.p._100_q_2023.pdf

Facts: The respondents succeeded in a recruitment process but were not issued appointment letters. They filed a Constitution Petition, alleging the department intended to appoint others unlawfully. The High Court ruled in their favor, directing the department to issue appointment orders as recommended by the Selection Committee. The petitioner now seeks leave to appeal, challenging the High Court's decision.

Issues: i) Whether Selection/Recruitment Committee can subtract or add any post in the selection process?
ii) What is the mandate of the Selection Board or Recruitment Committee for recruitments and whether it can deviate from the terms and conditions of the advertisement published for the information of the general public?
iii) What are the key responsibilities of the Recruitment Committee?
iv) How the appointments are to be made under The Baluchistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979?
v) What is the precondition for appointment under The Baluchistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979?

Analysis: i) Neither can it subtract any post nor add any post in the selection process, but it is obligated to adhere to the terms of reference and conduct the recruitment process strictly for the sanctioned posts allowed to be included in the written test and interview by the candidates.
ii) The Selection Board or Recruitment Committee can only recommend the candidates for issuing offer or appointment letters who are strictly selected on merit for the sanctioned posts, without deviating from the terms and conditions of the advertisement published for the information of the general public.
iii) The key responsibilities of the Recruitment Committee are to first determine how many positions have been advertised for inviting applications; to scrutinize all applications for shortlisting; and to examine whether all required antecedents and credentials have been attached and vetted for the purposes of the initial shortlisting of applications; whether the applicant joined the competitive process and qualified the written test, if any such conditions is required to be complied with, then to assess the marks on merits; and subsequently, conduct the interview according to the merit list, awarding interview marks. The Recruitment Committee may also consider granting additional marks for additional/value added qualifications or experience as mentioned in the advertisement inviting applications.
iv) The Baluchistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979, framed pursuant to Section 25 of the Baluchistan Civil Servants Act, 1974, manifestly elucidate under Rule 3 that the appointments to posts shall be made by the method of promotion or transfer or by initial appointment.
v) The precondition is that the method of appointment and the qualifications and other conditions applicable to a post shall be as laid down by the Department

concerned in consultation with the Services and General Administration Department ("S&GAD"). This means that the Recruitment Committee must undertake the recruitment process according to the conditions outlined by the concerned department, in consultation with the S&GAD and they are bound to strictly follow the criteria fixed for appointments with the required number of posts, and they are obligated to complete the process and send recommendations without deviating from or departing from the benchmarks to achieve the goal.

Conclusion: i) Selection/Recruitment Committee cannot subtract or add any post in the selection process.
ii) See above analysis No.ii
iii) See above analysis No.iii
iv) See above analysis No.v.
v) See above analysis No.vi.

---

5. **Supreme Court of Pakistan**
Federation of Pakistan through Secretary Finance, Islamabad v. Muhammad Atiq-ur-Rehman and others
Civil Petition No. 687 of 2022
Mr. Justice Amin-ud-Din Khan, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._687_2022.pdf

Facts: The respondent was appointed through proper channel in a federal government department but was denied pay protection for prior service in an autonomous body. The Federal Service Tribunal allowed his claim for pay protection, which was challenged before the Supreme Court.

Issues: i) Whether an employee of an autonomous body, upon subsequent appointment in government service, is entitled to pay protection under Fundamental Rule 22?
ii) Whether the benefit of pay protection can be claimed by employees of autonomous organizations that do not follow Basic Pay Scales (BPS)?
iii) Whether a judgment rendered on technical grounds without deciding a question of law can operate as a precedent for similar cases?

Analysis: i) The appellant was an employee of the statutory autonomous body having switched over to Government Service is a different creed of employees and cannot claim the benefit of F.R.22 and F.R.22 (a)(i) or (ii) of 1992 which is applicable to Civil Servants on their appointment subsequently to another post as a Civil Servant.
ii) In fact, as per policy, the employees of such autonomous organizations, established through a resolution are extended the benefit of fixation of pay in the manner set out in FR 22 on their subsequent appointment in the government service if they have adopted government pay scale scheme in totality. Furthermore, the employees of Atomic Energy Commission of Pakistan have SPS, therefore, they were not entitled for protection of pay in terms of policy

guidelines issued vide Finance Division's O.M.No.4(2)R-2/96 dated 12-08-2002.
iii) Even it failed to consider the five member judgment of this Court but only relied on its earlier judgment passed in Appeal No.1730(R)CS/2015, which was challenged in this Court but the civil petition was dismissed on technical grounds and no question of law was decided, rather this Court merely dismissed the petition due to non-availability of certain papers/notifications on record, which order in our view cannot be treated an order or judgment in rem but on the face of it an order in personam.

Conclusion: i) No, an employee of an autonomous body is not entitled to pay protection under Fundamental Rule 22 upon appointment in government service.
ii) No, employees of autonomous bodies that do not adopt Basic Pay Scales (BPS) are not entitled to pay protection on appointment in government service.
iii) No, a judgment rendered on technical grounds without deciding a question of law does not operate as a precedent.

---

6. **Supreme Court of Pakistan**
Adamjee Insurance Company Limited Petitioner(s) (In both cases) v. Techno International and others
Civil Petitions 202-L and 203-L of 2022
Mr. Justice Munib Akhtar, Mr. Justice Athar Minallah
https://www.supremecourt.gov.pk/downloads_judgements/c.p._202_l_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_l_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 complied 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_l_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.

---

9. **Supreme Court of Pakistan**
Tariq Mehmood v. The State
Criminal Appeal No. 29 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._29_2023.pdf

Facts: The appellant was convicted and sentenced to death for a double murder based on a judicial confession and recovery of weapon during investigation. The High Court upheld the conviction and confirmed the death sentence, which was challenged before the Supreme Court.

Issues: i) Whether recovery of crime weapon and forensic matching, when conducted contrary to law, can be considered valid evidence?
ii) Whether a judicial confession without reflection time and verification of voluntariness is admissible for conviction?
iii) Whether conviction can be sustained when the prosecution fails to prove motive for the alleged offence?

Analysis: i) Though, it was averred by the prosecution that after arrest, the accused led the police party to the designated place from-where the crime weapon, matching with the empties recovered from the crime spot, however, equal true is the fact that the empties and the crime weapon were sent together to the FSL, which is contrary to the law.
ii) It is also an admitted position that though the confessional statement was recorded before the Judicial Magistrate on 26.06.2004 however, the replies in the memorandum were recorded without giving any extra time to the accused to think over the matter before confessing his guilt. It is also an admitted position that Muhammad Asif Khan, Additional Sessions Judge, who recorded the confession statement of the accused did not examine the accused physically to check whether he was tortured by the police or not.
iii) The most crucial aspect of the case, in our view, being that the prosecution has miserably failed to prove any motive in the instant matter. It has nowhere been stated as to what prompted the accused to kill the two brothers as neither was there any enmity alleged to be between the parties nor there was any report with regard to any scuffle which took place between them prior to the incident.

Conclusion: i) No, weapon recovery and forensic evidence obtained through an unlawful process cannot be considered valid evidence.
ii) No, a judicial confession without reflection time and verification of voluntariness is inadmissible for conviction.
iii) Non-proving a motive cast doubt on the prosecution case

---

10. **Supreme Court of Pakistan**
Mst. Humaira Wazir v. Muhammad Faisal and others
Civil Petition No. 344-P/2022
Mr. Justice Yahya Afridi, Mr. Justice Irfan Saadat Khan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._344_p_2022.pdf

Facts: Petitioner sought restitution of conjugal rights and recovery of dower, dowry articles, gold ornaments, a share in a house, maintenance allowance, and a loan amount; Family Court granted partial relief, ordering the defendant to provide a house, pay Rs. 2 lac, return dowry items, and pay maintenance. On appeal, the Appellate Court upheld most findings and additionally granted 25 tolas of gold and a Shari share in the ancestral property. The High Court later ruled that the snatching of gold was unproven but upheld the petitioner's right to her Shari

share, maintenance, and dowry items. The petitioner now seeks leave to appeal against this judgment.

Issue: Whether petitioner's claim for a specific share in property, as dower under the Nikahnama, is legally enforceable?

Analysis: It also remains an admitted fact, that neither at the time of Nikah nor after its culmination, any objection was raised by the petitioner with regards to the entry made in column No.16 of the Nikahnama on the basis that it was vague and that there was no mention of any particular house or address in the said entry. She also admitted in her deposition, that she never demanded or asked from the respondent, that in which ancestral property did he have his share, so as to entitle the petitioner to claim her right in that property. Therefore, the High Court was correct in observing that columns No.13 and 16 of the Nikahnama entitles the petitioner to have shari share in the ancestral property, which the respondent was bound to provide her, without any exception.

Conclusion: Petitioner's claim for a specific share in property, as dower under the Nikahnama, is legally enforceable.

---

11. **Supreme Court of Pakistan**
M/s Muhammad Faisal Prop, F.A. Traders, Lahore v. Commissioner Inland Revenue, Zone-II, RTO-11, Lahore
Civil Petition No. 2100/2024
Mr. Justice Yahya Afridi, CJ, Mr. Justice Irfan Saadat Khan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2100_2024.pdf

Facts: The petitioner, a dealer/distributor of a manufacturing company, was subjected to tax proceedings after failing to disclose certain purchases. The High Court upheld the orders of the tax authorities, leading to the petitioner challenging the decision.

Issues: i) Whether the High Court was required to adjudicate upon the issue of limitation before deciding the matter on merits?
ii) Whether an appeal suffering from defects that are not removed within the limitation period becomes time-barred?
iii) Whether a court can imply condonation of delay in the absence of an express order?

Analysis: i) Though the High Court has passed the order on the merits of the case but it could not be denied that it has failed to discuss the averments of the CMA with regard to the limitation by specifying whether the same was allowed or rejected; which the High Court ought to have decided as a preliminary issue, duly raised by the petitioner in his objections to the said CMA.
ii) It is a settled proposition of law that if objections raised by the office of the Court were not removed within the time specified by the office and in the meantime limitation for filing the appeal stands expired, the appeal would be rendered as time barred.

iii) We also do not agree with the Department, that the CMA was impliedly allowed by the High Court, as it is a trite principle of law that a vested right can only be taken away through express legislation and not by implication.

Conclusion: i) The Court should have expressly ruled on the issue of limitation before deciding on the merits of the case.
ii) Since the defects in the appeal were not remedied within the limitation period, the appeal was rendered time-barred.
iii) The High Court could not imply condonation of delay without an explicit decision addressing the matter.

---

12. **Supreme Court of Pakistan,**
Rana Muhammad Yameen and another v. Muhammad Jamil (decd.) through L.Rs. and others
Civil Appeal No.151-P of 2013 & C.M.A.Nos.11-P of 2014, 213-P of 2017, 530-P of 2018 & 2570 of 2024.
Mr. Justice Shahid Waheed, Mr. Justice Shahid Bilal Hassan,
Mr. Justice Aamer Farooq.
https://www.supremecourt.gov.pk/downloads_judgements/c.a._151_p_2013.pdf

Facts: Respondents No.1 to 6, claiming to be the legal heirs of the original allottee, who died while migrating to Pakistan in 1947, filed a suit for declaration of ownership through inheritance and nullification of the land transfer, alleging that respondent No.7 fraudulently transferred the land to the appellants and respondent No.8 using a fake power of attorney. The suit was dismissed by the trial court, and the appeal also failed. However, the High Court, upon accepting the revision petition, decreed the suit in favor of the respondents. Now the appellants have filed this appeal under Article 185(2)(d) of the Constitution of Pakistan, 1973 challenging the said judgment and decree.

Issues: i) What is the legal requirement for proving claims made in pleadings?
ii) Under what circumstances can the High Court interfere with concurrent findings in revision?

Analysis: i) It is an established principle of law that mere taking a stance and pleading a fact in the plaint or written statement is not sufficient, rather the same has to be proved by leading unimpeachable, confidence inspiring and solid evidence, direct or secondary (after obtaining permission by moving application in this respect).
ii) Though the High Court has ample powers to undo and disturb the concurrent findings of the trial Court and first appellate Court in exercise of revisional jurisdiction under section 115, Code of Civil Procedure, 1908, but, if the same are found to be based on any illegality or irregularity and wrong exercise of jurisdiction.

Conclusion: i) Pleadings must be proved with unimpeachable, confidence-inspiring, and solid evidence.

ii) The High Court can interfere in concurrent findings in revision only in cases of illegality, irregularity, or jurisdictional error.

---

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.

---

14. **Supreme Court of Pakistan**
Syed Muhammad Ali Jaferi v. The State and another
Criminal Petition No. 94/2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._94_2025.pdf

Facts: Petitioner filed the petition under Article 185(3) of the Constitution as High Court denied his post-arrest bail on the allegation that he hacked complainant's Gmail

account, accessed private images, and disseminated them on social media to blackmail and intimidate her and family.

Issues: i) Whether the petitioner's continued incarceration in a marital dispute serves the interest of justice or constitutes legal harassment?
ii) Whether the petitioner is entitled to bail when the alleged offenses fall outside the prohibitory clause of Section 497 Cr.P.C. and no exceptional circumstances exist for refusal?

Analysis: i) In cases involving marital disputes, the court must balance the interests of justice with the need to ensure that the legal process is not used as a tool for harassment. The allegations in this case, while serious, arise from the private dispute between the parties, and the petitioner's continued incarceration may not serve the interest of justice.
ii) The offences alleged in the FIR fall outside the prohibitory clause of section 497 Cr.P.C, the maximum punishment of imprisonments whereof are five years and three years respectively. The petitioner is behind the bars for the last 2/3 months. Grant of bail in suchlike cases is a rule and refusal is an exception. No exceptional circumstances have been pointed out to refuse the concession of bail to the petitioner.

Conclusion: i) Petitioner's continued incarceration may not serve the interest of justice and cannot be used as a tool for harassment in a marital dispute.
ii) See analysis No. ii.

---

15. **Supreme Court of Pakistan**
Tanvir Hussain v. The State.
Jail Petition No. 235 of 2021
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.m.a._714_2023.pdf

Facts: The petitioner was convicted under Section 302(b) PPC for murder and sentenced to death, later modified to life imprisonment by the High Court. He sought leave to appeal before the Supreme Court, the court also reviewed a compromise deed submitted during the proceedings.

Issues: i) Whether minor contradictions in witness testimonies affect their credibility?
ii) Whether the occurrence in broad daylight among known parties affects the possibility of mistaken identity?
iii**)** Whether the share of minor legal heirs in Diyat remains protected despite a compromise by other legal heirs?
iv) Whether a convict unable to pay the Diyat amount due to financial constraints has any legal remedies under the law?

Analysis: i) They remained consistent on each and every material point. The minor

contradictions and discrepancies are not helpful to the defence because with the passage of time such discrepancies are bound to occur.

ii) The parties are known to each other and the occurrence took place in broad daylight, so there was no chance of mistaken identity or substitution.

iii) It would be relevant to mention here that it is now well settled that the share of minor legal heirs in Diyat shall remain protected under all circumstances, regardless of whether a compromise has been reached by all legal heirs of the deceased.

iv**)** So far as the issue of inability of convict to pay the amount of Diyat due to weak financial resources is concerned, in the case of Government of Punjab v. Abid Hussain (PLD 2007 SC 315) this Court issued directions to the Federal Government to frame rules on this matter. Consequently, the Rules i.e. Diyat, Arsh and Daman Fund Rules, 2007, were framed by the Federal Government under the mandate of section 338-G PPC. These rules provide four types of remedies for convicts/inmates unable to pay the amounts of Diyat, Arsh, or Daman subject to the terms and conditions specified therein, namely; (i) provisions of Soft Loans, (ii) grant out of the Fund, (iii) release on Parole, and (iv) facilitation for Jobs. In such view of the matter, the petitioner is at liberty to approach the administrative committee constituted under the Rules for the management of the Fund.

Conclusion: i) Minor contradictions do not affect witness credibility if they are consistent on key points.

ii) A broad daylight occurrence among known parties leaves no chance of mistaken identity.

iii) The share of minor legal heirs in Diyat remains protected irrespective of any compromise by other legal heirs.

iv) See Above analysis. iv

---

16. **Supreme Court of Pakistan**
Muhammad Abid Hussain v. The State and another
Crl. Misc. No. 10324-B/2024
Mr. Justice Muhammad Hashim Khan Kakar, Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._146_2025.pdf

Facts: The petitioner while invoking the jurisdiction of this Court under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 has questioned the order of the Lahore High Court, Lahore, whereby his application for bail after arrest in FIR for the offence under section 9(1)6(c) of the Control of Narcotic Substances Act, 1997 ("Act of 1997 was dismissed. Upon receipt of spy information, the petitioner was apprehended by the police and the complainant recovered "Heroin" weighing 1100 grams, which the petitioner kept in his possession for the purpose of sale; hence this case.

Issue: i) What should be the standard of proof of recovery and guilt in criminal cases reported under the Control of Narcotic Substances Act, 1997 ("Act of 1997")?
ii) Whether use of modern devises 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 by 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 moment, 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 qua 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 qua the other accused person.

---

18. **Supreme Court of Pakistan**
Imtiaz Naeem etc. v. The State
Jail Petition No. 438/2018
Justice Muhammad Hashim Khan Kakar, Justice Salahuddin Panhwar, Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p._438_2018.pdf

Facts: Petitioners were convicted of abduction and murder of a minor and sentenced to death, which was later reduced to life imprisonment by the High Court. Their conviction was challenged on grounds of insufficient and unreliable evidence.

Issues: i) Whether a conviction can be sustained on the basis of voice recognition evidence without corroboration?

ii) Whether a retracted judicial confession without corroborative evidence can form the basis for conviction in cases involving capital punishment?

iii. Whether the absence of medical, forensic, and discovery evidence impacts the validity of conviction on a capital charge?

Analysis: i) The claim of the complainant in respect of recognizing the voice of the petitioner during a ransom demand made over the telephone, particularly in high stakes scenarios, is fraught with significant risks of error, bias and misinterpretation; secondly, unlike fingerprints or DNA evidence, voice recognition lacks a standardized scientific framework for verification; thirdly, telephone calls, especially those made under duress, may suffer from poor audio quality, background noise or distortions, making it difficult to accurately identify the speaker; and, fourthly, in the absence of additional corroborative evidence (e.g., call records, witness testimony, or forensic analysis), relying solely on voice recognition is inherently unreliable. The irreversible nature of the death penalty or life imprisonment necessitates that evidence be unequivocal and incontrovertible. Any doubt, no matter how small, must weigh in favour of the accused because convicting an individual based on unreliable evidence violates the principle of due process and fair trial, which are fundamental to justice.

ii) A retracted confession, especially when it stands as the sole basis for conviction, raises significant legal, ethical and practical concerns. When coupled with the dismissal of oral evidence furnished by the complainant, relying on a retracted confession to secure a conviction becomes even more precarious.

iii) The record depicts that the place from where the dead body was recovered was already in the knowledge of investigating agency and due to the decomposition of the dead body, there is no medical evidence to corroborate the said confessional statement of petitioner Naeem. There is no evidence of recovery and discovery, legally incriminating in nature to connect the necks of the petitioners with the crime in question, as such, such a confession in the peculiar circumstances of the case could not be made basis for conviction and that too on a capital charge entitling death penalty.

Conclusion: i) No, conviction cannot be sustained on uncorroborated voice recognition evidence.

ii) No, a retracted confession without corroboration cannot solely sustain a conviction in capital cases.

iii) Yes, it is unsafe to base conviction on a capital charge in the absence of such evidence.

---

19. **Supreme Court of Pakistan**
Commissioner Inland Revenue, Corporate Zone RTO Peshawar v. M/s Flying Kraft Paper Mills (Pvt.) Limited, Charsadda and another
Civil Appeal No. 316 of 2022
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._316_2022.pdf

Facts: The appellant issued show cause notice to the respondent-company on the alleged inadmissible input tax adjustment paid towards electricity and gas bills supplied to the residential colony of the factory within factory premises; the adjustment was questioned. The show cause notice was contested. It was originally decided via order-in-original against the respondent. The respondent filed an appeal before the Tribunal, which was allowed and decided in favour of respondent and the impugned order-in-original was set aside. Being aggrieved, the appellant filed Sales Tax Reference before High Court, which was also dismissed. This civil appeal is against these concurrent findings of Tribunal and reference jurisdiction of High Court.

Issues i) What is input and output tax?
ii) Whether a registered person or tax-payer cannot be vexed twice?
iii) What is effect and impact of residential colony which is part of one manufacturing unit?
iv) What facility is provided under the provisions of section 7(1) of the Sales Tax Act, 1990

Analysis: i) Input tax is a tax paid by the registered person on the purchases while output tax is calculated on the sale of goods so it requires a legitimate nexus between the two.
ii) The provisions of section 7(1) of the Act provides the facility to the registered person as a legal right to deduct tax paid on purchases from the tax calculated on the sale of its taxable supplies, so that the said registered person may not be vexed twice and the taxpayer is saved from unnecessary hardship.
iii) The residence of labour and work place is shown as "one unit" and is also registered as "one manufacturing unit". The residence is provided to the workers to ensure smooth and unhindered work by labour engaged in the process of manufacturing of the taxable goods. Consequently, the consumption of electricity and gas by the labour/workers in their accommodation is directly connected with the taxable activity of the respondent-company and the entire unit is considered as a manufacturing unit, and hence considered to be a direct manufacturing expenditure in relation to the cost of goods.
iv) The provision of section 7 of the Act is to be interpreted liberally. In terms of the case of *Sheikhoo Sugar Mills Ltd. and others v. Govt. of Pakistan and others* (PTCL 2001 CL 331), it provides a facility to the registered person to adjust input tax at the time of making payment of output sales tax.

Conclusion: i) See above analysis No. i
ii) The registered person may not be vexed twice
iii)See above analysis No.iii
iv) It provides a facility to the registered person to adjust input tax at the time of making payment of output sales tax

20. **Supreme Court of Pakistan**
Sultan Mahmood and another v. Munir Ahmad
Civil Appeal No. 550-L of 2009
Mr. Justice Shahid Waheed, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._550_l_2009.pdf

Facts: A suit for declaration, possession, and specific performance based on a mortgage deed, was decreed ex-parte. The appellants filed an application to set aside the ex-parte decree. During the appellants' evidence stage, one appellant, acting as an attorney for the other, offered a special oath, leading to the dismissal of the application. On appeal, the Additional District Judge remanded the case for evidence recording. However, the High Court upheld the Civil Judge's decision, relying on the special oath.

Issues: Whether a special oath can be administered to decide an application under Order IX Rule 13 of the CPC when the ex-parte judgment is a past and closed transaction?

Analysis: Perusal of the record of the trial court also reveals that the instant offer of special oath triggered when an application under Order IX rule 13 of the CPC for setting aside ex-parte order was fixed for evidence of the respondent while the applicant's partial evidence in this regard was already recorded. It was at this stage when such offer was made. If at all the special oath could have been offered, it could only be to the extent of deciding the pending application under Order IX rule 13 of the CPC. The procedure requires in terms of Article 163 of the Qanun-e-Shahadat Order, 1984 read with sections 8 and 9 of the Oaths Act, 1873 does not contemplate a decision of a dispute which has already been rendered ex-parte. Decision on oath no doubt is one of the prescribed ways of disposal, but at the same time courts were bound to handle such cases with great care. The ex-parte judgment and decree was a past and closed transaction and it could only be open once an application under Order IX rule 13 of the CPC could have been allowed and not otherwise. The corpus before the trial court was a miscellaneous application and not the main suit.

Conclusion: A special oath cannot be administered to decide an application under Order IX Rule 13 of the CPC when the ex-parte judgment is a past and closed transaction.

---

21. **Supreme Court of Pakistan**
Muhammad Israr v. Jehanzeb and others
Civil Appeal No. 156-P of 2013
Mr. Justice Shahid Waheed, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._156_p_2013.pdf

Facts: Appellant filed suit for declaration to be declared him owner of gifted suit property whereas respondent filed suit for declaration-cum-possession via

partition, which were later on consolidated; the trial court dismissed the appellant suit and decreed suit of respondent; the appellate court reversed the decision, decreeing the suit of respondent and dismissed the appellant suit, this led to a civil revision before the High Court which restored the findings of trial court.

Issues: i) Whether thirty years old deed, can be presumed genuine under the Qanun-e-Shahadat Order, 1984, despite concerns regarding its execution, proper custody, and the credibility of the party producing the document?
ii)What are the powers of revisional court?

Analysis: i) The dower deed which is more than thirty years old claimed to have presumption of genuineness but that presumption is always rebuttable by the party questioning genuineness thereof. Indeed the unsuspicious character of a document, its proper custody and other circumstances are the foundation to raise presumption of its execution, however, if prima-facie, the dispute to its execution and proper custody is raised then it becomes the duty of the court to determine the question of its genuineness. The presumption is thus discretionary and not mandatory in terms of the case of Allah Ditta v. Aimna Bibi (2011 SCMR 1483). The presumption of correctness of a document available under the Qanun-e-Shahadat Order, 1984 in respect of thirty years old document, subject to above, is only in respect of a signature and every other part thereof in handwriting of a particular person. Rest of the contents which are not in the handwriting would then become the subject matter of proof. The other aspect of the matter which germane to the requirement of law is that the subject document should be produced by person having proper custody in terms of Article 100 of the Qanun-e-Shahadat Order, 1984. Production of document purported or proved to be thirty years old from "proper custody" was the condition precedent; until and unless such condition is met, no presumption as to the signature, contents or any part of such document to be duly executed/attested, would arise.
ii) It was within the competence of the revisional court to see whether (i) the courts below had exercised jurisdiction not vested in it or (ii) the courts below have failed to exercise jurisdiction so vested or (iii) the courts below have acted in the exercise of its jurisdiction illegally or with material irregularity.

Conclusion: i) The presumption of correctness of a document is available to thirty years old document, in respect of signature and handwriting of a particular person and if it produces by person having proper custody in terms of Article 100 of the Qanun-e-Shahadat Order, 1984.
ii) See analysis No.ii.

---

22. **Supreme Court of Pakistan**
Commissioner Inland Revenue, (Special Zone for Builders and Developers) Regional Tax Office, Islamabad v. Khudadad Heights, Islamabad.
Civil Petition No. 862 of 2024.
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui
https://www.supremecourt.gov.pk/downloads_judgements/c.p._862_2024.pdf

Facts: In the instant Civil petition the question proposed is about 'definite information' required for the amendment of the assessment under section 122 of the Income Tax Ordinance, 2001 ('the Ordinance'). It started via notice under subsections 1, 5 and 9 of section 122 of the Ordinance, 2001 issued to the assessee for the tax year 2006, finalized under section 120 of the Ordinance by accepting a declared version. The cause is a bank statement alone, on the basis of which proceedings commenced. The explanation provided by the taxpayer was found unsatisfactory and the assessing officer re-assessed the net income of the taxpayer. Being aggrieved of such treatment, the taxpayer filed an appeal before the Commissioner Inland Revenue (Appeals-I), Islamabad ('the Commissioner') and was able to successfully established his response to some extent. The Commissioner decided the appeal from which both the department and the taxpayer found themselves aggrieved of the order so they filed appeal/cross-appeal before the Appellate Tribunal Inland Revenue Islamabad Bench-I, Islamabad ('the Tribunal'). The Tribunal heard the appeals and accepted the appeal of the taxpayer, whereas, the departmental appeal was rejected. The Income Tax Reference was then preferred by department before the Islamabad High Court, Islamabad.

Issue: i) What is the comparative analysis of the two *pari material* provisions of Income Tax Ordinance 1979 and income tax ordinance, 2001 regarding procedure prescribed for amending assessment?
ii) What is meant by the phrase "definite information" mentioned in the text of Income Tax Ordinance 1979 and Income Tax ordinance, 2001?
iii) How the effect of definite information can be noticed and what statements and entries disclose definite information?

Analysis: i) The procedure prescribed for amending assessment under the repealed law was not the same as in the present law. Indeed, the procedural aspects have been distinguished but with commonality of object of 'definite information'. Earlier for a 'definite information' the Deputy Commissioner was saddled with responsibility if such definite information came into his possession and if he had obtained the approval of the Inspecting Additional Commissioner, whereas, in the regime of 2001 Ordinance the 'definite information' was either left to the audit analysis which may allow Commissioner to adjudge the following, i.e., (i) any income chargeable to tax has escaped assessment; or (ii) total income has been under-assessed, or assessed at too low a rate, or has been the subject of excessive relief or refund; or (iii) any amount under a head

of income has been mis-classified. Certainly there is no audit claim and even no notice under section 111 of the Ordinance is issued and similarly statement of account alone cannot be a basis to form any of the three routes provided in the later part of section 122(5).

ii) "Definite information" is information so definite that it suffices in engendering a reasonable or definite belief without the need for such information to be subjected to further analysis, scrutiny or logical deduction.

iii) The effect of 'definite information' is to be noticed on a case to case basis and the source of information would then consequently decide as to the information being definite or otherwise. The re-assessment proceedings triggered on the basis of bank statement of the taxpayer. All transactions therein not necessarily demonstrate the income of the taxpayer/assessee hence unless it is established that these statements and/or entries therein disclose information of income which is 'definite', the subject instrument cannot be applied as being one having 'definite information'

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

---

23. **Supreme Court of Pakistan**
Mehboob v. The State and others
Criminal Petition No. 344 of 2018
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._344_2018.pdf

Facts: The petitioner killed his sister and a male relative after finding them in a compromising position. He did not attempt to flee and surrendered to the police along with the weapon. The trial court convicted him and sentenced him to life imprisonment, which was upheld by the High Court. Hence; this criminal petition.

Issues: i) What is the judicial approach in determining the effect of sudden provocation on sentencing?
ii) What is the legal impact of sudden provocation on the classification of Qatl-i-Amd under section 302 PPC?

Analysis: i) The cases of State vs. Muhammad Hanif and 5 others1 and Ali Muhammad vs. Ali Muhmmad2 seem to be the most relevant case to understand the consequences of sudden provocation and the events discussed. In the later case, this Court observed that the High Court was not right in holding that the accused had not committed any offence and was not liable to any punishment on account of sudden provocation/self-defence.

ii) A situation cannot be ruled out that one of the deceased provided the situation of sudden provocation as to the cases falling under clause (c) of section 302 of the PPC; the law maker has left it to the court to decide on a case to case basis

depending upon the gravity and intensity of provocation and the time taken for the reaction. In the instant case it was spontaneous.

Conclusion: i) Sudden provocation affects punishment but does not absolve liability.
ii) Courts assess provocation case to case under section 302(c) PPC.

---

24. **Supreme Court of Pakistan.**
Province of Punjab through District Collector/ District Officer (Rev), Lahore & others (in CA No. 119-L/ 2022), Malik Abdul Latif Amar (in CA No. 3952/2022) v. Malik Abdul Latif Amar (in CA No. 119-L of 2022), Land Acquisition Collector Highway Department, Lahore & others (in CA No. 3952/2022).
Civil Appeals No. 119-L of 2022 & 3952 of 2022,
Mr. Justice Shakeel Ahmad, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.a._119_l_2022.pdf

Facts: Punjab Highway Department acquired land for the construction of an overhead bridge and awarded certain amount of compensation. The land owner approached the referee court, which enhanced the amount of compensation vide impugned judgment.

Issues: i) What would be the effect of office objections on period of limitation?
ii) What factors are to be considered in determining the compensation for the land acquired?
iii) What is the difference between potential value and market value, which would be awarded?
iv) How the delay in announcement of award would affect the determination of compensation?

Analysis: i) It is an admitted position that the objections were not addressed within the stipulated time and the appeal was re-submitted after the removal of the objection on 09.12.2021, well beyond the period prescribed for removing the objection. Accordingly, the High Court while rightly placing reliance on "Asad Ali & Others vs. The Bank of Punjab & Others" (PLD 2020 SC 736) held the appeal to be time-barred as the Appellants failed to remove the deficiencies pointed out by the office within the period prescribed. When confronted with these legal and factual aspects of the case, the learned counsel failed to furnish a satisfactory response.
ii) A perusal of Section 23 of the Act reflects that various factors are to be taken under consideration while determining compensation, with market value being just one such factor as reiterated in "The Province of Sindh v. Ramzan and Other" (PLD 2004 SC 512). Furthermore, it is pertinent to note that compensation is a very wide term, indicating that the land owners, for various reasons, are to be compensated and not merely paid the price of the land which is just an interaction of supply and demand fixed between a willing buyer and a willing seller. Additionally, although, mere classification or nature of land, can be taken as a relevant consideration for the purposes of determining compensation, it is not an

absolute one. Factors such as location, neighbourhood, potentiality or other benefits could not be disregarded either. Indeed, the place and situation of the acquired land are paramount considerations that must be accorded due and thoughtful attention in the fair assessment of compensation.

iii) In this regard, reference may be made to the case reported as "Malik Aman & Others v. Land Acquisition Collector & Others" (PLD 1988 SC 32) wherein this Court had explained the concept of 'potential value' and differentiated it from the term 'market value'. It was held that market value was normally to be taken as the one existing on the date of notification under Section 4 (1) of the Act, based on the principle of a willing buyer and a willing seller. In contrast, the potential value was explained to be one to which similar lands could be put to any use in future. Furthermore, factors for determining the compensation of the land are not restricted only to the time of the notification, but, can also relate to the period in future, and that is why in a large number of cases the potential value has been held to be a relevant factor.

iv) It is also noteworthy that there is an unreasonable delay of four years in the announcement of the Award and issuance of notification under Section 4 of the Act. Obviously, any escalation in the value of the property during such period constitutes the potential value of the land, which was rightly taken into consideration by the Courts below while determining the compensation.

Conclusion: i) The appeal would be barred, if the office objections are not removed within the given time and presented again after limitation.

ii) Factors such as location, neighbourhood, potentiality or other benefits could not be disregarded either alongwith the market value.

iii) Market value is determined on the principle of a willing buyer and a willing seller. The potential value was explained to be one to which similar lands could be put to any use in future. It is potential value to be awarded.

iv) Any escalation in the value of the property during such period constitutes the potential value of the land and is to be considered.

---

25. **Supreme Court of Pakistan**
Muhammad Azam v. The Stat etc.
Criminal Appeal No. 297 of 2023
Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._297_2023.pdf

Facts: Appellant was convicted for abduction and rape of a minor girl along with committing theft, which conviction was upheld by the High Court. The appellant challenged the conviction and sentence through the present appeal.

Issues: i) Whether conviction can be sustained when the prosecution story is found to be improbable and irrational?

ii) Whether delay in lodging the FIR without plausible explanation affects the prosecution case?

iii) Whether non-production of material witnesses amounts to withholding best available evidence attracting adverse presumption?
iv) Whether medical evidence alone, without unimpeachable corroborative evidence, is sufficient to sustain conviction for rape?

Analysis: i) Prosecution's story being foundation on which the entire superstructure of the case is built, occupied a pivotal status, it should, therefore, stand to reason and must be natural, convincing and free from any inherent improbability as it would neither be safe to believe the prosecution's story which did not meet the said requirements nor the prosecution's case based on improbable story could sustain conviction. In the instant case we have noticed that the prosecution's story from its every inception is improbable and irrational as the same did not appeal to reason.

ii) The complainant has failed to furnish any explanation, much less a plausible one, for such significant delay in reporting a matter of grave nature, involving the alleged abduction and sexual assault of his minor daughter. It is indeed surprising and contrary to the natural conduct of a prudent father that when his minor daughter was allegedly abducted, he remained silent for a period of seven days without approaching the law enforcement agencies. Such an unexplained and unreasonable delay in lodging the First Information Report casts serious doubts on the veracity of the prosecution's case and suggests that the possibility of deliberation, consultation, and fabrication before lodging the FIR cannot be ruled out. It is a settled principle of law that delay in setting the criminal machinery into motion, when not reasonably explained, erodes the credibility of the prosecution's case and makes it unsafe to rely upon without independent and unimpeachable corroboration.

iii) Non-production of … material evidence, amounts to withholding of best available evidence, therefore an adverse inference within the meaning of Article 129(g) of the Qanun-e-Shahadat Order, 1984 would be drawn against the prosecution.

iv) The testimony of lady doctor, in absence of any other evidence of unimpeachable character would not be sufficient to prove that the sexual intercourse was committed with the victim girl by the appellant. Besides, the vaginal swabs taken from the victim girl were sent to the Chemical examiner after a delay of three weeks for which no explanation, much less, plausible, has been furnished by the prosecution.

Conclusion: i) Conviction cannot be maintained when prosecution evidence is improbable and suffers from material contradictions.

ii) Unexplained delay in lodging FIR fatally affects the prosecution case.

iii) Non-production of material witnesses amounts to withholding best evidence and attracts adverse presumption against the prosecution.

iv) Medical evidence alone, without credible corroboration, is insufficient to sustain conviction for rape.

26. **Supreme Court of Pakistan**
Muhammad Ramzan v. The State
Jail Petition No.95 of 2022
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p._95_2022.pdf

Facts: Petitioner was sentenced to death as Ta'azir under section 302(b) PPC and to pay rupees two lacs, as compensation to legal heirs of the deceased within the meaning of section 544-A Cr.P.C. and in default of payment thereof to further undergo six months simple imprisonment, which judgment was maintained by Islamabad High Court. Petitioner being discontented from conviction and sentence, assailed the same through instant jail petition.

Issue: i) What is evidentiary value of FIR registered on information supplied by accused, wherein accused admits the commission of such occurrence?
ii) Whether the FIR in itself is a substantive piece of evidence?
iii) Is there any exception to the settled law that FIR is not a substantive piece of evidence?
iv) What is the presumption against non-production of material witness by the prosecution?
v) What are legal consequences of non-associating private witnesses in residential area?
vi) Whether medical evidence in a criminal case can identify the assailant?

Analysis: i) It could be considered as confession before police which is inadmissible evidence within the meaning of Article 38 of the Qanun-e-Shahadat Order, 1984.
ii) It is settled law that FIR by itself is not a substantive piece of evidence unless its contents are affirmed on oath in the witness box by its maker and its maker is subjected to the test of cross examination. In view of Articles 140 and 153 of the QSO, FIR being a previous statement can only be used for contradicting its maker but unless the same is not proved through its maker, cannot be used as a substantive piece of evidence in favour of the prosecution's case.
iii) FIR is not a substantive piece of evidence unless proved by its maker by deposing on oath in the witness box in support thereof except recorded on the report of a person who is near to die. In such eventuality, the FIR is commonly known as "dying declaration", and is admissible evidence under Article 46 of the QSO.
iv) An adverse inference is drawn under Article 129(g) of the Qanun-e-Shahadat Order, 1984 to the effect that had the above witness been produced by the prosecution at the trial, they would not have supported the version of the prosecution.
v) Due to non-association of any private witness of the locality to attest the recovery memo lacks independent corroboration, thus, the same is disbelieved.
vi) It is by now well settled that medical evidence is a type of supporting

evidence, which may confirm the prosecution version with regard to receipt of injury, nature of the injury, kind of weapon used in the occurrence but it would not identify the assailant.

Conclusion: i) Confession before police is inadmissible evidence.
ii) FIR by itself is not a substantive piece of evidence.
iii) FIR registered on the dying declaration is admissible evidence under Article 46 of QSO.
iv) An adverse inference is drawn under Article 129(g) of the Qanun-e-Shahadat Order, 1984 for non-production of material witnesses.
v) Non-association of any private witness in recovery proceedings is fatal.
vi) Medical evidence in itself cannot identify the assailant.

---

27. **Supreme Court of Pakistan**
Zarin Khan, etc. v. The Chairman, Evacuee Trust Property Board, Lahore, etc.
C.A.No.613 of 2020 (Against the judgment dated 05.03.2020 of the Peshawar High Court, Peshawar passed in C.R. No.647-A of 2009) and
C.M.A. No.3760 of 2022
Mr. Justice Shahid Waheed, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._613_2020.pdf

Facts: An auction was conducted for the sale of a piece of land, wherein the highest bid was matched by the appellants. However, the approval of the competent authority was not granted for their bid. Subsequently, the auction was cancelled, and the land was ordered to be re-auctioned, leading to a legal dispute over the appellants' entitlement to ownership. The civil suit of the appellant's was dismissed and appeal was allowed but the revision of the respondents was allowed.

Issues: i) Whether a bid at an auction creates a legal right in favour of the bidder in the absence of confirmation or approval by the competent authority?
ii) Whether the competent authority has an unfettered right to cancel an auction without assigning any reason?
iii) Whether the rejection of a highest bid and the decision to re-auction violates principles of natural justice?
iv) Whether an auction bid subject to approval or confirmation by the competent authority results in a concluded contract prior to such approval?

Analysis: i) A bid at an auction is only an offer and without confirmation or approval does not create any right in the property in favour of the successful bidder. By matching the bid of the highest bidder, the appellants merely stepped into their shoes. Their status upon exercising the option would be no different from the highest bidder.
ii) There is no denying the fact that in terms of clause 8 of the terms and conditions of the auction, ETPB was given the right to cancel the auction without assigning any reason.

iii) In the case of Javed Iqbal Abbasi & Company Vs. Province of Punjab (1996 SCMR 1433), it was held inter alia that where the highest bid was rejected and re-auction was ordered which afforded equal opportunity to persons whose bid had been rejected, then the principles of natural justice would not be deemed to have been violated.
iv) It is also well settled that where the acceptance of the highest bid is subject to the approval or confirmation by the competent authority, then unless and until such approval is granted or confirmation is made there is no concluded contract vesting the highest bidder with an interest in the property subjected to auction.

Conclusion: i) A bid is just an offer; no rights arise without confirmation.
ii) The authority can cancel it without reason.
iii) Equal opportunity ensures no injustice.
iv) Approval is essential for rights to vest.

---

28. **Supreme Court of Pakistan**
Syed Uzair Shah & others v. Mst. Surriya Begum (decd.) thr. L.Rs & others
C.A.1779/2024
Mr. Justice Shahid Waheed, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1779_2024.pdf

Facts: Through the instant appeal, the appellants have called into question the judgment passed by High Court, whereby civil revision filed by the predecessor of the private respondents against the judgment and decree dated passed by the learned appellate Court, was allowed and the judgment and decree passed by the learned civil Court decreeing the suit for declaration filed by the predecessor of the private respondents to challenge the inheritance mutation as their gifted land was devolved on all the legal heirs, was restored.

Issues: i) Whether a declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms?
ii) Is it necessary for the completion of a valid gift under Islamic law to put minor donee in actual physical possession of the gifted property where the donor is the minor's guardian?

Analysis: i) A declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms. True, that such gift was not incorporated in the revenue record, and after Syed Noor Ahmed Shah's demise, inheritance mutation No.9,660 was attested on 07.12.1994 showing Syed Noor Ahmed Shah's entire land including the land gifted to Mst. Surriya Begum to have devolved on all his legal heirs. However, at no material stage did Syed Noor Ahmed Shah in his lifetime revoke the declaration made by him on 13.04.1959 before the Land Reforms Authorities. This declaration was infact an admission by him as to the gift made by him in favour of his daughter.

ii) The High Court has recognized the well settled principle that where the donee is a minor and the donor is the minor's guardian, it is not necessary for the completion of a valid gift under Islamic law to put such donee in actual physical possession of the gifted property. In the case of Kaneez Bibi Vs. Sher Muhammad (PLD 1991 SC 466), this Court held inter alia that in cases where the father is the donor for a daughter and / or a minor living with him, strict proof by the donee of transfer of physical possession, as in other type of cases, is not insisted upon. Furthermore, in the case of Riaz ullah Khan Vs. Asghar Ali (2004 SCMR 1701), this Court held the objection as to the non-delivery of possession of the gifted property by a person to a wife or to a ward to be immaterial.

Conclusion: i) A declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms.
ii) See analysis No. ii.

---

29. **Supreme Court of Pakistan**
Chairman Water and Power Development Authority, Pakistan Lahore and others v. Haji Abdul Rehman and others
Civil Appeal No.1612 of 2018
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1612_2018.pdf

Facts: By way of this appeal, the appellants being officers of the acquiring department have impugned the judgment and decree of the High Court, whereby their RFA was dismissed maintaining the order of the Executing Court.

Issues: i) What is the basic criteria for determination of the market value of the land to be acquired?

Analysis: i) The market value of the land to be acquired prevailing at the date of publication of the notification under Section 4(1) is to be considered and it is the basic criteria for determination of the market value.

Conclusion: i) Market value prevailing at the date of publication of the notification under Section 4(1) is the basic criteria.

---

30. **Lahore High Court**
Zafar Iqbal alias Ilam Din v. The State, etc.
Crl. Appeal No.27878-J of 2022
Muhammad Rafique v. The State, etc.
Crl. Appeal No.27874 of 2022
Muhammad Rafique v. Zafar Iqbal alias Ilam Din, etc.
Crl. Rev. No.27876 of 2022
Ms. Justice Aalia Neelum Chief Justice
https://sys.lhc.gov.pk/appjudgments/2025LHC607.pdf

Facts: The appellant was accused of trespassing into the complainant's house along with others and attacking the complainant's minor son. When the complainant's

relative intervened, the appellant allegedly struck him on the head with a brick, leading to fatal injuries who succumbed to injuries. The trial court convicted the appellant and acquitted respondents No.2 to 5. Hene; 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 done.

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.

---

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 statue can examine acts on account of being tainted with *mala fide, coram non judice* or void.
iii) Needles to mention that question of jurisdiction is always pivotal because if a court or tribunal having no jurisdiction proceed with a matter and decide it, the entire proceedings would be illegal and *coram non judice*. It is thus obligatory for the court or tribunal to settle the question of jurisdiction at the very outset.

Conclusion: i) Bar in the statute ousting the jurisdiction of civil court does not operate as absolute.
ii) See above analysis No.ii
iii) See above analysis No.iii

---

40. **Lahore High Court**
Commissioner Inland Revenue, Zone-VIII, Regional Tax Office-II, Lahore v. M/s Sika Paint Industries (Pvt.) Ltd.
STR No.256 of 2015
Mr. Justice Shahid Karim, Mr. Justice Muhammad Sajid Mehmood Sethi
https://sys.lhc.gov.pk/appjudgments/2017LHC5929.pdf

Facts: A show cause notice was issued to the taxpayer for alleged tax evasion based on a contravention report spanning 2007-08 to 2013-14. The assessing officer confirmed the liability, which was partially upheld by the CIR(Appeal). However, the Appellate Tribunal later set aside the order. Hence; this reference application filed by the tax department.

Issues: i) Does the Sales Tax Act, 1990 require adherence to the search procedures outlined in the Code of Criminal Procedure, (CrPC) 1898?
ii) Whether non-appearing of two witnesses on recovery memo as required under Section 102 & 103 of CrPC is not a procedural / technical infirmity?
iii) Do the amendments introduced through the Finance Acts 2004 aim to regulate and limit the powers of sales tax authorities to prevent taxpayer harassment?

Analysis: i) Section 40 of the Act of 1990 authorizes an Officer of Inland Revenue to enter a place, after obtaining a warrant from a Magistrate, to search any documents or items, that in his opinion may be useful or relevant to any proceedings under the Act. The use of word "shall" in subsection (2) of Section 40 of the Sales Tax Act, 1990, makes the procedure outlined in the Criminal Procedure Code, 1898 as mandatory. (…) All searches made under the Act of 1990 are to be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898. The procedure regarding search has been provided in Sections 96, 98, 99-A and 100 of the Cr.P.C. whereby firstly, a search warrant is to be obtained from the Illaqa Magistrate when search of the premises is to be conducted.

ii) The provisions of Section 103 Cr.P.C. require that a search be conducted in the presence of two or more respectable inhabitants of the locality (…) In accordance with the Section 103 of the Cr.P.C., it is mandatory to involve two or more respectable inhabitants of the locality in which the place to be searched is situated to attend and witness the search and a list of all articles taken into possession shall be prepared and a copy thereof shall be delivered there and then.

iii) Needless to observe, Section 38-A (inserted through the Finance Act, 2004), Section 40 (substituted through the Finance Act, 2004) and Section 40-A (omitted by the Finance Act, 2006) are meant to curtail and monitor the unlimited and unbridled powers of the sales tax authorities, which were resulting in undue harassment and humiliation of taxpayers.

Conclusion: i) A Magistrate's warrant and Cr.P.C. procedures are mandatory for searches.

ii) Searches require two local witnesses, and a seizure list must be provided.

iii) Finance Act amendments limit sales tax authorities' powers to prevent harassment.

---

41. **Lahore High Court**
Rana Aamir Ijaz v. The State and others
Criminal Revision No. 187/2023.
Mr. Justice Tariq Saleem Sheikh
https://sys.lhc.gov.pk/appjudgments/2024LHC6532.pdf

Facts: In a trial under Anti-Corruption law learned Special Court struck off the right to cross examination due to default in payment of diet money imposed.

Issues: i) Whether the accused could be burdened with the diet money or travel expenses of prosecution witnesses?

ii) Who is to bear the expenses of witnesses in criminal cases?

iii) Whether the court could refuse compensation to victim or legal heirs u/s 544 CrPC, without assigning valid reasons?

iv) The compensation awarded u/s 544 CrPC, how to be disbursed?

v) What is the importance of cross examination in the administration of justice?

vi) What is the way out, if the accused fail to cross examine the prosecution witnesses?

Analysis: i) The Code of Criminal Procedure does not contain any provision that allows the court to close an accused's right to cross examine a prosecution witness if the accused fails to pay the witness's diet money or travel expenses. Reference in this regard may also be usefully made to Ghulam Nabi and others v. Shaukat Ali and another (PLD 2007 Lahore 368). The statutory framework governing diet money in criminal trials ensures that financial burdens do not obstruct an accused's right to a fair defence.

ii) Section 244(3) states that the magistrate may, before summoning any witness on such an application, require that the witness's reasonable expenses incurred in attending the trial be deposited in court. However, the accused is not required to deposit such expenses if he is charged with an offence punishable with imprisonment exceeding six months… Section 544 Cr.P.C. provides that, subject to any rules made by the Provincial Government, any criminal court may, if it deems appropriate, order the government to pay the reasonable expenses of any complainant or witness attending an inquiry, trial, or other proceeding before the court under the Code of 1898.

iii) It is pertinent to point out that the Code allows the court to impose fines or order compensation to the victim while convicting an accused. Section 544-A(1) Cr.P.C. mandates that when a person is convicted of an offence that results in death, harm, injury, mental anguish, or psychological damage to another person or causes damage, loss, or destruction of property, the court must, at the time of conviction, order the convict to pay compensation to the victim or their heirs, unless it gives reasons in writing for not doing so. The amount is determined based on the circumstances of the case.

iv) Section 544-A(3) Cr.P.C. further states that this compensation is in addition to any sentence imposed for the offence. Section 545(1) Cr.P.C. provides that whenever a criminal court imposes or confirms a fine, it may direct that the recovered fine be used for (a) covering the proper expenses of prosecution, (b) compensating any person for loss, injury, mental anguish, or psychological damage caused by the offence, if such compensation could be recoverable in a civil court, or (c) compensating a bona fide purchaser of stolen property when the offender is convicted of theft, misappropriation, breach of trust, cheating, or receiving stolen property, and the property is returned to its rightful owner.

v) The concept of a fair trial is central to the administration of justice, and the right to cross-examine witnesses is a component of the right to a fair trial. Cross-examination is "the greatest legal engine ever invented for the discovery of truth." 7 In an adversarial legal system, it is a "primary evidentiary safeguard", 8 an acid test of the truthfulness of a statement made by a witness on oath in examination-in-chief.

vi) An accused cannot be permitted to abuse the legal process or obstruct court proceedings. If they deliberately fail to bring their lawyer, the court must appoint a defence counsel at state expense and proceed with the trial. In Abdul Ghafoor v. The State (2011 SCMR 23), a murder case, the prosecution examined 13

witnesses, including two eyewitnesses. The accused-appellant failed to produce his counsel for their cross-examination despite repeated opportunities. In the circumstances, the trial court required him to cross-examine the witnesses himself and then proceeded to decide the case. The Supreme Court held that it is the primary duty of a trial court to ensure the discovery of truth and the fair administration of justice. If the accused's counsel repeatedly sought adjournments and failed to appear, the court should have either appointed a defence counsel at State expense or provided the accused a final opportunity to arrange legal representation, failing which the trial could proceed. Since the trial court failed to follow these steps and unexpectedly required the accused to cross-examine witnesses despite his lack of legal expertise, the Supreme Court ruled that this approach led to a miscarriage of justice and allowed the accused another opportunity for cross-examination.

Conclusion: i) No, an accused could be burdened with the diet money or travel expenses of prosecution witnesses.
ii) any criminal court may, if it deems appropriate, order the government to pay the reasonable expenses of any complainant or witness attending an inquiry, trial, or other proceeding.
iii) The court must award compensation to victim or legal heirs u/s 544 CrPC, unless assigning valid reasons for otherwise.
iv) See above analysis (iv)
v) Cross-examination is "the greatest legal engine ever invented for the discovery of truth.
vi) The court must appoint a defence counsel at state expense and proceed with the trial.

---

42. **Lahore High Court**
Fauji Cement Company Limited v. Govt. of Punjab etc.
W.P.No.2838/2024
Mr. Justice Jawad Hassan
https://sys.lhc.gov.pk/appjudgments/2025LHC685.pdf

Facts: The petitioner received a show-cause notice from the Punjab Revenue Authority under Section 52 of the Punjab Sales Tax on Services Act, 2012, for alleged non-payment of Punjab Sales Tax on taxable services. The petitioner challenged the same show cause notice in a writ petition contending that the notice was issued without fulfilling procedural requirements and also alleged that same notice violated constitutional guarantees under Articles 4 and 10-A, which ensure the right to be treated in accordance with the law and the right to a fair trial.

Issues: i) Whether a tax officer must consider objections before determining liability under Section 52 of the Punjab Sales Tax on Services Act, 2012?
ii) Which different legal provisions apply to withholding agents and tax collection procedures?

iii) Comparison between "Section 52" and "Section 14" of Punjab Sales Tax on Services Act, 2012

iv) Judicial Precedent regarding definition of Tax payer, his liabilities, principles for issuance of show cause notice and the jurisprudence developed by different courts.

v) Whether the rights of a taxpayer are determined based on the legal framework governing tax administration?

vi) Scope of Article 10 A of the Constitution of Islamic Republic of Pakistan, 1973

vii) Whether Article 4 of the Constitution guarantees that all actions by public authorities must be in accordance with the law?

viii) Whether the interpretation of tax laws should be limited to their plain language without considering intent of the Legislature ?

Analysis: i) It is pertinent to mention here that in the judgment reported as Rahat Café, Rawalpindi versus Government of Punjab through Secretary Finance and others (2024 PTD 898), this Court has already interpreted provisions of Section 52 of the Act by observing that the officer concerned shall determine the tax liability after considering the objections of the person served with notice as per Sub-Section (3) of Section 52 of the Act.

ii) Sub-Section (2) of Section 14 of the Act discusses the powers of the Authority in connection with a withholding agent whereas Section 14A(2) of the Act describes a special procedure for collection and payment of tax in respect of any service or class of services, as may be specified.

iii) It would be appropriate if a minute comparison is made between the relevant provisions of law, the Act, which in this case are "Section 52" and "Section 14" of the Act. When a quick glance is taken on Chapter VIII of the Act, which also comprises Section 52, it would clarify that this Chapter describes the procedure regarding offences and penalties, including the procedure meant for (i) exemption from penalty and default surcharge and (ii) recovery of tax not levied or short-levied. Whereas, Section 14 comes within the purview of Chapter II of the Act, which is most relevant here because it mentions the scope of tax with charging sections/provisions by giving a complete mechanism regarding (i) person, who is liable to pay tax [Section 11]; (ii) liability of a registered person [Section 11A]; exemptions [Section 12]; (iii) effect of change in the rate of tax [Section 13]; (iv) special procedure and tax withholding provisions [Section 14]; (v) special procedure for collection of tax, etc. [Section 14A]; (vi) delegation of power to collect, administer and enforce tax on certain services [Section 15]; (vii) deduction and adjustment of tax on inputs to the business [Section 16]; (viii) certain transactions not admissible [Section 16A]; (ix) tax credit not allowed [Section 16B]; (x) extent of adjustment of input tax [Section 16C] and (xi) refunds [Section 16D].

iv) It would also be beneficial to note here that in the judgment reported as Reliance Commodities (Private) Ltd. versus Federation of Pakistan and others

(PLD 2020 Lahore 632=2020 PTD 1464) this Court has already defined the taxpayer and also vastly discussed his/her/its liabilities. In the said case, this Court has set-aside the show cause notice, being illegal and without lawful, after discussing in detail (a) the principles for issuance of a show cause notice; (b) relevant law and (c) the jurisprudence developed by superior Courts of the country on different occasions.

v) In another judgment reported as Chenab Flour and General Mills versus Federation of Pakistan and others (PLD 2021 Lahore 343), the rights of a taxpayer have been further elaborated by this Court by discussing in detail legal anthropology of the Federal Board of Revenue under provisions of the fiscal laws prevailing in Pakistan

vi) Scope of Article 10-A has recently been further expanded by the Supreme Court of Pakistan in the case of Federal Government Employees Housing Authority through Director General, Islamabad versus Ednan Syed and others (PLD 2025 SC 11) in which it has been held that "…Article 10A of the Constitution requires that everyone is entitled to a fair trial and due process, which includes the basic right to be heard. The principle of 'audi alteram partem' is one of the foundational principles of natural justice. It necessitates the requirement of being heard so that the judicial order reflects the contention of every party before the court. To fulfill the requirements of being heard, it is settled that the relevant party must be issued first a notice and then be allowed a hearing. These two (notice and hearing) are basic pre-requisites, which satisfy the test of being heard as well as fair trial and due process within the ambit of Article 10A of the Constitution…"

vii) Moreover, Article 4 of the Constitution clearly states that it is an inalienable right of every citizen to be treated in accordance with law and no action detrimental to his/her life, liberty, reputation or property shall be taken except as per law. No public functionary/authority is allowed, under the Constitution, to act in a manner infringing upon fundamental rights or exceeding statutory limits, as has been held by the Supreme Court of Pakistan in various cases, from time to time.

viii) In Reliance Commodities Case (supra) (PLD 2020 Lahore 632), this Court has already held that tax laws are divided into parts in the form of various Chapters, which also include Definition Sections, Charging Sections, Collection Sections, Recovery Sections and some other miscellaneous Sections in which the purpose as well as method regarding assessment (of tax) has been specifically provided. If this view is read with the Doctrine of Textualism developed by this Court in the case of Service Global Footwear Limited and another versus Federation of Pakistan and others (PLD 2023 Lahore 471) then it would also clear that a statute should be interpreted according to its plain meaning and not as per the intent of the legislature, the statutory purpose or the legislative history.

Conclusion: i) Officer concerned shall determine the tax liability after considering the objections of the person served with notice as per Sub-Section (3) of Section 52 of the Act.
ii) See above analysis No ii.
iii) See above analysis No iii.
iv) See above analysis No iv.
v) See above analysis No v.
vi) See above analysis No vi.
vii) No public functionary/authority is allowed, under the Constitution, to act in a manner infringing upon fundamental rights or exceeding statutory limits.
viii) See above analysis No viii.

---

43. **Lahore High Court**
Muhammad Afzal v. Judge Family Court, etc.
Writ Petition No.43280 of 2022
Mr. Justice Ahmad Nadeem Arshad
https://sys.lhc.gov.pk/appjudgments/2025LHC495.pdf

Facts: Through this constitutional petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has called in question the validity and legality of judgment and decree passed by learned Judge Family Court; whereby suit of respondent No.2 (alleged biological daughter of the petitioner) for recovery of maintenance allowance was decreed.

Issues: i) What is Biological Child?
ii) What is legitimate child?
iii) What is illegitimate child?
iv) How a status of child can be determined?
v) Whether it is essential for court to establish paternity in case of dispute of paternity prior to fix the maintenance allowance?
vi) Whether biological father is morally bound to maintain biological child?
vii) Whether the Family Court has jurisdiction to hear the case and whether the maintenance can be awarded to an illegitimate child.

Analysis: i) "Biological Child" refers to a child who is genetically related to the parents. This term focuses on the genetic link between the child and the parents, rather than the legal or social status. A "biological child" can be born within a marriage or outside of it.
ii) A "legitimate child" refers to a child born to parents who are legally married to each other at the time of the child's birth. This term primarily has legal significance and is used to distinguish children born within a lawful marriage from those born outside of marriage (historically referred to as "illegitimate" or "illegitimate children").

iii) An illegitimate child is a child born out of wedlock either as a result of adultery or rape and he is not from *Syubhah* intercourse or not from a child of slavery.

iv) In Islam, a child's status can be determined through several methods. First, through legal marriage or *Fasid* marriage between both parents. Second, through *Syubhah* intercourse. The third is a father's acknowledgment that a child is his biological child. Forth, evidence by two fair male witnesses. The fifth, *Qiyafah*, is the recognition by experts who specialized in determining descent base on physical characteristics and likeness. The sixth is through Deoxyribonucleic Acid or DNA tests on samples such as blood, hair, bone and sliva. The final method is through laboratory testing which has 99.99% accuracy in the determination of descent and can also be used to identify hereditary genealogy for inheritance. All the methods mentioned above are based on Hadiath of the prophet.

> *"(Descent) the child belongs to the span (legal marriage). While there is no right for adultrers." (Al-Bukhari, 2000 Hadiath No.2092)"*

v) In view of the above, the Court has erred in law by granting maintenance for the child without first ensuring, through the proper process of evidence, that the child is indeed the biological offspring of the petitioner. In cases where paternity is disputed, it is essential for the Court to first establish, beyond a reasonable doubt, the biological relationship between the child and the defendant. Without recording sufficient evidence, the Court's decision to grant maintenance prematurely bypasses a critical step in determining legal responsibility. This failure undermines the principles of fairness and due process in family law proceedings.

vi) In view of the above discussion, equity, fair-play and justice demands that the respondent No.2, if proves to be a biological child of the petitioner, then she must be compensated and maintained by him. The person, having begotten the child, is bound to provide for its maintenance. The biological father is also morally under obligation to maintain his illegitimate child.

vii) In view of the above discussion, this Court does not feel any hesitation to hold that while the Act specifically references "family affairs and marriage," its broader interpretation allows it to cover cases involving the maintenance of children, including disputes over biological paternity. Hence, the Family Court has jurisdiction to adjudicate upon the matter.

Conclusion: i) See above analysis No.i

ii) See above analysis No.ii

iii) See above analysis No.iii

iv) See above analysis No.iv

v) see above analysis No.v

vi) The biological father is also morally under obligation to maintain his illegitimate child.

vii) the Family Court has jurisdiction to adjudicate upon the matter.

44. **Lahore High Court**
The State vs. Atif Pervaiz
Murder Reference No. 23 of 2023
Atif Pervaiz vs. The State etc.
Crl. Appeal No. 293-J of 2023
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Muhammad Tariq Nadeem
https://sys.lhc.gov.pk/appjudgments/2025LHC639.pdf

Facts: The deceased was shot and killed, initially, an FIR was registered however, a supplementary statement later implicated some other accused persons. The trial court convicted one of the accused, sentencing him to death, while acquitting the co-accused. The convicted accused assailed the judgment regarding his conviction and simultaneously the murder reference was also referred for confirmation of the death sentence.

Issues: i) Whether delay in reporting the incident to the police undermine the credibility of the prosecution's case?
ii) Does the prolonged delay in the post-mortem examination weaken the prosecution's case by indicating possible manipulation of evidence?
iii) What is the effect of significant delay in filing the private complaint?
iv) What is the effect if the witnesses fail to justify their presence at the crime scene?
v) Whether the failure of the eyewitnesses to describe specific injuries on the deceased undermine their credibility?
vi) What is the legal and evidentiary value of a supplementary statement in Pakistani law?
vii) Can a supplementary statement be relied upon if it alters the initial version of events without a plausible explanation?
viii) Does the belated implication of the appellant by related witnesses undermine the credibility of the prosecution’s case?
ix) Whether absence of the names of eyewitnesses to be listed in the inquest and post-mortem reports undermine their credibility?
x) Whether the testimony of prosecution witnesses credible against one accused if it has already been disbelieved for a co-accused, in the absence of independent corroboration?
xi) Whether recovery of a pistol from an open and accessible place diminish its evidentiary value?
xii) Whether CDR, without proof of the conversation's content, conclusively establish the accused's involvement in the crime?
xiii) Whether the recovery of the motorcycle is inconsequential due to the lack of it’s details in the FIR and its non-recovery from the appellant's possession?
xiv) Does the failure to prove the alleged motive weaken the prosecution's case against the accused?
xv) whether the accused can be granted benefit of doubt due to a single

circumstance creating doubt in the prosecution's case?

Analysis: i) There is a delay of 02 hours and 35 minutes in reporting the matter to the police. No reasoning has been described by complainant (PW.1) to the effect that why he recorded his statement (Exh.PA) with the delay of one and half hour after the arrival of police. This fact is sufficient to hold that that supra-mentioned eye witnesses were not present at the time and place of occurrence, even otherwise, there was no justification for the above-mentioned delay. Therefore, we hold that this delay in setting the machinery of law into motion speaks volume against the veracity of prosecution version.

ii) Postmortem on the dead body of deceased was conducted with the delay of 09 hours and 50 minutes, after the occurrence. Keeping in view, the above-mentioned gross delay in the post mortem examination, an adverse inference can be drawn that the prosecution witnesses were not present at the time of occurrence and the intervening period had been consumed in fabricating a false story after preliminary investigation, otherwise there was no justification of delay for conducting post-mortem examination on the dead body of the deceased.

iii) We have further noted that complainant (PW.1) being dissatisfied with the police investigation, while changing the prosecution version as reproduced supra, filed private complaint (Exh.PD) with the delay of almost 04 months and 20 days of the occurrence. Prosecution has not given any plausible reasoning qua such delay meaning thereby that the private complaint has been filed after due deliberation and consultation just to fill up the lacunas left in the FIR.

iv) It was, therefore, mandatory for the above-mentioned eye witnesses to justify their presence at the place of occurrence at the relevant time through some cogent reason but they have failed to establish their presence at the relevant time and place of occurrence rather they are related and chance witnesses.

v) Occurrence took place in broad daylight at 01:40 p.m. but the alleged eye witnesses, complainant (PW.1) and PW.2 have not described any specific injury to any of the accused persons. Had they present at the time of occurrence, they must have described the exact locale of injuries on the body of deceased, this fact further negates the version of the prosecution qua the presence of supra-mentioned eye witnesses at the time and place of occurrence.

vi) It is settled by now that a supplementary statement is a statement made by a complainant or witness after the initial First Information Report (F.I.R.) has been recorded. It is typically used to provide additional information or clarify details that were not included in the original F.I.R. However, the legal standing and evidentiary value of supplementary statements can be quite limited. In the context of Pakistani law, supplementary statements are not considered equivalent to the F.I.R. and do not carry the same weight in legal proceedings.

vii) The courts have also noted that supplementary statements should not be relied upon if they change the initial version of events without a plausible explanation for change. In nutshell, while supplementary statements can provide additional

context or details, their legal significance is often scrutinized, and they are treated with caution in judicial proceedings.

viii) In this way, it is abundantly clear that above-mentioned PWs have implicated the appellant after due deliberation and consultation; even otherwise, due to the close relationship of the eye witnesses with the appellant being residents of adjacent houses, there was no occasion for not mentioning the name the appellant and his co-accused in the F.I.R. Even otherwise, the courts have always deprecated such kind of statement, which is made with the purpose to strengthen the case of the prosecution at the behest of the police officials or some other ulterior motives to get the suspect convicted by hook or crook.

ix) Complainant (PW.1) and PW.2 are not witnesses of inquest report (Exh.CW-2/B/5) and postmortem report (Exh.CW-2/B) pertaining to deceased. If they were present at the scene of the occurrence at the relevant time, they must have been the witnesses of inquest report. Similarly, they should have escorted the dead body to the hospital being the close relatives and their names should have been incorporated in the post mortem report in the column of identification of the dead body. This fact has constrained us to hold that supra mentioned PWs were not present at the time and place of occurrence.

x) It is a trite principle of law and justice that once prosecution witnesses are disbelieved with respect to a co-accused then, they cannot be relied upon with regard to the other co-accused unless they are supported by corroboratory evidence coming from independent source and shall be unimpeachable in nature but that is not available in the present case.

xi) With regard to the recovery of pistol 30 bore (P-4) taken into possession by ASI/I.O (CW.11) at the pointation of the appellant vide recovery memo (Exh.PJ) concealed near the bridge by wrapping in shopper under the gumarabic tree and positive report of the Punjab Forensic Science Agency, Lahore (Exh.PL), we are of the view that the same are not helpful to the prosecution, because the pistol was recovered from an open place, which was easily accessible to all… In this way, abovementioned recovery of pistol at the instance of the appellant is highly doubtful in nature and the same cannot be relied upon.

xii) As far as recovery of CDR of mobile phone (P-7) being used by co-accused Mst. Abida Perveen (since acquitted) through recovery memo (Exh.CW11/J) and CDR of mobile phone (P.9) of appellant through recovery memo (Exh.CW3/C) are concerned the same simply depict the number of caller as well of recipient, location, duration of call and not more than this, even there is no evidence that what was the conversation made between the caller and recipient. It is well settled by now that CDR is not conclusive proof of involvement of accused in the commission of crime.

xiii) So far as the recovery of motorcycle CD-70 (P-9) allegedly used by the appellant during the occurrence is concerned, admittedly, no registration number, colour, its company name have been described in the F.I.R. Moreover, abovesaid recovery was not made from the possession of the appellant. In this way, recovery of motorcycle is inconsequential and not helpful to the prosecution case.

xiv) Although, the prosecution is not under obligation to establish a motive in every murder case but it is also well settled principle of criminal jurisprudence that if prosecution sets up a motive but fails to prove it, then, it is the prosecution who has to suffer and not the accused.

xv) It is, by now well-established principle of law that it is the prosecution, which has to prove its case against the accused by standing on its own legs, but in this case the prosecution remained failed to discharge its responsibility. It is also well-established principle of law that if there is a single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.

Conclusion: i) Delay in setting the machinery of law into motion speaks volume against the veracity of prosecution version.

ii) An adverse inference can be drawn that the prosecution witnesses were not present at the time of occurrence and the intervening period had been consumed in fabricating a false story.

iii) Suh delay would suggest that the private complaint has been filed after due deliberation and consultation just to fill up the lacunas left in the FIR.

iv) See above analysis No iv.

v) This fact negates the version of the prosecution qua the presence of supra-mentioned eye witnesses at the time and place of occurrence.

vi) See above analysis No vi.

vii) Supplementary statements should not be relied upon if they change the initial version of events without a plausible explanation.

viii) See above analysis No viii.

ix) See above analysis No ix.

x) Once prosecution witnesses are disbelieved with respect to a co-accused then, they cannot be relied upon with regard to the other co-accused unless they are supported by corroboratory evidence.

xi) Recovery of pistol at the instance of the appellant from an open accessible place is highly doubtful in nature and the same cannot be relied upon.

xii) It is well settled by now that CDR is not conclusive proof of involvement of accused in the commission of crime.

xiii) See above analysis No xiii.

xiv) If prosecution sets up a motive but fails to prove it, then, it is the prosecution who has to suffer and not the accused.

xv) If there is a single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.

---

45. **Lahore High Court**
Muhammad Ramzan v. The State and another
Crl. Appeal No. 577 of 2022
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Muhammad Tariq Nadeem
https://sys.lhc.gov.pk/appjudgments/2025LHC626.pdf.

Facts: The appellant was convicted under the Drugs Act, 1976, and the Drug Regulatory Authority of Pakistan Act, 2012, for allegedly stocking and selling drugs without a license, without warranties, and spurious alternative medicines. The conviction was challenged on the ground of procedural violations in prosecution.

Issues: i) Whether the initiation of prosecution for offences under the Drugs Act, 1976, and Drug Regulatory Authority of Pakistan Act, 2012, requires the issuance of show cause notice?
ii) Whether recovery proceedings under the Drugs Act, 1976, are required to be conducted in accordance with section 103 of the Code of Criminal Procedure, 1898?
iii) Whether benefit of doubt arising from non-compliance with statutory procedures is to be extended to the accused?

Analysis: i) The use of word "shall" between the lines in the above quoted Rule makes it mandatory for the District Quality Control Board to serve the show cause notice upon the concerned person and afford him an opportunity of hearing before taking any action about the prosecution of such person.
ii) Since the above-referred provisions of The Drugs Act, 1976 and Drug Regulatory Authority of Pakistan Act, 2012 with regard to the search and seizure of drugs are consistent with the provisions contained in section 103 of the Code of Criminal Procedure (Act V of 1898), therefore, the latter provisions are also fully applicable to the case in hand in the light of section 18(2) of The Drugs Act, 1976 as well as Para (2) in Schedule V of Drug Regulatory Authority of Pakistan Act, 2012…
iii) It goes without saying that if there is single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.

Conclusion: i) Yes, mandatory compliance regarding issuance of show cause notice is essential before initiating prosecution.
ii) Yes, recovery proceedings must comply with section 103 Cr.P.C. along with the provisions of Drugs Act, 1976.
iii) Yes, benefit of doubt must be extended to the accused in case of non-compliance with legal procedures.

---

46. **Lahore High Court**
Muhammad Arif v. The State and another
Crl. Appeal No. 175 of 2021
Wali Muhammad v. The State and another
Crl. Revision No. 66 of 2020
Mr. Justice Muhammad Tariq Nadeem
https://sys.lhc.gov.pk/appjudgments/2025LHC762.pdf

Facts: A young woman went missing while collecting fodder and was later found dead in a sugarcane field with her throat slit. The case was registered based on a

complaint by a family member, initially against an unknown person. During the investigation, the accused was implicated based on circumstantial evidence, including last-seen testimony, forensic reports, and alleged confessions. The trial court convicted the accused and sentenced him to imprisonment under multiple charges.

Issues

i) What is the evidentiary value of circumstantial evidence in a criminal trial?
ii) How reliable is 'last seen' evidence in the absence of corroborative proof?
iii) What is the legal standing of DNA evidence in criminal cases?
iv) Can DNA evidence be the sole basis for conviction in a capital case?
v) What is the evidentiary value of medical reports in the absence of direct evidence?
vi) Under what circumstances can a recovery memo be considered inadmissible?
vii) Can a conviction be sustained solely on the basis of recovery of a weapon?
viii) What is the principle regarding benefit of doubt in criminal trials?

Analysis:

i) It is well settled by now that in such like cases, prosecution is required to link each circumstance to the other in a manner that it must form a complete, continuous and unbroken chain of circumstances, firmly connecting the accused with the alleged offence and if any link is missing then obviously benefit is to be given to the accused.

ii) Even, it is well settled by now that last seen evidence is always considered to be week 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 deposed by him must be of some fact which the police had not previously learnt from any other source and that the knowledge of the fact was first derived from the information given by the accused. I have noted that the place of occurrence was already in the knowledge of the prosecution witnesses and police.

vii) More so, when the evidence qua last seen had already been disbelieved by this Court, due to the reasons mentioned earlier, I am of the view that conviction cannot be sustained merely on the ground of op-cit recovery of weapon of offence.

viii) The Supreme Court of Pakistan time and again held that in the event of a doubt, the benefit must be given to the accused not as a matter of grace, but as a matter of right.

Conclusion: i) Circumstantial evidence must form a complete and unbroken chain; any missing link benefits the accused.

ii) Last seen evidence weak unless corroborated by independent proof.

iii) DNA evidence admissible but requires a secure chain of custody to be reliable.

iv) DNA as expert opinion cannot be sole evidence for conviction; needs corroboration.

v) Medical evidence confirms injuries but does not establish the accused's guilt.

vi) Recovery evidence must be based on new, exclusive knowledge from the accused.

vii) Weapon recovery alone, it cannot sustain a conviction.

viii) Benefit of doubt must be given to the accused when reasonable doubt exists.

---

47. **Lahore High Court**
Parks & Horticulture Authority v. Punjab Labour Appellate Tribunal, etc.
Writ Petition No.78987 of 2023
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC463.pdf

Facts: The respondents were employed as daily wage workers for over a decade in a public authority responsible for horticultural maintenance. They approached the Labour Court seeking recognition as permanent workmen and regularization of their services. The Labour Court declared them permanent workmen but denied regularization, a decision later overturned by the Tribunal, leading to the present constitutional petitions.

Issues: i) Does the nature of duties determine a worker's status under labour laws?

ii) Is Parks & Horticulture Authority (PHA) a 'Commercial Establishment' under labour laws?

iii) Does a daily wage worker employed for over 10 years qualify as a'workman'?

iv) What is the distinction between the regularization of service and the declaration as a permanent workman and whether the Tribunal was justified in directing the regularization of services of the respondents?

Analysis: i) Suffice to observe that the nature of the duties performed is crucial in determining the status of a workman irrespective of the employment terms. Mere existence of the statutory rules does not exempt an organization from the application of labour laws if the employment conditions align with the definition under the relevant statutes.

ii) This Court is of the opinion that the definition of an 'Industrial or Commercial Establishment' under the Ordinance, broadly includes any entity engaged in systematic economic activities that involve labour and service delivery. The PHA Act establishes the petitioner-PHA as a regulatory and operational body for maintaining public parks and green spaces. While its primary function may not be industrial or commercial in the conventional sense, the engagement of petitioner-PHA in systematic horticultural maintenance falls within the scope of 'Commercial Establishment', particularly, given its structured employment model and the revenue-generating activities.

iii) Based on the legislative definitions under the PIRA, the Ordinance and the above referred judicial pronouncement of Supreme Court of Pakistan in case of Ahmad Hussain supra, I am of the opinion that for the purposes of the Ordinance, the petitioner PHA is a commercial establishment and the respondents are workmen. Consequently, they are entitled to the rights and protections outlined in the Ordinance and/or the PIRA. The respondents having demonstrated continuous service and engagement in functions integral to the objectives of the PHA Act as outlined in Section 4 thereof and hence, were rightly held entitled to be recognized as permanent workmen by the Labour Court(s). Suffice to observe that for a workman to be declared as permanent, it is nowhere mandated under the law that the said post should be a sanctioned post rather a workman working on a post for a statutory recognized period ipso facto becomes a permanent workman, by operation of the law. Therefore, permanent status of a workman cannot be made contingent upon the existence of a sanctioned post as the same would amount to reading into law what the law does not provide for.

iv) This Court is of the opinion that the Labour Courts do not have the authority to introduce the regularization, which applies to the contractual, ad-hoc, or daily wage employees in public authorities under the civil service rules and/or a specific government policy. Courts cannot lose sight of the fact that the workmen engaged in non-administrative roles, are covered by the Ordinance and the PIRA and are entitled to certain statutory rights as permanent workmen, as held in case of Ahmad Hussain, supra. These rights include job security, fair wages, gratuity and the ability to form or join trade unions. On the contrary, regularization is an administrative discretion rather than a statutory or vested right. Employees, like the respondents, in semi-autonomous bodies such as the petitioner-PHA, cannot claim an automatic right to regularization inasmuch as if such employees are not

carrying out manual work, their regularization is subject to the government policies and availability of sanctioned posts and if they are engaged in manual work their rights are determined by the Ordinance, which does not include regularization.

Conclusion: i) A workman's status depends on job duties, not employment terms, and statutory rules do not override labour laws.
ii) PHA's horticultural work makes it a Commercial Establishment under labour laws.
iii) PHA workers qualify as workmen and gain permanent status by law, regardless of sanctioned posts.
iv) Labour Courts cannot grant regularization; it is an administrative decision, but workmen still get statutory protections.

---

48. **Lahore High Court**
Liaqat Ali v. Shahnaz Akhtar
C.R. No.58611 of 2019
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC693.pdf

Facts: This civil revision has been filed against concurrent findings of courts below, wherein suit for declaration along-with permanent injunction instituted by the respondent regarding gift/hiba in favour of petitioner being illegal and unlawful was decreed.

Issues: i) What are essential elements of a valid gift?
ii) What is meant by undue influence?
iii) What are the powers of Revisionary Court in matters of concurrent findings of Courts below?

Analysis: i) The essential elements of a valid gift are, a declaration of gift by the donor; acceptance of the gift by the donee; and the delivery of possession.
ii) "undue influence" as a circumstance in which one party is able to dominate the will of another, either through actual authority or by exploiting a fiduciary or other vulnerable relationship, including instances where mental or bodily distress compromises a person's capacity for rational decision-making.
iii) the revisionary power of this Court is limited in matters of concurrent findings of the Courts below and this Court would, as a settled law, not interfere in the concurrent findings of the Courts below unless the same are found to be illegal, materially irregular, infected with misreading of evidence, jurisdictional defect or procedural impropriety.

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

49. **Lahore High Court**
Bashir Ahmad v. Shaukat Ali and 13 others
Civil Revision No. 4749 of 2015
Mr. Justice Sultan Tanvir Ahmad
https://sys.lhc.gov.pk/appjudgments/2025LHC674.pdf

Facts: A civil revision was filed challenging the dismissal of an application under Section 12(2) of the Code of Civil Procedure, 1908. The applicant alleged that after obtaining a decree in a suit for declaration, the original decree-holder sold the disputed property to the applicant and later colluded with other parties to have the decree set aside without the applicant's knowledge. The lower court dismissed the application without framing issues or recording evidence, holding that the rule of lis pendens applied and that no fraud had been committed with the court.

Issues: i) Whether doctrine of lis pendens apply when the provisions of Section 41 of the Transfer of Property Act, 1882 are applicable to a case?
ii) Whether a compromise obtained through collusion or fraud excludes the application of Section 52 of the Transfer of Property Act, 1882?
iii) Whether fraud between parties, without misrepresentation before the court, sufficient to invoke Section 12(2) of the CPC?
iv) Can a non-party invoke provisions of Section 12(2) of the CPC if a decree is obtained through fraud affecting their rights?
v) Can an application under Section 12(2) of the CPC be summarily dismissed when it involves a mixed question of law and facts?
vi) Can an application under Section 12(2) of the CPC be dismissed summarily if no fraud, misrepresentation, or jurisdictional defect is established?

Analysis: i) The application of doctrine of lis pendens is circumscribed by certain conditions One of the well recognized exception is when the provisions of section 41 of the Transfer of Property Act-1882 (the Act) are squarely applicable to the case.
ii) The Honourable Supreme Court has already settled that a genuine compromise is a normal conduct of parties but a compromise entered into by collusion or fraud excludes the application of section 52 of the Act .
iii) If the fraud is inter se the parties and no fraud with the Court is committed or no misrepresentation is made before the Court, the provisions of section 12(2) of the CPC are not applicable, in absence of jurisdictional defect . However, the position is different when consent decree is obtained to have the premium of the fraud.
iv) Argument was also raised that section 12(2) of the CPC does not apply because petitioner was not party to the suit or the appeal. This argument has no force as fraud alleged is not only amongst the parties or out of the Court but it is an attempt to take shelter of judicial proceeding and decree…facts of the case attract the view adopted by learned Peshawar High Court in Abdur Rauf case

(PLD 1982 Peshawar 172), which is also approved by the Honourable Supreme Court in 1984 SCMR 586.
v) The case is not that required summary dismissal… Nevertheless, when facts require determination, recording evidence and question being a mixed question of law and facts would need proper determination.
vi) When no case of fraud or misrepresentation or jurisdiction is made out and it is apparent from the record that application under section 12(2) of the CPC is filed just to derail the proceedings, superfluous or it is to cause delay in execution; such attempt requires summary dismissal.

Conclusion: i) See above analysis No i.
ii) A compromise entered into by collusion or fraud excludes the application of section 52 of the Act.
iii) See above analysis No iii.
iv) See above analysis No iv.
v) When mixed question of law and facts are involved application under section 2(2) of CPC cannot be summarily dismissed.
vi) See above analysis No vi.

---

50. **Lahore High Court**
The State v. Wasif Saeed
Wasif Saeed v. The State
Jannat-ul-Firdous v. The State, etc.
Murder Reference No.208 of 2021
Criminal Appeal No.56099 of 2021
Criminal PSLA No.56097 of 2021
Mr. Justice Shehram Sarwar Ch., Mr. Justice Sardar Akbar Ali
https://sys.lhc.gov.pk/appjudgments/2025LHC773.pdf

Facts: The appellant, along with his co-accused persons, was tried by the learned Sessions Judge in Lahore in a private complaint under sections 302, 148, and 149 PPC, which arose from a case registered under FIR for offences under sections 302 and 34 of the PPC. Upon conclusion of the trial, the co-accused were acquitted, while the appellant was convicted and sentenced. Aggrieved by his conviction and sentence, the appellant filed a Criminal Appeal. Additionally, the trial court submitted a reference for the confirmation or otherwise of the death sentence awarded to the appellant. Meanwhile, the complainant filed an appeal challenging the acquittal of the co-accused persons.

Issues: i) What is the effect of dishonest improvements made by a witness in his statement?
ii) If prosecution withheld the best piece of evidence, what adverse inference can be drawn?
iii) What purpose can be served by medical evidence?
iv) What is the role of motive in criminal proceedings?

Analysis: i) It is settled by now that dishonest improvements made by a witness in his statement to strengthen the prosecution case casts serious doubt about veracity of his statement and makes the same untrustworthy and unreliable.
ii) The prosecution has withheld the best piece of evidence, hence an adverse inference within the meaning of Article 129(g) of Qanun-e-Shahadat Order, 1984 can validly be drawn against the prosecution that had the abovementioned witnesses been produced in the witness box then their evidence would have been unfavourable to the prosecution.
iii) The medical evidence only being corroborative piece of evidence, cannot be made basis to record or sustain conviction because medical evidence could only give details about the locale, dimension, kind of weapon used, the duration between injury and medical examination or death and autopsy, etc. but never identify the real assailant.
iv) We cannot ignore the legal position that motive even if proved, depending upon the facts and circumstances of the case, may act as a double-edged weapon. If it can be a reason for the accused to commit the crime, it can also be used by the prosecution as a tool to implicate an innocent person.

Conclusion: i) It makes the statement untrustworthy and unreliable.
ii) That evidence would have been unfavourable to the prosecution.
iii) It gives details about the locale, dimension, kind of weapon used, the duration between injury and medical examination or death and autopsy, etc.
iv) It is double-edged weapon, it can be used by both prosecution and defence.

---

51. **Lahore High Court**
Iqbal Ahmad v. Additional District Judge, etc.
W.P.No.15171 of 2022
Mr. Justice Syed Ahsan Raza Kazmi.
https://sys.lhc.gov.pk/appjudgments/2025LHC488.pdf

Facts: Through this Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 the petitioner has challenged the Orders passed by learned Courts below whereby his application for amendment in the plaint of suit for specific performance and permanent injunction was partially allowed and certain other amendments were declined concurrently.

Issues: i) Whether discretionary powers of Courts to allow the amendments in pleadings are subject to certain conditions/limitations?
ii) Whether a party can be allowed to amend a pleading qua a fact already in its knowledge?

Analysis: i) There is no cavil to the legal proposition that the Court always has the jurisdiction under Order VI rule 17 of the Code and enjoys vast discretionary powers to allow the amendments in pleadings at any stage of the proceedings. However, such powers are subject to certain conditions/limitations. The main

conditions/limitations are as following: Firstly, the amendments should not cause prejudice to the other side, meaning thereby that while allowing amendment(s) in the plaint the defendants' rights should also be kept in mind and no amendment should be permitted which is aimed at changing the complexion of the suit while introducing a new case based on different cause of action. Secondly, any right accrued in favour of other party would not be allowed to be snatched away by permitting any 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 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 delay[9] 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 accomplice[16] 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**
Munnza 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
Crl. Misc. No.7172-B/2025.
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC788

Facts: Petitioners seek pre- arrest bail in case FIR registered under Section 406 and 420 PPC as their earlier pre-arrest bail application was declined by Court of Sessions.

Issue: i) What are the essential ingredients to constitute offence under section 406 PPC
ii) Whether malafide can always be proved through direct evidence?

Analysis: i) Under section 406 PPC, the essential ingredients are:- i) There should be an entrustment by a person who reposes confidence in the other, to whom property is entrusted. ii) The person in whom the confidence is placed, dishonestly misappropriates or converts to his own use, the property entrusted. iii) He dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged. iv) He dishonestly uses or disposes of that property in violation of any legal contract, express or implied, which he has made touching the discharge of such trust.
ii) Malafide being a state of mind could not always be proved by direct evidence. In most of the cases it has always to be inferred from the facts and circumstances of the case.

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

LATEST LEGISLATION/AMENDMENTS

1. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Adjustment of Canal Command Areas Rules, 2024 are made.

2. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Punjab Canal Water Supply Rules, 2024 are made.
3. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Punjab Irrigation (Appeal and Revision) Rules, 2024 are made.
4. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Punjab Irrigation Review Board Rules, 2024 are made.
5. Vide Notification No Legis: 5-22/2024/897 dated 26-02-2025 published in the Punjab Gazette, The Punjab Defamation (Tribunal) Rules, 2025 are made.
6. Vide Notification No.147-2025/233-RS(II) dated 06-03-2025 published in the Punjab Gazette, amendments are made in The Punjab Agricultural Income Tax Rules, 1997.
7. Vide Notification No.148-2025/234-RS(II) dated 06-03-2025 published in the Punjab Gazette, amendments are made in The Punjab Agricultural Income Tax Rules, 2001.

SELECTED ARTICLES

1. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/what-is-an-interpol-arrest-warrant-and-how-does-it-affect-citizens-in-the-uae--17524.asp

   What is an Interpol Arrest Warrant and How Does It Affect Citizens in the UAE? By Yaksh Sharma

   An Interpol arrest warrant, commonly known as a Red Notice, is an international request for the detention of a wanted person. While it is not an arrest warrant in itself, it signals law enforcement agencies worldwide to locate and provisionally detain an individual for potential extradition. In the UAE, Interpol Red Notices can significantly impact a person's legal status, including travel restrictions, frozen bank accounts, and the risk of detention while legal proceedings unfold.

2. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/understanding-probation-violations-in-colorado-and-their-consequences-17521.asp

   Understanding Probation Violations in Colorado and Their Consequences by Yaksh Sharma

   Probation is a common alternative to incarceration for those navigating the criminal justice system in Colorado. Understanding the nuances of probation violations is essential for individuals on probation and their families, as these violations can lead to serious legal repercussions, including the possibility of jail time. In Colorado, probation

violations can occur for a variety of reasons, including failure to complete mandated programs, issues with reporting to a probation officer, or engaging in illegal activities. Each of these violations carries specific consequences that can dramatically impact a person's life and future.

3. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/data-breach-as-personal-injury-17520.asp

   Data Breach as Personal Injury by Yaksh Sharma

   In today's digital age, the potential for personal data breaches is alarmingly high. Individuals often underestimate the severity of how these breaches can affect their lives, both financially and emotionally. A data breach can be considered a form of personal injury, as it compromises personal security and can lead to significant harm. Victims of data breaches may experience real consequences, such as identity theft, financial losses, and emotional distress. As organizations increasingly store sensitive information online, the responsibility to protect that data is paramount. Those impacted must understand their rights and the implications of such breaches on their personal well-being. As society becomes more aware of data privacy, discussing the concept of data breaches as personal injuries opens a vital conversation. It encourages individuals to take proactive steps in safeguarding their information, while also holding companies accountable for failures in data protection.

4. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/what-to-do-after-a-car-accident-when-it-s-not-your-fault-17519.asp

   What To Do After a Car Accident When It's Not Your Fault? By Yaksh Sharma

   After a car accident, especially when it's not your fault, knowing the right steps to take can make a significant difference. The immediate priority should be ensuring everyone's safety, exchanging information with the other driver, and documenting the scene thoroughly. These actions are essential for protecting one's rights and establishing a clear record of the incident. After ensuring safety, it's crucial to notify the insurance companies involved. This step initiates the claims process, allowing for repairs and medical expenses to be addressed. Gathering evidence, such as photos of the damage and witness statements, can further support a claim and clarify the circumstances of the accident.

5. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/what-do-lawyers-do-when-they-know-their-client-is-guilty-17518.asp

   What Do Lawyers Do When They Know Their Client is Guilty? By Yaksh Sharma

When a criminal defense attorney knows their client is guilty, they face a complex ethical dilemma. The primary responsibility of the attorney is to provide a robust defense, ensuring that the legal rights of the client are upheld, regardless of their guilt. This role emphasizes the importance of the legal principle that everyone deserves a fair trial. Attorneys maneuver through this challenging situation by focusing on the facts, evidence, and legal standards present in the case. They may seek to negotiate plea bargains, look for procedural errors, or highlight mitigating circumstances that could impact sentencing. By doing so, they not only fulfill their duty to their client but also maintain the integrity of the legal system.

LAHORE HIGH COURT

BULLETIN

Fortnightly Case Law Update ***Online Edition***

Volume - VI, Issue - VI

16 - 03 - 2025 to 31 - 03 - 2025

Published By: Research Centre, Lahore High Court, Lahore

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

Disclaimer

Due care and caution has been taken in preparing and publishing this bulletin. Where required, text has been moderated, edited and re-arranged. The contents available in this Bulletin are just for Information. Users are advised to explore and consult original text before applying or referring to it. Research Centre shall not be responsible for any loss or damage in any manner arising out of applying or referring the contents of Bulletin.

FORTNIGHTLY CASE LAW BULLETIN

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

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

Prepared & Published by the Research Centre Lahore High Court

JUDGMENTS OF INTEREST

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

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

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

25.	Lahore High Court	Effect of Contents of inquest report on the authenticity of the prosecution's version; Stage of development and disappearance of rigor mortis; Medical evidence overriding ocular testimony when it renders the latter wholly improbable; Contradiction between the ocular and medical evidence; motive, being a double-edged sword; Recovery of a weapon without forensic confirmation; Evidentiary Value of abscondence of an accused without independent proof of involvement in the offence; Benefit of doubt if prosecution fails to prove its case beyond reasonable doubt.	Criminal Law	36
26.		Responsibility of a husband with regard to explaining the circumstances leading death of wife; duty of a judge while presiding over a criminal trial; presumption attached to the judgment of acquittal by the trial court.		38
27.		Effect of adoption of statutory rules by an organization, protection to statutory rules relating to terms and conditions of service.	Service Law	39
28.		Purpose of audit programme; Law regulating the payment of stamp duty on insurance policies; Historical scope of the definition of the term "public office" ; Provision and Obligation prescribed by Section 73 of the Stamp Act, 1899; Person authorised to impound the instrument and circumstance when it may be impounded; instrument which cannot not be impounded; Scheme and purpose of the terms "public office" prior to insertion of definitions in Stamp (Punjab Amendments) Act, 1973; Context of the terms "person in charge of public office" and "public officer" used in section 33 of the 1899 Act and section 73(2) of the1899 Act; Anatomy of section 33 the 1899 Act; Fate of the instruments chargeable with duty if not duly stamped; Scheme of Audit Rules; Power of Auditor and the scope audit.	Civil Law	40
29.		Termination of agency upon death of joint executant under Section 201 of the Contract Act; Decree based on statement by unauthorized person amounts to misrepresentation; Purpose of inserting Section 12(2) CPC through Ordinance X of 1980; Procedure for adjudication of Section 12(2) CPC application is discretionary and case-specific; Concurrent findings vitiated by illegality may		44

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

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

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

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

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

LATEST LEGISLATION/AMENDMENTS

SELECTED ARTICLES

1. **Supreme Court of Pakistan**
Zahida Parveen v. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and others
C.P.L.A. No. 566-P/2024
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Athar Minallah
https://www.supremecourt.gov.pk/downloads_judgements/c.p._556_p_2024.pdf

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

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

xviii) What is the rule as to the operation of pronouncement of judgments Supreme Court?

xix) What the adoption of gender-sensitive and gender-neutral language is a mere formality?

Analysis: i) A plain reading of Rule 10(4) makes it evident that it allows compassionate appointment in cases where a civil servant dies or is rendered permanently incapacitated during service. It allows the appointing authority to appoint either one of the children of such a civil servant or, if the child is below the eligible age for government service, the widow/wife, to a post in Basic Pay Scales 1 to 10, subject to prescribed qualifications.

ii) The language of the rule is inclusive, indicating that the benefit is to be extended equally to all children, without distinction based on gender, marital status, disability or religion.

iii) Married daughter falls within the scope of "one of the children."

iv) It is a settled principle of statutory interpretation that executive construction may assist in understanding administrative practice but holds no binding force where it seeks to override or contradict the express language of a statutory rule.

v) Executive authorities may issue instructions to supplement the implementation of rules, but it cannot, under the pretext of a clarification, amend or distort the scope of duly framed rules enacted under any statutory mandate.

vi) Allowing subordinate executive authorities to restrict the lawful scope of such rules would amount to an impressible encroachment into the legislative domain and offend the doctrine of separation of powers. Executive fiat cannot override legislative command, and any interpretation enabling such a proposition would be legally unsustainable and constitutionally repugnant.

vii) It is well settled that reasonable classification must be founded on an intelligible differentia and must bear a rational nexus to the object sought to be achieved by the law.

viii) It is well settled law that when the basic order is without lawful authority, then the entire superstructure raised thereon falls to the ground automatically.

ix) The exclusion of married daughters from the ambit of Rule 10(4) is not merely a procedural irregularity—it reveals a deeper structural flaw grounded in patriarchal assumptions about a woman's identity and her role within the legal and economic order. It presumes that upon marriage, a woman relinquishes her independent legal identity and becomes economically dependent on her husband, thereby forfeiting entitlements available to similarly situated male counterparts.

x) At its core, this exclusion constitutes a denial of a woman's right to financial and economic independence—rights that are not ancillary but essential to the exercise of constitutional personhood. The Constitution guarantees rights to individuals, not to marital units or prescribed social roles. Women are autonomous, rights-bearing citizens in their own right, not by virtue of their relationship to a man, be it father, husband, or son. Financial independence is not a privilege but a necessary precondition for the full realization of citizenship,

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

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

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

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

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

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

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

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

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

unless declared otherwise.

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

Conclusion: i) Rule 10(4) prescribes the compassionate appointment in cases where a civil servant dies or is rendered permanently incapacitated during service, then appointing authority is invested with the power to appoint either one of the children of such a civil servant or, if the child is below the eligible age for government service, the widow/wife, to a post in Basic Pay Scales 1 to 10, subject to prescribed qualifications.

ii) The language of the rule indicates that the benefit is to be extended equally to all children, without any discrimination.

iii) Yes. Married daughter falls within the scope of "one of the children."

iv) The executive construction woks in assisting administrative practice.

v) The role of executive authorities is limited to issue instructions to implementation of rules, but it cannot amend or distort the scope of rules framed under statutory mandate.

vi) The consequences will be as i.e. 1) it will be treated as an impressible encroachment into the legislative domain and 2) any interpretation enabling such a proposition would be legally unsustainable and constitutionally repugnant.

vii) Reasonable classification must be founded on an intelligible differentia and must bear a rational nexus to the object sought to be achieved by the law.

viii) When the basic order is without lawful authority, then the entire superstructure raised thereon falls to the ground.

ix) It reveals a deeper structural flaw grounded in patriarchal assumptions about a woman's identity and her role within the legal and economic order.

x) The fact i.e. denial of a woman's right to financial and economic independence to deny her this entitlement on the basis of marriage is to deny her constitutional identity as an equal citizen.

xi) A woman retains full ownership and control over her property, earnings, and financial affairs, irrespective of her marital status.

xii) Notions i.e. marriage extinguishes a woman's legal personhood and curtails her entitlements has been rejected by Contemporary constitutional jurisprudence.

xiii) Rule 10 (4) Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion, and Transfer) Rules, 1989, Constitution United Nations Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW") are violated on deprivation of married daughters.

xiv) See above analysis No. xiv

xv) See above analysis No. xv.

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

---

2. **Supreme Court of Pakistan**
Rab Nawaz v. Shehzad Hassan, etc.
Crl.P. 235-L/2025
Mr. Justice Syed Mansoor Ali Shah, Mrs. Justice Ayesha A. Malik
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._253_l_2025.pdf

Facts: The petitioner sought cancellation of post-arrest bail granted to an accused in a murder case. The High Court granted bail citing delay in the test identification parade and nature of recovered weapon.

Issues: i) Whether bail is an unqualified right or subject to withdrawal upon misuse?
ii) What are the recognised grounds for cancellation of bail under the law?
iii**)** On what grounds may a court interfere with a bail granting order for the purpose of cancellation?
iv) What constitutes a perverse bail granting order warranting interference by the court?
v) What is the standard for evaluating material on record at the bail stage?

Analysis: i) Bail, though a concession granted to ensure the liberty of an accused pending trial, is not an unqualified right and can be withdrawn, if misused… The guiding principle remains that the liberty of an individual must be balanced against the need to ensure a fair trial and uphold public confidence in the justice system.
ii) The law recognizes that bail may be cancelled if the accused, after securing release, engages in conduct that undermines the administration of justice. Such grounds include attempts to influence or intimidate witnesses, tampering with evidence, committing another offence while on bail, or violating conditions imposed by the court. Furthermore, if the accused fails to appear before the court without just cause, or if new facts come to light that materially alter the basis on which bail was granted, the court may justifiably revoke the concession.
iii) The principles evolved for examining a bail granting order for the purpose of cancellation, the court usually interferes on two grounds: (i) when the impugned order is perverse on the face of it, or (ii) when the impugned order has been made in clear disregard of some principle of the law of bail.
iv**)** A perverse order is the one that has been passed against the weight of the material on the record or by ignoring such material or without giving reasons; such order is also termed as arbitrary, whimsical and capricious.

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

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

---

3. **Supreme Court of Pakistan**
Pakistan Railways thr. its Chairman Pakistan Railways, Islamabad & another v. Muhammad Amin (deced) thr. LRS
C.P.L.A.512/2022
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._512_2022.pdf

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

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

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

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

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

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

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

Conclusion: i) The validity of a judgment, decree, or order under Section 12(2), CPC, can only be challenged on the plea of fraud, misrepresentation, or want of jurisdiction.

ii) See analysis No. ii.

iii) Under Order VII Rule 11 CPC, Court can reject the plaint when it does not disclose a cause of action, the relief claimed is under-valued, the plaint to be barred by any law and written upon paper insufficiently stamped.

iv) Applying all intricacies of CPC to every case without justification undermines the purpose of Service Tribunals, leading to unnecessary delays and complexities.

---

4. **Supreme Court of Pakistan**
Hameedullah v. The State
Criminal Appeal No.238 of 2021
Mr. Justice Athar Minallah, Mr. Justice Naeem Akhtar Afghan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._238_2021.pdf

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

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

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

Analysis: i) It is settled law and a fundamental principle of criminal jurisprudence that it is the obligation of the prosecution to prove its case against an accused beyond any reasonable doubt. In case the prosecution fails to do so then the accused is entitled to the benefit of doubt as of right[1]. The conviction can only be based on unimpeachable, trustworthy and confidence inspiring evidence brought on record by the prosecution. It is also a well settled principle that for extending the right of benefit of doubt it is not necessary that there should be many circumstances creating uncertainty. Even if a single circumstance creates a reasonable doubt in a prudent mind about the guilt of an accused, then the latter is entitled to such benefit 'not as a matter of grace and concession but as of right.[2]
ii) The prosecution was also required to establish that the jacket was laden with explosives and that the two grenades contained explosives. The prosecution did not send the jacket nor the grenades for analysis to a notified Forensic Laboratory. On 27-08-2008 the jacket, two grenades and pellets were sent to the District Civil Defence, Rawalpindi. The latter, on the same day, examined the items and sent a report. There is nothing on record to show that the explosives were sent to a notified recognized laboratory or that the District Civil Defence, Rawalpindi was an established expert having appropriate facilities to give a conclusive opinion. It would, therefore, not be safe to rely upon the report of the District Civil Defence, Rawalpindi, for the purposes of the conviction of the appellant.

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

---

5. **Supreme Court of Pakistan**
Iqbal Ali Khan & others v. Naseeb Ali Khan & others
C.A.44-P/2012
Ali Abbas Khan & others v. Iqbal Ali Khan & others
C.A.62-P/2012
Mr Justice Shahid Waheed, Mr Justice Salahuddin Panhwar
https://www.supremecourt.gov.pk/downloads_judgements/c.a._44_p_2012r.pdf

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

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

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

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

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

Conclusion: i) See above analysis No i.

ii) Regarding a missing person, inheritance rights arise only from the date a person is presumed dead, not retroactively to the date of his disappearance.

iii) Any person who dies prior to the presumed death of the missing person is disqualified from inheriting his property.

iv) See above analysis No iv.

v) See above analysis No v.

vi) See above analysis No vi.

---

6. **Supreme Court of Pakistan**
Muhammad Ajmal etc. v. Mst. Noor Khatoon, etc.
Civil Petition No. 3455-L of 2022
Mr. Justice Yahya Afridi, Mr. Justice Irfan Saadat Khan, Mr. Justice Muhammad Shafi Siddiqui
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3455_l_2022.pdf

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

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

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

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

---

7. **Supreme Court of Pakistan**
Abdullah alias Muhammad alias Masab (Petitioner in Crl.P.790/2017) (Petitioner in JP-527/2017) v. The State
Crl.P.L.A No.790 of 2017 & Jail Petition No.527 of 2017
Mr. Justice Athar Minallah, Mr. Justice Malik Shahzad Ahmad Khan, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._790_2017.pdf

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

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

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

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

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

---

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

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

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

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

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

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

---

9. **Supreme Court of Pakistan**
Jeehand v. The State through Prosecutor General Balochistan
Criminal Petition No. 1187/2021
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Saddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._1187_2021.pdf

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

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

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

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

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

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

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

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

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

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

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

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

---

10. **Supreme Court of Pakistan**
Muhammad Azam & others v. Muhammad Aijaz
Civil Appeal No.99-K/2022
Mr. Justice Irfan Saadat Khan & Mr. Justice Muhammad Shafi Siddiqui
https://www.supremecourt.gov.pk/downloads_judgements/c.a._99_k_2022.pdf

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

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

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

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

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

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

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

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

---

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

Facts: Petitioners exhausted their remedies up to appeals under Law Reforms Act, 1977 (1977 Act). Later on, they filed civil suits but they failed to get relief from courts below. They filed Revision applications in the High Court, which also dismissed. Hence, the appeals under Article 185(2) of Constitution of Pakistan have been filed before Hon'ble Supreme Court.

Issues: i) Whether once a jurisdiction under the (1977 Act) is exhausted by filing an appeal, a parallel jurisdiction of Civil Court can be invoked for same cause?

ii) What is the Doctrine of Election, and in which cases it becomes applicable?

Analysis: i) Indeed the jurisdiction of the Civil Court under the special circumstances could be exhausted but not in a case where the appellant and/or a litigant has attempted a forum other than the Civil Court, as in this case, by not only filing declaration under MLR 115 but also when the Deputy Land Commissioner Tharparkar, after assuming lawful jurisdiction, resumed the excess land; the appellants under the hierarchy of 1977 Act invoked the jurisdiction of Land Commissioner Mirpurkhas Division by filing their respective appeals which were taken to their logical end. By applying the principle of Doctrine of Election the appellants cannot be permitted to have another bite of the cherry by invoking original jurisdiction of Civil Court for a similar recourse.

ii) As per the doctrine of election a person aggrieved of an order/judgment may have a host of remedies to challenge the same but he shall have to elect one of those remedies and after choosing one he may not avail another remedy. Thus, the appellants themselves have chosen to be ousted from availing the jurisdiction of Civil Court long back when they opted to invoke the jurisdiction in pursuance of 1977 Act.

Conclusion: i) When jurisdiction under the (1977 Act) is exhausted by filing an appeal, a parallel jurisdiction of Civil Court cannot be invoked for same cause.

ii) See above analysis No. ii.

---

12. **Supreme Court of Pakistan**
Muhammad Ahmed Shaikh & others v. Shabbir Ahmed
Civil Appeal No.117-K of 2022
Mr. Justice Irfan Saadat Khan, Mr. Justice Muhammad Shafi Siddiqi
https://www.supremecourt.gov.pk/downloads_judgements/c.a._117_k_2022.pdf

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

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

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

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

Conclusion: i) See above analysis No.

---

13. **Supreme Court of Pakistan**
Shabeer Ali v. The State
Criminal Appeal No.28 of 2023
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._28_2023.pdf

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

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

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

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

established, that a charge must be framed for every distinct offence to satisfy the requirements of a fair trial (Nemai Adak, 1965)7 & (Istahar Khondkar, 1936).
ii) Omission to frame a charge for a distinct offence is a substantial illegality, rendering the trial a nullity. Such an omission is not a mere irregularity, that can be cured u/Section 537 of the Code; rather, it is a defect, that strikes at the root of the proceedings, necessitating intervention to prevent miscarriage of justice.
iii) The procedural safeguard U/Section 342, Cr.P.C. ensures that the accused is confronted with all the incriminating evidence to afford them an opportunity to explain the circumstances against them. The omission to "frame a charge", coupled with a failure to put a material accusation to the accused U/Section 342, Cr.P.C., is a grave procedural irregularity that cannot be remedied U/Section 537 of the Code, as it results in a fundamental breach of the right to a fair trial.
iv) If the offence is resulted from a spontaneous altercation rather than a premeditated act, the death sentence should be commuted to life imprisonment.
v) It is a well-established principle that when the prosecution fails to substantiate its claim, the accused benefits from this failure.

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

---

14. **Supreme Court of Pakistan**
Sher Afzal (Crl.A.229/21) Muhammad Latif (Crl.A.230/21) v. The State (in both cases)
Criminal Appeal Nos.229 & 230 of 2021
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._229_2021.pdf

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

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

acquittal in a criminal case?

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

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

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

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

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

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

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

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

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

chemical examiner, report of serologist to the extent of the deceased persons, proved its case beyond any shadow of doubt against the appellants.
vi) So we are of the view that it holds even greater value in cases of direct evidence, and hits the last hammer in support of the prosecution at its conclusion.

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

---

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

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

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

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

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

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

of the accused
iii) Inordinate delay in recovery of weapon of offence casts serious doubts on the reliability of the forensic results
iv) See above analysis No iv.

---

16. **Supreme Court of Pakistan**
Abid Hussain v. The State
Criminal Appeal No. 131 and 132 of 2023
Mr. Justice Athar Minallah, Mr. Justice Malik Shahzad Ahmad Khan, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._131_2023.pdf

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

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

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

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

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

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

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

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

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

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

---

18. **Supreme Court of Pakistan,**
Muhammad Asim v. The State etc.
Cr.A.No.623/2022 in Crl.P.L.A No.867 of 2019
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim.
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._623_2022.pdf

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

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

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

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

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

---

19. **Supreme Court of Pakistan**
Akbar Saeed v. The State and another
Criminal petition no.1366 of 2018
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._1366_2018.pdf

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

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

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

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

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

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

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

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

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

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

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

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

---

20. **Supreme Court of Pakistan**
Murad Khan etc. v. Mst. Humaira Qayyum etc.
C.P.L.A. NO.923-P OF 2023
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p._923_p_2023.pdf

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

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

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

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

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

---

21. **Supreme Court of Pakistan**
Nawabzada Muhammad Fateh Khan son of Nawabzada Muhammad Khalid Khan, Resident of Hoti, Mardan, Tehsil and District Mardan v. Mumtaz Ahmad and others
Civil Petition No.331-P of 2014
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.p._331_p_2014.pdf

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

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

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

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

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

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

Conclusion: i) The sale stands completed when the statement of vendor is recorded and consideration is paid.

ii) there are four different eventualities for calculating the period of limitation for instituting a suit for pre-emption.

iii) The attestation of mutation or registration of sale deed is admittedly an administrative step in the process of transfer of property; the limitation would start when the sale stands completed.

iv) The jumping demand is to be made without loss of slightest time.

---

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

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

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

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

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

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

Conclusion: i) The contradiction between the prosecution witnesses' testimonies and the inquest report regarding the place of death undermines the credibility of their evidence.

ii) See analysis No.ii.

iii) The major contradictions between ocular and documentary evidence render the prosecution witnesses unreliable, causing the entire case to collapse.

iv) The prosecution failed to substantiate the alleged motive with evidence, weakening its case significantly.

v) Any reasonable doubt must be resolved in favour of the accused, as a matter of right, not concession.

---

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

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

Issues: i) What is nature and evidentiary value of extra-judicial confession?

ii) What is nature and evidentiary value of DNA evidence?

iii) For how much period human blood could be detected upon the weapon of offence?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

the house was closed from inside and whether they entered the house by scaling over the wall at the time when incident took place, established that except the inmates of the house, no other was present there.
ii)The Judge does not preside over the criminal trial merely to see that no innocent person should be punished; the judge also must ensure that a guilty person does not skip.
iii) unless it can be shown that the lower court's judgment is perverse or that it is completely illegal. No other conclusion can be drawn except the guilt of the accused or misreading or non-reading of evidence resulting in a miscarriage of justice. Even otherwise, when a court of competent jurisdiction acquits the accused, double presumption of innocence is attached to his case. The acquittal order cannot be interfered with, whereby an accused earns double presumption of innocence.

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

---

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

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

Issues: i) Does the mere adoption of statutory rules by an organization confer upon them statutory status?

ii) When a Department had statutory rules relating to terms and conditions of their service whether their terms and conditions could be varied to their disadvantage?

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

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

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

---

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

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

Issues: i) What is the precise purpose of audit programme?
ii) What is the law regulating the payment of stamp duty on insurance policies?
iii) In what matters Courts should avoid constricting the power of coordinate branches of Government?
iv) What is the historical scope of the definition of the term "public office"?
v) What does Section 73 of the Stamp Act, 1899 ("The 1899 Act") provides for and what does it obliges the Public Officers?
vi) Who may impound the instrument and when it may be impounded?
vii) When an instrument cannot not be impounded?
viii) What was the scheme and purpose of the terms "public office" prior to insertion of definitions in Stamp (Punjab Amendments) Act, 1973 ("the 1973 Act")
ix) What is the context of the terms "person in charge of public office" and "public officer" used in section 33 of the 1899 Act and section 73(2) of the1899 Act?
x) What is anatomical scheme of section 33 he 1899 Act?
xi) Whether the ratio of *Mustafa Impex* case (PLD 2016 SC 808) applies to Article 138 of the Constitution?
xiii) What is fate of the instruments chargeable with duty if not duly stamped?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion: i) The purpose of the audit programme is to verify the deposit of stamp duty.

ii) Article 47 of Schedule-I to the Stamp Act, 1899

iii) In the matters of taxation, Courts should avoid constricting the powers of coordinate branches of the government.

iv) See above analysis No. iv

v) See above analysis No. v

vi) Person in charge of a public office before whom any instrument chargeable with duty is produced and it is impounded when the conditions prescribed in section 33 are triggered.

vii) When an instrument is not produced in evidence or produced before a person in charge of a public office, then such instrument is not liable to be impounded.

viii) See above analysis No. viii

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

---

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

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

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

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

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

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

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

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

Conclusion: i) The death of one of the joint executants terminates the agency under Section 201 of the Contract Act, rendering subsequent acts by the attorney unauthorized.

ii) See Above Analysis.ii

iii) The object of Section 12(2) CPC is to enable a court to nullify its own judgment, decree or order if obtained by fraud, misrepresentation or lacking jurisdiction.

iv) The procedure for deciding an application under Section 12(2) CPC is discretionary, case-specific, and governed by Section 141 CPC.

v) The High Court may interfere with concurrent findings if findings are tainted with patent illegality.

---

30. **Lahore High Court**
Mohsin Lal Chaudhary v. Shaukat Ali and others
Civil Revision no.423-d of 2024
Mr. Justice Mirza Viqas Rauf
https://sys.lhc.gov.pk/appjudgments/2025LHC1238.pdf

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

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

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

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

Section 215 of the Act, ibid, however, nowhere ordains that consent of the principal shall be in writing. It may thus be oral as well.
iii) There are concurrent findings of facts recorded by two courts of competent jurisdiction, which are, apparently, founded on proper appraisal of evidence. Scope of revisional jurisdiction under Section 115 of the CPC is quite limited where both the lower courts are unanimous in forming their view. This Court, being revisional court cannot substitute the concurrent findings of the two courts of competent jurisdiction merely on the ground that from the re-appraisal of evidence, some other view is possible. The exercise of revisional powers is always guided by the necessary pre-conditions laid down in the above referred provision of law.

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

---

31. Lahore High Court
Ms. Jahanara v. Punjab Cooperative Board for Liquidation
W.P.No.14800/2010
Mr. Justice Ch. Muhammad Iqbal & Mr. Justice Malik Waqar Haider Awan
https://sys.lhc.gov.pk/appjudgments/2025LHC814.pdf

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

Issues: i) Whether the Cooperative Board can unilaterally alienate the property of Board through any private treaty/negotiation?

ii) Whether any arbitrary alienation of public assets is open for interference?

iii) Whether any unwarranted payment of small bid amount, without due process, creates any right?

iv) What is the effect of a decision of an authority taken against the public policies?

v) Whether the purchase of shops through private understanding without participating in bid proceedings, is legal and create any right?

vi) What is the effect of a futile and frivolous litigation?

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

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

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

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

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

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

Conclusion: i) The Cooperative Board cannot unilaterally alienate the property of Board through any private treaty/negotiation.

ii) Arbitrary alienation of public assets is open for interference by the competent fora.

iii) An unwarranted payment of bid amount, without due process, creates no right.

iv) See analysis above No.iv.

v). The purchase of shops through private understanding without participating in bid proceedings, is not legal nor does it create any right.

vi) Futile and frivolous litigation is liable to special costs.

---

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

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

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

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

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

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

---

33. **Lahore High Court**
Nazar Hussain and another v. The State
Criminal Appeal No. 964/J/2023
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2024LHC6559.pdf

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

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

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

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

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

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

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

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

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

Conclusion: i) See above analysis No.1.

ii) See above analysis No.2.

iii) The version of a chance witness can be accepted to be true if his presence at the place of the incident is not doubtful

iv) DNA evidentiary value depends on safeguards, such as the proper chain of custody, preservation of evidence, and adherence to scientific protocols without these safeguards, its reliability may be questioned.

v) Child victim, testimony must be evaluated with specific regard to the trauma and circumstances she endured.

vi) See above analysis No.vi.

---

34. **Lahore High Court**

Jadeed Feeds Industries v. Board of Revenue etc.

ICA (Writ)-ICA Land 99-24

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

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

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

Issues: i) What are the objectives of Companies Act, 2017?

ii) Whether the Federal Law (Companies Act) prevails over the Provincial Law (Stamp Act) in case of conflict, given the Federation's legislative competence?

iii) Whether a court-sanctioned merger order is liable to stamp duty under the Stamp Act, or is exempt under Section 282(5) of the Companies Act?

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

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

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

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

Conclusion: i) The Companies Act objective is to protect the interests of shareholders, creditors, stakeholders and general public by inculcating the principles of good governance and safeguarding minority interests.

ii) The Federal Law would prevail when Federation has the legislative competence in case of inconsistency or conflict of the Federal and the Provincial Law.

iii) See analysis No.iii

---

35. **Lahore High Court**
Abdul Hameed alias Meeda v. The State, etc.
Crl.Re.No.54 of 2020
Mr. Justice Anwaarul Haq Pannun.
https://sys.lhc.gov.pk/appjudgments/2025LHC997.pdf

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

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

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

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

---

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

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

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

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

iii) Under sub Article 2 of Article 167, a unique power has been vested in the District & Sessions Judge of the District to call for and inspect such diaries..." "...either on his own or on any information, irrespective of the source of such information can call for the record for inspection.

iv) The office of District & Sessions Judge of the District should also be linked with the same online system… A direction is, therefore, issued to the Inspector General of Police Punjab, to ensure online access to all the District & Sessions Judges throughout the Punjab.

v) Whenever, a person is arrested in any case, his arrest be incorporated forthwith in computerized as well as manual roznamcha with date and time; Similarly, when an accused is taken out from the police station for any purpose, a rapat should be written in this regard, vice versa on his return this practice should be adopted.

vi) Deliberate omission of entries in the diary is often aimed at concealing misconduct within police stations especially where arrests are not recorded to bypass the 15-days custody limit under Section 167(2) of the Cr.P.C...

vii) Failure to maintain daily diary/roznamcha is a clear violation of Article 167 of the Police Order, 2002 and Police Rules, 1934 which not only renders the diary entries unreliable and untrustworthy but also hampers judicial processes, as courts frequently rely on these records to extract crucial information for fair case resolutions. Deliberate omission of entries in the diary is often aimed at concealing misconduct within police stations especially where arrests are not recorded to bypass the 15-days custody limit under Section 167(2) of the Cr.P.C., blatantly violating Articles 9 and 10 of the Constitution, which safeguard the right to life, liberty, and due process. Such practices not only deprive individuals of their fundamental rights but also erode public confidence in law enforcement.

viii) Any defiance of supra mentioned directions, would amount to contempt of court and delinquent official/officers will also be proceedable under section 155-C of Police Order, 2002.

ix. Rule 22.50 provides the punishment for false entry that if any police officer who enters or causes to be entered in the daily diary a report which he knows, or has reason to believe, to be untrue… shall ordinarily be dismissed from service.

x) Deliberate omission of entries in the diary is often aimed at concealing misconduct within police stations especially where arrests are not recorded to bypass the 15-days custody limit under Section 167(2) of the Cr.P.C., blatantly violating Articles 9 and 10 of the Constitution, which safeguard the right to life, liberty, and due process.

xi) A Sessions Judge is also Ex-officio Justice of Peace with his power under Section 22 A(6) Cr.P.C to issue appropriate directions to the police authorities concerned regarding neglect, failure or excess committed by a police authority in relation to its functions and duties. Besides, he under Section 491 Cr. P.C had Power to issue directions of the nature of a habeas corpus.

Conclusion: i) Yes, both manual and electronic diaries must be maintained by the police.

ii) Yes, failure to maintain the diary compromises legality and judicial scrutiny.

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

---

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

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

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

Analysis: i) The above reproduced relevant excerpts of the advertisement and affidavit show that the petitioner was required only to disclose about the detail of any criminal case either pending investigation or trial against him, therefore, the affidavit submitted by him appears to be in accordance with the requirement of the department and in compliance with the advertisement. Presently, no criminal case is registered or pending against the petitioner. The petitioner, in the given circumstances, was not obliged to disclose about his previous involvement in any criminal case, therefore, the non-mentioning about his previous involvement and also his subsequent acquittal, vide order/judgment dated 27.03.2015, by the learned trial Court, about 5 ¾ years, even prior to inviting of applications for recruitment, did not amount to any concealment, rendering him *"unfit"* for his recruitment.
ii)In a parliamentary form of the Government like ours, the Government is collectively responsible and accountable as well therefore, the Government cannot be allowed to blow hot through its one department and cold by the other in the

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

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

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

---

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion: i) See above analysis No i.

ii) See above analysis No ii.

iii) See above analysis No iii.

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

v) See above analysis No v.

vi) See above analysis No vi.

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

viii) See above analysis No viii.

ix) See above analysis No ix.

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

xi) See above analysis No xi.

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

xiii) See above analysis No xiii.

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

xv) See above analysis No v.

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

---

39. **Lahore High Court**

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

W.P No.6630 of 2022

Mr. Justice Anwaarul Haq Pannun

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

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

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

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

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

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

---

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

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

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

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

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

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

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

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

Conclusion: i) See Above analysis no.i

ii) The Court is competent to reject the plaint.

iii) It means no further action shall be taken on cause if no fruitful result is expected.

iv) The Court should reject the plaint to nip the evil in the bud.

---

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

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

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

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

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

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

Conclusion: i) The prosecution has the exclusive prerogative to decide which witnesses to produce and the accused cannot compel the prosecution to summon a witness.

ii) If accused considers that any prosecution witness, not produced by the prosecution, is helpful to his plea, then he can produce him as defence witness. So, the accused's right to a fair trial is not violated in case of refusal to summon the given-up eyewitness as a court witness.

iii) See analysis iii above.

---

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

Facts: Petitioner sought post-arrest bail in a case registered for the offence U/S 324, 337 F(iii) and 34 PPC as prosecution alleged that the petitioner fired two successive shots with a rifle at the victim with intent to kill him; the shots struck the victim's thighs and passing through.

Issues: Whether the application of Section 324 PPC (attempt to commit qatl-i-amd) is justified while assessing the nature and location of injury on the legs?

Analysis: As far as contention of learned counsel for the petitioner that injuries have been declared as "Jurh Ghayr Jaifah Mutalahimah" attracting offence under Section: 337 F(iii), P.P.C. and Section: 324 PPC is not applicable in the case as fires hit at legs is concerned, suffice it to say that if injury has been caused below knee, then applicability of Section: 324 PPC requires further probe/inquiry within the purview of sub-section 2 of Section 497 Cr.P.C., however, if injury has been caused above knee on the leg at thigh, then situation is otherwise because femoral artery, which is major blood vessel, is located in thigh starting from groin coming to the back of knee and it supplies oxygen-rich blood to the lower parts of the body. So, femoral artery if damaged can cause lower limb ischemia leading to amputation of limb, compartment syndrome as well as death due to severe blood loss from a major artery in the leg.

Conclusion: See above analysis.

---

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

Facts: The petitioner has sought post-arrest bail in criminal case registered for committing attempt to commit Qatl-i-amad etc.

Issue: i) What is effect of belated nomination of any accused by complainant when such parties are related to each other?
ii) Whether the bail can be withheld as punishment?
iii) What is settled principle to err in granting or refusing bail?
iv) What is effect of observations while disposing bail petition upon trial?

Analysis: i) When both the parties i.e. petitioner and complainant are related to each other (as mentioned in aforementioned supplementary statement), then not nominating the petitioner by the complainant in the F.I.R. as well as in first statement of injured rather nominating petitioner as an accused in the case with considerable delay (as detailed above) raises eyebrows.
ii) Bail cannot be withheld as advance punishment.
iii) By now it is also well settled that it is better to err in granting bail than to err in refusal because ultimate conviction and sentence can repair the wrong resulted

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

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

---

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

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

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

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

Conclusion: i) Aauction conducted did not became a past and closed transaction.
ii) No protection to such auction.

---

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

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

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

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

ii) In the said paragraph, the missing of word "subsequent purchaser" is also conspicuous and it is clear that the allotment from the name of original allottee can be cancelled but once it is further transferred and that too after obtaining the No Objection Certificate from the General Headquarters or Border Area Committee by the original allottee or his legal heirs, then the power to cancel the land from the subsequent transferee's name would not be within the power of the Border Area Committee under paragraph 10(a) of the Regulation.

iii) Once an original allottee or his legal heirs have been allowed to transfer his property under a no objection certificate issued by the General Headquarter or Border Area Committee, then in case of transfer to another individual the terms and conditions which were applicable to the allottee would come to an end and the subsequent purchasers would be considered at liberty to deal with their acquired land in any manner which deems fit and proper.

iv) The subsequent purchaser would no more be bound to observe the conditions which were made applicable to the original allottee under the Regulation and the subsequent matters would be regulated under the supreme law i.e. Constitution which guarantees every citizen under Article 23 thereof to have a right to acquire, hold and dispose of property in any part of Pakistan and by virtue of Article 24 of the Constitution it is again fundamental right of a citizen of Pakistan that he will not be deprived of property.

v) The policy behind requiring an NOC for the sale or transfer of land in border areas is to prevent individuals who could pose a threat to the security and integrity of the border region from acquiring property.

vi) When the allottee paid the transfer price which was accepted by the seller i.e. the Provincial Government and the latter executed registered deed for transfer of proprietary rights and mutation sanctioned on the strength of said registered deed the allottee acquired title from the owner and nobody else can object thereto

Conclusion: i) See above analysis No.i.

ii) The Border Area Committee have no authority to cancel an allotment from a subsequent purchaser under paragraph 10(a) of the Regulation.

iii) See above analysis No.iii.

iv) Subsequent purchasers are not bound by the original allottee's conditions; their rights are protected under the Constitution.

v) The NOC requirement for border area land transfers aims to prevent security threats.

vi) Once the allottee pays the transfer price and the registered deed is executed, his title becomes undisputable.

---

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

Facts: The petitioner/plaintiff filed Civil Revision against the judgment of courts below, vide which his plaint with regard to *Warabandi* in a civil suit was rejected under Order VII Rule 11 of CPC.

Issues: i) Whether an order passed by the authority under section 68 of The Canal and Drainage Act, 1873 can be challenged in the civil court?
ii) Whether the laws or constitutions have retrospective or prospective effects?
iii) Whether a right existed on the date of repeal would be protected under Section 4 of the General Clauses Act?
iv) Whether right to access the civil court can be taken away by a subsequent law?
v) In which cases a civil court can intervene to assess the legality of an action of the authority despite existence of an ouster clause in a statute?
vi) How to deal a mixed question of law and facts by the courts?
vii) Whether mere assertion of a statutory bar does or does not automatically lead to the rejection of plaint?

Analysis: i) Section 67 which was introduced through Punjab Amendment Act, 2016, although provides that the Court shall not assume jurisdiction in any matter in respect of anything done, being done or purported to be done under the sections referred in Section 67(2) supra, but Section 68 is not provided in the said Sub-Section, therefore, it is clear that orders passed under Section 68 can be assailed before the Civil Court.
ii) The general rule as to effect of repeal of a statute follows from the legal maxim "Nova Constitutio Futuris Formam Imponere Debet, Non Praeteritis" which means that a new law ought to regulate what is to follow, not the past. This maxim means that when creating or enacting a new law, policy, or constitution, it should apply only to future actions, circumstances, and events, rather than altering or affecting past situations. In other words, it emphasizes the idea that laws or constitutions should not have retrospective effects.
iii) It is clarified that the mere existence of a right not being "acquired" or "accrued", on the date of the repeal would not get the protection of Section 4 of the General Clauses Act.
iv) A new statute, unless expressly stated, does not affect actions or proceedings that were already initiated under the old law. The right to access the Civil Court should not be taken away by a subsequent law unless expressly provided for, hence, the petitioner's suit was maintainable before the Civil Court.
v) Section 9 of the Code of Civil Procedure, 1908 (C.P.C.) states that Civil Courts have jurisdiction to entertain a suit unless expressly or impliedly barred by another law. This principle is based on the idea that the Civil Court has ultimate jurisdiction over civil matters unless a statute specifically excludes it or the jurisdiction is either expressly or impliedly barred. An ouster clause in a statute, which limits the Civil Court's jurisdiction, applies only when the authorities act within the bounds of their authority. If the authorities act beyond their jurisdiction, the Civil Court can intervene to assess the legality of their actions.(---) An ouster clause in a statute is presumed to exclude the jurisdiction of the Civil

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

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

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

Conclusion: i) An order passed by the authority under section 68 of The Canal and Drainage Act, 1873 can be challenged in the civil court

ii) See above analysis No.ii

iii) the mere existence of a right, on the date of the repeal would not get the protection of Section 4 of the General Clauses Act.

iv) The right to access the Civil Court should not be taken away by a subsequent law unless expressly provided.

v) See above analysis No.v

vi) See above analysis No.vi

vii) Mere assertion of a statutory bar does not automatically lead to the rejection of the plaint

---

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

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

Issues: i) What are the factors that may cause cardiopulmonary arrest or cardiac arrest?

ii) What is Glasgow Coma Scale (GCS) and how it is evaluated?

iii) What the declining GCS indicate and what factors could cause its decline?

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

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

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

Non-Cardiac Causes are as under;

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

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

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

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

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

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

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

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

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

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

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

(v) **Physiological Derangements:** Factors like hypoxia (low blood oxygen), shock, or hypoglycemia (low blood sugar) can impair brain function and lower the GCS score.
(vi) **Medications and Intoxication:** Certain medications, including sedatives, or drug and alcohol intoxication can also depress consciousness and affect the GCS score.
(vii) **Intubation:** If a patient is intubated and unable to speak, they are evaluated only on the motor and eye-opening response and the suffix T is added to their score to indicate intubation.
(viii) **Pre-existing conditions:** Pre-existing conditions like dementia, speech and hearing impairment can also affect the GCS score.

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

---

49. **Lahore High Court**
The Bank of Punjab v. M/s Agri International & 05 Others
C.O.S No.07/2014 & P.L.A.No.08/2014
Mr. Justice Abid Hussain Chattha.
https://sys.lhc.gov.pk/appjudgments/2025LHC887.pdf

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

Issues: i) Whether an amendment in the PLA can be made under the principle enshrined in Order VI, Rule 17 of the CPC?
ii) Who maintains physical and constructive possession of the pledged stock in a pledge transaction?
iii) What statutory protection is provided under Section 23 of the Ordinance?

Analysis: i) It is held that principle of amendment in pleadings enshrined in Order VI, Rule 17 of the CPC can be pressed with respect to amendment in the PLA.
ii) In a pledge transaction, a financial institution only maintains constructive possession over the pledged stock through the *Muqadam* but practically, the customer maintains its physical custody over the pledged stock and operates it in concert with the creditor in accordance with the terms and conditions of the Letter of Pledge.
iii) The statutory protection ordained in Section 23 of the Ordinance shall apply to safeguard the legitimate rights and interests of the Plaintiff Bank.

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

---

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

Facts: The petitioner, acting as a general attorney, sold property to the respondent. However, one of the vendors had passed away before the transfer, leading to litigation. A prior suit by the legal heirs of the deceased vendor resulted in the cancellation of the sale deed. The respondent, after settling with the legal heirs, filed a suit for recovery, which was partially decreed by the Trial Court and upheld by the Appellate Court. The present civil revision challenges these concurrent findings.

Issues: i) Whether Section 34, CPC empowers the Court to grant interest on the principal amount adjudged payable from the commencement of the suit until the realization of decretal amount?
ii) Whether the principle of unjust enrichment applies to prevent undue financial gain at another's expense?
iii) Whether a change in legal position in light of judicial findings constitutes approbation and reprobation?
iv) Whether granting an annual increase for the period before institution of the suit is justified under the scope of Section 34 CPC?
v) Whether a compensatory increase can be awarded on equitable grounds under

the doctrine of *restitutio in integrum*?

Analysis: i) It is evident that the grant of interest from the date of institution of the suit falls within the discretion of the Court. Though the same cannot be claimed as a matter of right, the Court is vested with the discretion under Section, 34 CPC. As far as the grant of interest for the period prior to the institution of the suit is concerned, the same can be granted in the ways spelled out by the Supreme Court of Pakistan in case of Ghulam Abbas supra, which includes equitable grounds.

ii) It is pertinent to examine the equitable principle of unjust enrichment. Under common law, unjust enrichment primarily pertains to contract law but has been extended to the constitutional matters to prevent undue financial gain at another's expense.

iii) A lot of emphasis has been laid on the point that the respondent has been approbating and reprobating (...) The doctrine of approbation and reprobation, which prevents a party from taking contradictory positions to another's detriment, does not apply to the respondent as the latter, initially, relied on the petitioner's representation that deceased Muhammad Saleem had received his share. However, once judicial findings established otherwise, the respondent adjusted his position accordingly, which does not constitute approbation and reprobation but rather a necessary rectification in the light of legal determinations.

iv) In this regard, suffice to observe that the 5% annual increase awarded by the Courts below is not interest in the sense contemplated under Section 34, CPC, which governs the grant of interest as a discretionary relief on a principal sum adjudged by the Court, typically from the date of filing of the suit until realization. Interest under Section 34, CPC is compensatory for the time value of money and generally applies where there exists a delay in payment of an ascertained debt or obligation. However, in the present case, the awarded 5% increase does not fall within this statutory definition of interest.

v) In the instant case, the increase has been given as a compensatory measure, granted on equitable grounds, to neutralize the impact of inflation and currency devaluation suffered by the respondent due to the petitioner's wrongful conduct. This aligns with the doctrine of *restitutio in integrum*, which aims to restore the injured party to the position they would have occupied but for the wrongful act.

Conclusion: i) Yes, Section 34 CPC empowers the Court to grant interest from the date of institution of the suit until realization, as a matter of judicial discretion.

ii) The principle of unjust enrichment applies to prevent undue financial gain at another's expense.

iii) A change in legal position based on judicial findings does not amount to approbation and reprobation.

iv) See above analysis No iv.

v) A compensatory increase may be awarded on equitable grounds under the doctrine of *restitutio in integrum*.

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

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

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

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

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

---

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

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

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

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

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

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

---

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

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

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

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

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

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

---

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

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

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

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

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

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

Conclusion: i) The principle of best evidence dictates that where a party avoids presenting a material witness without justification, an adverse inference must be drawn against such a party.

ii) The animosity between the parties, in itself, cannot diminish the evidentiary value of the testimony of the marginal witnesses of the impugned mutations.

---

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

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

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

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

Conclusion: i) See above analysis No. i

---

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

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

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

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

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

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

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

Conclusion: i) Section 31 of the Land Acquisition Act, 1894 requires the payment of compensation for acquired land at very initial stage.

ii) As per Section 19 of the Limitation Act, 1908, after acknowledgements, a fresh period of limitation is to be computed.

iii) See above analysis (iii)

---

57. **Lahore High Court**
The State v. Shahid alias Shahidi
Murder Reference No.234 of 2021
Shahid alias Shahidi v. The State, etc.
Criminal Appeal No.848 of 2022
Saddam Hussain v. The State, etc.
Criminal PSLA No.846 of 2022
Saddam Hussain v. The State, etc.
Criminal Revision No.847 of 2022
Mr. Justice Shehram Sarwar Ch, Mr. Justice Sardar Akbar Ali
https://sys.lhc.gov.pk/appjudgments/2025LHC864.pdf

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

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

Issues

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

Analysis:

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

vi) when we have already disbelieved the ocular account, such recovery would not be sufficient for recording conviction of an accused on capital charge, because this type of corroborative evidence is always taken into consideration along with direct evidence.
vii) "MUHAMMAD IJAZ alias BILLA and another Versus The STATE and others" (2024 SCMR 1507), the Supreme Court of Pakistan has held that for giving benefit of doubt to an accused a single circumstance creating reasonable doubt in a prudent mind about guilt of accused is sufficient to make him entitled to such benefit.

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

---

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

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

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

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

speaks volumes against the veracity of prosecution version.

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

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

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

---

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

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

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

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

Conclusion: i) See above analysis No. i

---

61. **Lahore High Court**
Malik Muhammad Sarfraz Nazam Awan v. Federal Government, Ministry of Commerce through its Secretary, Islamabad and 3 others
Writ PetitionNo.8683 of 2024
Mr. Justice Syed Ahsan Raza Kazmi
https://sys.lhc.gov.pk/appjudgments/2025LHC1092.pdf

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

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

Analysis: i) It can be safely observed that a company has a separate legal identity. To sue or initiate legal action on its behalf, authorization through Board Resolution is required. However, if a company official is sued personally, no Board Resolution is needed, as individuals and the company are legally distinct entities.
ii)…This Court's Constitutional jurisdiction cannot be invoked as a routine matter of right. Instead, it has specific limitations that must be considered when exercising its discretionary powers. Article 199 of the Constitution outlines these limitations, including the requirement that alternate remedies must have been exhausted.
iii) The Act references the Companies Ordinance, 1984[1], which has been repealed and replaced by the Companies Act, 2017. Consequently, all references to the term "Ordinance" within the Act must now be interpreted as references to the Companies Act, 2017. A "Registered Trade Organization" is by definition, an entity incorporated under the Companies Act, 2017[2]. To obtain a license, a trade organization must be registered as a company with limited liability under the Companies Act, 2017[3]. Additionally, license holders are required to apply for incorporation within 30 days and secure incorporation within 90 days[4]. This position is further supported by a judgment of the Islamabad High Court, which unequivocally affirms that the Companies Act applies to proceedings related to registered trade organizations.
iv) Specifically, Section 190 of the Companies Act, 2017, outlines the process for removing a chief executive by requiring a majority vote from the board of directors. Additionally, Clause 14(1) of BCCI's license requires compliance with

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

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

---

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

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

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

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

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

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

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

Conclusion: i) The law is either substantive or procedural. Former defines rights, while the latter deals with the process and remedies.

ii) See above analysis No. ii

iii) See above analysis No. iii

iv) Bail in bailable offences is a vested, absolute and unconditional.

v) The Amendment Act will apply prospectively.

---

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

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

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

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

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

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

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

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

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

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

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

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

---

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

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

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

Analysis: i) The scope of revision is inherently limited and may only be invoked when a finding of fact that influences the decision is either unsupported by evidence or results from misreading or non-reading of the material available on record. Upon the fulfillment of either of these conditions, it is incumbent upon this Court to exercise its revisional jurisdiction. In order to invoke the revisional jurisdiction, two conditions precedent constituting jurisdictional facts would require to be fulfilled: first, it should relate to proceedings, and second, the said proceedings should be before subordinate criminal Court.[3]

ii)It was straightaway observed that none of the recovered materials were exhibited in evidence by the prosecution before the learned Trial Court. Rule 14-H, Part B, Chapter 24, Volume III, of the Rules and Orders of the Lahore High Court ("High Court Rules and Order") pertains to exhibits and provides a self-explanatory procedure for exhibiting a document and article to be read in evidence.

iii)the prosecution failed to produce the witness Muhammad Khalid, who, according to the PFSA report (Exh.PE), transmitted the samples to the PFSA. This omission raises concerns regarding the safe transmission of the parcel to the PFSA, thereby disrupting the chain of custody for the sample parcel…the non-production of witness Muhammad Khalid suffices to break the chain of custody and is sufficient to cast serious doubt about the integrity of the sample parcel, ultimately compromising the credibility and reliability of the PFSA report (Exh.PE).

iv) It is trite that the incriminating material and the circumstances from which inferences adverse to the accused sought to be drawn should be put to the accused when he is questioned under Section 342 of the Code, else the same cannot be considered as a piece of evidence against the accused.[4] Akin to the principle enunciated hereinabove that any non-exhibition of article or document cannot be used against the accused person, similarly, any incriminating article or document which was not put to accused in his statement under section 342 of the Code cannot be used against him.[5]

v) Since the petitioner was not known to the prosecution witnesses and no identification parade was conducted in terms of Article 22 of the Qanun-e-Shahadat Order 1984 ("QSO"), nor were the features of the petitioner disclosed in the Crime Report, with a lack of explanation from the complainant as to how he identified the petitioner, the identity of the petitioner remains unclear and shrouded in mystery.

vi) It is trite that this Court can exercise its revisional jurisdiction *suo motu* to ensure effective superintendence and visitorial powers to make sure of the strict adherence to the safe administration of justice and to correct any error unhindered by technicalities.[6]

vii) It is trite that it is not necessary that there be multiple infirmities in the prosecution's case or several circumstances creating doubt. A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle

the accused to the benefit, not as a matter of grace or concession but as a matter of right.[8]

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

---

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

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

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

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

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

ii) The so-called delay as averred by the learned counsel for the Appellant, is out of question, especially considering the ratio decidendi laid down in the aforementioned cases, in as well as the case of "Sheraz Asghar v. The State" (1995 SCMR 1365), wherein it was held that '[b]esides, delay in lodging F.I.R. is not per se fatal to a case. It neither washes away nor torpedoes trustworthy and reliable ocular or circumstantial evidence. F.I.R. in this case has been lodged with an eye-witness. It contains the names of the eye-witnesses, the names of the assailant with arms carried by them, active role played by each assailant'. Even otherwise, the honourable Supreme Court of Pakistan observed in "Zar Bahadur v. The State" (1978 SCMR 136) that mere delay does not wash away the reliability of the ocular account or trustworthiness of the same.

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

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

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

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

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

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

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

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

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

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

Conclusion: i) Promptness of FIR and injuries upon injured prove the presence of witness at the place of occurrence.

ii) In presence of trustworthy and reliable ocular and circumstantial evidence the delay in lodging the FIR is not fatal.

iii) The QSO, 1984 does not tell the number of witnesses required to prove a fact in issue in a case under Section 302 PPC.

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

---

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

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

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

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

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

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

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

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

Conclusion: i)The doctrine of res ipsa loquitur requires specific essential conditions to be fulfilled for its application.

ii)The doctrine of res ipsa loquitur is not applicable where plaintiffs allege specific causes and fail to prove them with evidence.

iii)The Civil Court retains jurisdiction under Section 9 CPC in the absence of a specific statutory bar.

iv)In tort claims, plaintiffs must establish a direct and proximate breach of duty by the defendant to claim damages.

v)A payment offer under statutory provisions does not amount to an unqualified admission of liability.

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

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

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

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

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

---

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

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

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

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

Analysis: i) In many cases, the Hon'ble Supreme Court had given the benefit of doubt in addition to other facts, that prosecution had not produced sample bearer in the witness box. No doubt, in case of non-appearance of sample bearer, in the report of Chemical Examiner, different columns are available, one of the same is relating to the officer who submitted the parcels/sample bearer. The Hon'ble Supreme Court had not considered that the entry was enough and had cured the factum of non-production of sample bearer and had recorded ratio that it was necessary for the prosecution to produce the sample bearer.
ii) Appellant is not required to create a series of dents and doubts in the prosecution case but for giving benefit of doubt if a single doubt is created even then the defence is entitled to the benefit of doubt not as a matter of grace and concession but as a matter of right.

Conclusion: i) Production of sample bearer as witness in cases of narcotics is necessary as mere entry in record is not sufficient.
ii) Single doubt in criminal case is sufficient to extend benefit in favour of accused as matter of right.

---

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

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

Issue: i) What does the timely registration of FIR ensue?
ii) What do the injuries on the injured witness indicate and what is the legal worth of the deposition of such witness?
iii) In what circumstances, recovery is a relevant factor?
iv) What is the legal principle qua establishing the guilt of accused and what is the exception to this rule?
v) Whether a solitary fire-arm injury is considered as a mitigating circumstance?
vi) What is the rule as to conversion of death sentence into life imprisonment?

Analysis: i) It needs no scholarly discussion that timely registration of an FIR eliminates the potential for the manipulation of facts and indicates the likely presence of eyewitnesses at the crime scene.

ii) The presence of a witness, injured during the occurrence is always considered well beyond doubt, because it has stamp of injuries on his person (…) Where a witness to the incident has been injured, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the crime scene.

iii) The pistol was recovered upon the appellant's disclosure and thus was relevant under Article 40 of Qanun-e-Shahadat Order, 1984.

iv) It is cardinal principal of law that prosecution has to prove the guilt of accused by standing upon its own leg without any shadow of doubt, however Article 121 of Qanun-e-Shahadat Order 1984, is an exception to the general rule.

v) It is well settled that the infliction of solitary firearm injury is also considered an acknowledged mitigating circumstance warranting conversion of death sentence into imprisonment for life.

vi) We are also not oblivious of the fact that even the slightest circumstance can be enough to convert death sentence of an accused into life imprisonment and no extraordinary circumstances are necessary to effect this change.

Conclusion: i) See above analysis No. i.

ii) Injuries on the injured-witness demonstrate his presence at the scene of occurrence and the testimony of such witness is reliable.

iii) See above analysis No. iv

iv) See above analysis No. v

v) Infliction of solitary injury is considered as a mitigating circumstance.

vi) A slightest circumstance is enough to convert death sentence of an accused into life imprisonment.

LATEST LEGISLATION/AMENDMENTS

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

SELECTED ARTICLES

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

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

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

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

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

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

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

3. **Lawyers Club India**
https://www.lawyersclubindia.com/articles/trump-administration-taking-action-against-underground-surrogacy-in-california-law-related-to-surrogacy-that-you-must-know--17576.asp

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

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

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

4. **Lawyers Club India**
https://www.lawyersclubindia.com/articles/precautions-best-practices-and-common-mistakes-in-drafting-a-legal-notice-17575.asp

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

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

5. **Lawyers Club India**
https://www.lawyersclubindia.com/articles/6-powerful-ways-ai-voice-effects-are-changing-the-game-for-content-creators-17565.asp

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

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