LAHORE HIGH COURT

BULLETIN

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FORTNIGHTLY CASE LAW BULLETIN

(16-07-2021 to 31-07-2021)

A Summary of Latest Judgments Delivered by the Constitutional Courts of Local and Foreign Jurisdictions on Crucial Legal Issues
Prepared & Published by the Research Centre Lahore High Court

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SELECTED ARTICLES

1. **Lahore High Court**
Syed Aakif Ali Shah v. Muhammad Ijaz, etc.
Civil Revision No.13840 of 2021
Mr. Justice Shahid Waheed
https://sys.lhc.gov.pk/appjudgments/2021LHC2809.pdf

Fact: During the proceedings of the suit, two persons filed an application to become a party to the suit. The said application was allowed and the petitioner/plaintiff was directed to file an amended plaint by making them as defendants. The petitioner challenged the said order before revisional court. As the interim relief was not granted in the revisional application, the Trial Court continued its proceedings. The petitioner did not file amended plaint and took adjournments. Ultimately his revision petition was also dismissed and the next day, the Trial Court without going into the merits of the suit, dismissed the same under Order XVII Rule 3 CPC on the ground of non-compliance of its order and non-filing of amended plaint.

Issue: i) What is difference in nature of amendments filed under order VI Rule 17 CPC & amendments filed under Order I Rule 10 CPC?
ii) What are consequences of not filling amended plaint under Order VI Rule 17 CPC within time granted by court?
iii) Whether plaint can be rejected under Order VII Rule 11 CPC for not filing amended plaint?
iv) Whether suit can be dismissed under Order XVII Rule 3 CPC for not filling amended plaint?
v) What procedure should be adopted if a plaintiff fails to file amended plaint after acceptance of application under order I Rule 10 CPC directing the plaintiff to add new parties as defendants?

Analysis: i) During the trial of any suit the necessity for making amendment in the plaint arises on two occasions. First, when the plaintiff wants to amend his pleadings, he may accordingly amend the plaint but, of course, after getting leave of the Court. This type of amendment is allowed to be made under Order VI Rule 17 CPC and it is called voluntary amendment. Second occasion for amendment arises when the Court orders any person to be added as a defendant. In such eventuality the plaint, unless the Court otherwise directs, is compulsorily amended under sub-rule (4) of rule 10 of Order 1 CPC in such manner as may be necessary. It necessarily implies that it will not be sufficient to amend the cause title, but all consequential amendments in the body of the plaint should also be made so as to show the nature of claim made against the newly added defendant.
ii) If the plaintiff after obtaining leave to amend his plaint under Order VI Rule 17, fails to amend it within such time, he shall not be permitted to amend it afterwards, but the failure does not render the suit liable to dismissal. The consequence of failure to amend the plaint, therefore, is that the case will go to trial on the original pleadings, but the suit cannot be dismissed.

iii) Under section 54 of the old Civil Procedure Code (Act XIV of 1882) there was a special provision for rejection of the plaint on failure to amend the plaint, but there is no such provision in the present Code of Civil Procedure (Act V of 1908). Though the grounds for rejection mentioned in Order VII Rule 11 are not exhaustive, and the plaint can still be rejected under the inherent powers of the Court, but then, defect for which it is rejected should not be such as is curable by amendment and nothing more than an error of procedure. Therefore failure to amend the plaint after order was not a fatal defect constituting a ground for rejection of plaint and, at the most, it was a mere irregularity, and did not affect the jurisdiction of the Court, and could be cured by the Court exercising its suo moto powers.

iv) These words of Rule 3 suggest that the case must be one where inspite of the default of a party it must have been possible for the Court to come to a decision of the suit. The words "decide the suit" cannot be taken as tantamount to dismissing the suit for default. It can only mean decide the suit on merits on the material available before the Court. But in the present case the suit was in the very preliminary stage, therefore, there was no question of deciding the suit forthwith on merits.

v) The Court by exercising its inherent and suo moto powers should have itself added the names of the subsequent purchasers in the cause-title and proceeded further in the matter treating the petitioner's reply, which he had submitted to the application under Order 1 Rule 10 CPC, as part of the plaint.

Conclusion: See above.

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2. **Lahore High Court**
Abdul Majeed, etc. v. Hussain Bibi, etc.
Writ Petition No. 70606 of 2019
Mr. Justice Ahmad Nadeem Arshad
https://sys.lhc.gov.pk/appjudgments/2021LHC3397.pdf

Facts: One of the legal heirs of deceased filed suit for possession after partition of the property left by the deceased along with a relief of permanent injunction. The suit was ex-parte decreed and after going through various stages, the auction sale of the property in favour of respondent No.12 got confirmed by the court. Meanwhile application filed by the petitioners u/s 12(2) CPC was dismissed by the trial court; said order was also affirmed by the revisional court.

Issue: i) Whether a suit could legally be filed against a dead person?
ii) What are the pre-requisites before passing an order for substituted service under order V rule 20 CPC?

Analysis: i) Admittedly, the suit was filed by impleading the predecessor of the petitioners as defendant No.1. The petitioners produced copy of death certificate of the predecessor of the petitioners, which was not denied by any of the parties. From

perusal of the death certificate, it appears that the predecessor of the petitioners had died on 07.06.2003 and factum of his death was reported on 23.06.2003 only after sixteen days of his death. This fact shows that when the suit was instituted, the predecessor of the petitioners was not alive and the suit was instituted against a dead person thus the same was defective in nature. Admittedly, the suit was filed by real sister of the deceased and it cannot be believed that she remained unaware of the death of her brother for such a long period of six years. It clearly suggests that suit was deliberately filed against a dead person for some ulterior motive.

ii) Substituted process is in the nature of a proceeding of last resort and cannot be opted for except when all procedural requirements have been met and the pre-conditions for a substituted service as required by Code of Civil Procedure, 1908 may not be strictly made applicable i.e., the defendant cannot be served personally or by post or he is avoiding service. There is no cavil with the proposition that unless all efforts to effect service in the ordinary manner are verified to have failed substituted service cannot be resorted.

Conclusion: i) Suit cannot legally be filed against a dead person and such a suit is defective in nature.

ii) Substituted service cannot be ordered unless the court is satisfied that the defendant cannot be served personally or by post or he is avoiding service.

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3. **Lahore High Court**
Muhammad Ali v. Wali Muhammad, etc.
Mr. Justice Ahmad Nadeem Arshad
https://sys.lhc.gov.pk/appjudgments/2021LHC3564.pdf

Facts: Respondent No.1/plaintiff, for the satisfaction of the decree, filed an execution petition before the learned trial Court (Addl. District Judge, Burewala) which was entrusted to Civil Judge Ist Class, for further process. During proceeding of the execution petition, the learned executing issued non-bailable warrant of arrest of the judgment-debtor for the satisfaction of the decree.

Issue: i) Whether the Additional District Judge was competent to transfer the execution petition to the court of civil judge?

ii) Whether the Executing Court may issue non-bailable warrant against the judgment debtor?

Analysis: i) The decree of the Court of last instance is to be executed, as the decree of the Court of first instance merged into the decree of last instance. The Court of first instance who passed the decree has jurisdiction to execute it himself or transfer it to a competent Court. A decree may be executed either by the Court which passed it as defined in section 37 of the C.P.C. or by the Court which it is sent for execution under section 39 of C.P.C. It may also be executed by the Court to whom the proceedings were transferred under section 24 or section 150 of C.P.C… Section 39 of the C.P.C. deals with the transfer of decree. There are two

parts of Section 39 of the C.P.C. Subsection (1) of Section 39 of the C.P.C. deals with transfer of a decree on the application of decree-holder and Subsection (2) of Section 39 of the C.P.C. empowers the court passing decree to send it for execution to any subordinate Court of competent jurisdiction. In subsection (1) of Section 39 of the C.P.C. four described eventualities, have been explained in (a), (b), (c), and (d) when the decree-holder can apply for the transfer of decree. In subsection (2) of Section 39 of the C.P.C. the Court, who passed the decree, is competent to send it for execution to any subordinate Court of competent jurisdiction. The words "Subordinate Court" and "Competent Jurisdiction" are significant. Necessary conditions for sending a decree for execution to another Court are that it shall be a Court of subordinate to the Court which passed the decree and secondly that it shall be a Court of competent jurisdiction. The jurisdiction may be territorial and pecuniary and competent jurisdiction may be that the Court has power to try the suit and jurisdiction to execute the decree. Keeping in view the legal proposition as described in Sections 37, 38 and 39 of the C.P.C., the learned Additional District Judge has jurisdiction to send the decree/execution petition for its execution and further proceedings to the subordinate Court, who is also a competent Court as has possessed the territorial and pecuniary jurisdiction.

ii) There may be two types of proceedings before the executing Court. Firstly, for making presence of the judgment debtor before the Court and secondly, for sending him to the jail for the satisfaction of the decree… For the satisfaction of a decree, the executing Court, after institution of the execution petition, issues a notice to the judgment-debtor for a day to be specified in the notice and asks him why he is not paying the decretal amount and warn him, if he will not pay the decretal amount, he should be detained in prison. If he fails to appear in response to that notice, then the Court is empowered to issue a warrant of arrest.

Conclusion: i) The Additional District Judge was competent to transfer the execution petition to the court of civil judge.

ii) If the judgment debtor fails to appear in response to that notice, then the Court is empowered to issue a warrant of arrest.

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4. **Lahore High Court**
Saleem Khan v. Mst. Zeenat, etc.
Civil Revision No.1078-D of 2019.
Mr. Justice Ahmad Nadeem Arshad
https://sys.lhc.gov.pk/appjudgments/2021LHC2994.pdf

Facts: The plaintiffs/respondents (Pardanasheen ladies) challenged the alleged gift made in favour of the defendant/petitioner asserting that defendant fraudulently transferred the inherited property of the plaintiffs in his favour. The suit of the plaintiffs/respondents was dismissed by the trial court but decreed by the appellate court. The petitioner/defendant filed a revision petition on the premise, *inter alia*, that the suit of the plaintiffs/respondents was time-barred.

Issues: i) Whether section 5 of the Limitation Act 1908 applies to Civil Revision under section 115 of the Code of Civil Procedure, 1908?
ii**)** What are the essential constituents of a valid oral gift mutation?
iii) What are the predominant conditions regarding the transaction with Pardanasheen ladies?
iv) Whether limitation runs against void transactions?

Analysis: i) Section 5 of the Limitation Act, 1908 is not applicable in the light of Section 29(2) of said Act to the Civil Revision under Section 115 of C.P.C. as the Code itself prescribes 90 days for filing a revision petition. Therefore, provision of section 5 of the Limitation Act is not available for condonation of delay or extension of time in case of a Civil Revision.
ii) In order to constitute a valid oral gift under law, it must be shown that it was made voluntarily, without duress, and with all senses; that the donee accepted the same, and that the possession was delivered to him towards completion of that transaction. If any of the ingredients/components is missing, the claim of the donor would be rejected outrightly. It is also "sine qua non" for the donee to prove that donors approached revenue officials for the entry and attestation of mutation in the assembly convened for this purpose and they made their submission to acknowledge the oral transaction of gift in presence of two respectable of the vicinity.
iii) In case of a gift, particularly, when the donor is some illiterate and Pardanasheen lady, disputing the very genuineness of the gift, the Court must look at the surrounding circumstances and ascertain the true intent behind the gift. In present case, the respondents are folk, Pardanasheen, illiterate, advanced age, simpleton village ladies, and their valuable rights in the suit property were going to be transferred, and in that eventuality, extra-ordinary precautions and special care be taken to safeguard the rights of a weaker limb of the society.
iv) It is a well-settled principle of law that fraud vitiates even the most solemn transaction. So, any transaction based on fraud would be void. Moreover, the limitation does not run against the void transactions. Mere efflux of time does not extinguish the right of any party. Notwithstanding the bar of limitation, the matter can be considered on merit so as not to allow fraud to perpetuate.

Conclusion: i) Section 5 of the Limitation Act 1908 does not apply to the proceedings of Civil Revision under section 115 of C.P.C.
ii) The essential ingredients of a valid oral gift mutation are the offer, acceptance, delivery of possession, and the entry of such gift in the revenue record in presence of two respectable of the localities.
iii) Extra-ordinary pre-caution and special care to be taken where valuable rights of Pardanasheen ladies are being transferred.
iv) The limitation does not run against void transactions.

5. **Lahore High Court**
Muhammad Hanif etc., v. Additional District Judge etc.
Writ Petition No.14539/2013
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2021LHC3049.pdf

Fact: Civil Revision was filed against decree for possession under section 9 of Specific Relief Act by petitioners. During pendency of civil revision, the plaintiff/respondents filed application under Order VI Rule 17 CPC for the amendment of the plaint to the extent of description of the suit property. The revisional court allowed the application of the amendment and dismissed the revision petition.

Issue: Whether the revisional court was justified in allowing the application for amendment of the plaint paving the way for the amendment of the decree which altogether altered the description of the suit property?

Analysis: After about 1½ years of institution of the suit, the respondent/plaintiff adduced evidence wherein he stated that his suit is regarding property falling in khasra No.14/1. So he cannot summarily be allowed to amend the plaint proposing to incorporate a different description of suit property. Being so, even if amendment in the plaint was to be allowed, the same could not be made basis of corresponding amendment of decree without allowing both the parties to lead their respective evidence after framing of issue, if so needed, in view of the amended plaint as the parties come up with their defence on the basis of the pleadings and evidence is to be led within and not beyond the pleadings. Therefore, the revisional court erred to this extent as well by jumping on to the amendment of decree on the basis of amendment of plaint.

Conclusion: The revisional court was not justified in allowing the application for amendment of the plaint paving the way for the amendment of the decree which altogether altered the description of the suit property.

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6. **Lahore High Court**
Muhammad Razzaq v. Surayya Bibi, etc.
W.P. No.41097 of 2021
Mr. Justice Muhammad Shan Gul
https://sys.lhc.gov.pk/appjudgments/2021LHC2978.pdf

Facts: The petitioner has challenged the order passed by a learned Additional District Judge whereby he dismissed the application filed along with an appeal under Order XLIII C.P.C. against the acceptance of an application by the trial court under Order XXXIX, Rules 1 and 2 C.P.C for interim relief.

Issue: Why the reasons are required to be given in an order/judgment?

Analysis: It is trite and settled that a judicial order has to contain reasons so as to allow the reader to understand and comprehend the grounds/reasons prevailing with the court or tribunal, as the case may be, in arriving at a conclusion. Any reasonable judicial discourse or exercise on the judicial side that attempts to identify and address an issue must contain reasons for reaching a conclusion. The reasons given for a decision or an order explain the justification or logic for such a decision or order.

The reasons give satisfaction to the person against whom a decision has been given about the decision not being arbitrary, whimsical and take the matter out of the realm of subjectivity. Reasons enable an affected party to gauge, consider and examine whether an appeal or any further challenge is in order. The requirement of giving reasons, therefore, operates as an important check on abuse of powers. It may be added here that the provision of reasons in an order or a decision is an essential attribute thereof and the chain between conclusion and fact in a decision is broken if there are no reasons provided to support the conclusion.

Furthermore, reasons have a direct and rational nexus with procedural fairness. A reasoned order may be said to be an absolutely desirable condition associated with judicial dispensation. Reasons substitute subjectivity with objectivity and failure to give reasons amounts to denial of justice. Reasons enable a court or a tribunal to decide whether there are any legitimate grounds for it to interfere with the decision. Reasons can be said to be the heartbeat of every conclusion since these introduce clarity, regularity, reasonableness and rationality in a decision and a decision indeed becomes lifeless without such reasons. It is equally established that a speaking order means an order that speaks for itself and an order can only speak through the reasons rendered in support thereof. While no particular form of recording or provision of reasons is required, it suffices if the adjudicating authority records reasons which are proper, relevant, germane, intelligible and proportionate.

Conclusion: See above.

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7. **Lahore High Court**
Muhammad Siddique v. Nasir Iqbal, etc
F.A.O No.80 of 2018
Mr. Justice Mirza Viqas Rauf
https://sys.lhc.gov.pk/appjudgments/2021LHC3131.pdf

Facts: Appellant filed an ejectment petition under Section 17 of the Cantonment Rent Restriction Act, 1963 seeking eviction of the "respondent No.1" for his personal use from rented commercial property.

Issue: Whether the personal need of landlord also includes need of the member of family?

Analysis: Section 17 (4) (b) of the "Act, 1963" does not recognize the need of the children of the landlord as a valid ground for eviction of tenant and it is restricted to personal bonafide need of the landlord/landlady.

Conclusion: The personal need of landlord does not include need of the member of family.

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8. **Lahore High Court**
Maqbool Ahmad v. Manzoor Hussain & others
W.P. No.8228/2017
Mr. Justice Safdar Saleem Shahid
https://sys.lhc.gov.pk/appjudgments/2021LHC2934.pdf

Fact: During the execution proceedings of ejectment order, two persons filed an objection petition claiming that they are also living in the same house. The Rent Controller accepted the objection petition with the observation that warrant of possession be issued only against respondent No.1 Appeal against said order was also dismissed. The petitioner has now assailed both said orders.

Issue: Whether any person whose name is not mentioned in ejectment petition can be ejected during execution proceedings?

Analysis: The petitioner filed ejectment petition only against respondent No.1. During the proceedings of objection petition, the petitioner failed to negate the fact that objectors were also residing in a portion of the same house. Any person under possession of such portion will not be subject to the eviction order. Nobody can be condemned unheard. Law has given its ways to exercise against such person. But the status of that person regarding his possession has to be defined/specified by the claimant/owner.

Conclusion: Any person whose name is not mentioned in ejectment petition cannot be ejected during execution proceedings It was incumbent upon the petitioner to have impleaded all persons in whose absence the ejectment order would not be executable.

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9. **Lahore High Court**
Ana Liaqat v. Addl. District Judge etc.
W.P. No.10090 of 2011
Mr. Justice Safdar Saleem Shahid
https://sys.lhc.gov.pk/appjudgments/2021LHC3247.pdf

Facts: Petitioner sought dissolution of marriage on the basis of non payment of maintenance and cruelty but the Family Court decreed the suit on the basis of Khula.

Issue: Whether the suit can be decreed on the basis of Khula when the grounds of non payment of maintenance and cruelty have been asserted?

Analysis: Under the provisions of Section 2(ii) and (viii) of Dissolution of Muslim Marriages Act, 1939, the marriage cannot be dissolved on the basis of pleadings of the parties and on the failure of reconciliation between the parties. The point of hatred and cruelty, if agitated, can only be decided by the trial Court after recording the evidence.

Conclusion: The suit cannot be decreed on the basis of Khula when the grounds of non payment of maintenance and cruelty have been asserted.

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10. **Lahore High Court**
Muhammad Boota v. Khalid Zia.
C.R. No.1918 of 2013
Mr. Justice Safdar Saleem Shahid
https://sys.lhc.gov.pk/appjudgments/2021LHC3231.pdf

Facts: Original plaintiff filed suit for pre-emption. During pendency of suit, he died and his legal heirs were impleaded in the suit. All the legal heirs withdrew the suit in favour of one legal heir.

Issue: Whether the legal heir of the deceased pre-emptor can be said to have right of pre-emption at the time of sale?

Analysis: On account of death of original pre-emptor the present plaintiff stepped into his shoes and became pre-emptor. It is important for pre-emptor to have superior right on three stages of pre-emption, at the time of sale, at the time of filing of the suit and at the time of decree. Certainly this aspect goes against the respondent/plaintiff.

Conclusion: Legal heir of the deceased pre-emptor cannot be said to have right of pre-emption at the time of sale.

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11. **Lahore High Court**
Muhammad Naeem Shafi v. Mst. Shamim Akhtar and another
Regular Second Appeal No.121 of 2011 etc
Mr. Justice Sultan Tanvir Ahmad
https://sys.lhc.gov.pk/appjudgments/2021LHC3304.pdf

Facts: Suit of the appellant for specific performance was dismissed.

Issue: Whether it is necessary for the plaintiff in suit for specific performance of contract to show his readiness, willingness as well as capacity to perform agreement?

Analysis: To seek the discretionary and equitable relief of specific performance it is incumbent upon the Appellant to show his readiness, willingness as well as capacity to perform Agreements.

Conclusion: It is necessary for the plaintiff in suit for specific performance of contract to show his readiness, willingness as well as capacity to perform agreement.

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12. **Lahore High Court**
Bashir Ahmad v. Khadim Hussain etc
C.R. No.2025 of 2013
Mr. Justice Safdar Saleem Shahid
https://sys.lhc.gov.pk/appjudgments/2021LHC3267.pdf

Facts: Suit of respondent for specific performance was concurrently decreed by both the courts below.

Issue: Whether mere presence of a document regarding agreement to sell proves it?

Analysis: Mere presence of a document regarding agreement to sell does not mean that it is a proved document.

Conclusion: Mere presence of a document regarding agreement to sell does not mean that it is a proved document.

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13. **Supreme Court of Pakistan**
Iftikhar Ahmad v. The State
Criminal Petition No.529 of 2021
Mr. Justice Umar Ata Bandial, Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Qazi Muhammad Amin Ahmed
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._529_2021.pdf

Facts: Complainant had rented out a property to the petitioner, who while being a tenant allegedly prepared a forged sale deed of the property in his favour and started claiming to be the owner of the said property. Hence a case under section 420, 468 and 471, PPC.

Issue: Whether bail may be dismissed in a case not falling under prohibitory clause of section 497(2) of CrPC?

Analysis: All the offences alleged against the petitioner do not fall within the prohibitory clause of subsection (1) of Section 497 CrPC and thus attract the principle that grant of bail in such offences is a rule and refusal an exception…The main purpose of keeping an under-trial accused in detention is to secure his attendance at the trial so that the trial is conducted and concluded expeditiously or to protect and safeguard the society, if there is an apprehension of repetition of offence or commission of any other untoward act by the accused. Therefore, in order to make the case of an accused person fall under the exception to the rule of grant of bail in offences not covered by the prohibitory clause of Section 497(1) CrPC, the prosecution has to essentially show from the material available on the record, such circumstances that may frustrate any of the said purposes, if the accused

person is released on bail… Those circumstances are: (a) his abscondence to escape trial; (b) his tampering with the prosecution evidence or influencing the prosecution witnesses to obstruct the course of justice; or (c) his repeating the offence keeping in view his previous criminal record or the desperate manner in which he has prima facie acted in the commission of offence alleged… The court may decline to exercise the discretion of granting bail to him in such offence only when it finds any of the above noted circumstances or some other striking circumstance that impinges on the proceedings of the trial or poses a threat or danger to the society, justifying his case within the exception to the rule, as the circumstances mentioned above are not exhaustive and the facts and circumstances of each case are to be evaluated for application of the said principle.

Conclusion: Bail can only be dismissed in a case not falling under prohibitory clause of section 497(2) of CrPC where there are exceptional circumstances for refusal. Otherwise, grant of bail in such cases is a rule.

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14. **Lahore High Court**
Muhammad Rashid Yasin v. The State etc.
Crl. Misc. No.2255-B/2021
Mr. Justice Ahmad Nadeem Arshad & Mr. Justice Muhammad Shan Gul
https://sys.lhc.gov.pk/appjudgments/2021LHC3546.pdf

Facts: Petitioner had sought pre-arrest bail in cases involving allegations that he along with others while protesting against the arrest of the leader of Tahreek-e-Labbaik Pakistan, had forcibly blocked a road, disrupted the flow of traffic, raised provocative slogans, brandished weapons and attacked & injured the members of the police force.

Issue: i) Could there be any cause sufficient enough to justify disruption of the normal civic life or questioning the writ of the state?
ii) Whether attacking member of the police force is to be treated similar to an ordinary offence?

Analysis: i) It is evident from a perusal of these precedents that no cause howsoever devotional, exalted or even noble can be made an excuse to disrupt normal civic life and bring it to a standstill, or for that matter, question the writ of the State. There are certain boundaries that should never be crossed. The petitioner through his action and conduct has not only tried to thwart the writ of the State but has also crossed the Rubicon.
ii) Attacking a member of the police and that too during the discharge of his duty is not an ordinary attack but is an attempt to diffuse State muscle which is the only shield available to the public at large…Treating such offences as similar to regular offences against private individuals would cause a large pierce through the shield and will leave the citizens unprotected and in consequence tarnish the purpose of existence of the State itself.

Conclusion: i) No cause can be so noble to cause disruption of normal civic life or questioning the writ of the state.
ii) Attacking member of the police force during discharge of his duties is much more serious than an ordinary offence.

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15. **Lahore High Court**
Iftikhar Ahmad v. The State & Other
Criminal Misc. No. 1577-B-2021
Mr. Justice Sohail Nasir
https://sys.lhc.gov.pk/appjudgments/2021LHC3583.pdf

Facts: Pre-arrest bail application by the petitioner for offences punishable u/s 302/324/148/149 PPC.

Issue: Whether merits of the case can be considered while deciding a pre-arrest bail?

Analysis: As held by Khair Muhammad & another vs. The State (2021 SCMR 130) & Khalil Ahmed Soomro vs. The State (PLD 2017 SC 730), this principle is settled by now that while deciding the pre-arrest bail, the Court is not precluded to examine the merits of the case.

Conclusion: Merits of the case can be considered at the time of deciding pre-arrest bail.

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16. **Lahore High Court**
Mst. Shahida Chaudhary v. Regional Police Officer & 6 others
Writ Petition No. 1984 of 2021
Mr. Justice Sohail Nasir
https://sys.lhc.gov.pk/appjudgments/2021LHC2939.pdf

Facts: The petitioner had challenged the order of ex-officio justice of peace u/s 22-A/22-B CrPC through which her request for registration of FIR regarding the alleged murder of her husband in a fake police encounter and robbery by the police officials, was dismissed. Prior to the impugned order, during the course of proceedings, on the request of the concerned CPO, the learned Sessions Judge had directed a Magistrate to hold a judicial inquiry to probe into the facts of the occurrence which led to the death of the husband of the petitioner.

Issue: i) What is the ultimate object for holding an inquest or inquiry under section 174 or 176 of the Code of Criminal Procedure, 1898 by a magistrate?
ii) Whether the law permits any police officer to make a request for a fact finding inquiry by a magistrate?

Analysis: i) The purpose of an inquest/inquiry by a Magistrate is to gather the evidence that may be used by the police in their exploration of a violent or suspicious death and the subsequent prosecution of a person if death ensued from a criminal act. An

inquest is not a trial but criminal proceeding of a preliminary, investigatory nature. While holding an inquest/inquiry under Section 174 or 176 Cr.P.C a Magistrate is confined to find out the cause of death only if it is unnatural like, homicidal or accidental or suicidal. He by no stretch of imagination can declare that who is responsible for the death. He is also under no jurisdiction to proceed for facts finding.

ii) From the words used in the letter by the CPO to the Sessions Judge, it is clear that the CPO had desired a fact finding inquiry through the Magistrate. This is absolutely beyond the scope of Section 176 Cr.P.C and the powers assigned to the Magistrate. "To discover the real cause of death" is completely different from "to probe into the facts of the occurrence". Neither CPO could make such request, nor could learned Sessions Judge entertain it. Even if entrusted to the Magistrate, he is under no authority to probe into the facts of the occurrence. Probing into the facts of the occurrence can only be under the Punjab Tribunals of Inquiries Ordinance, 1969, which, under Section 3, empowers the Provincial Government to appoint a Tribunal, Commission or Committee for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification and a Tribunal, Commission or Committee so appointed shall make the inquiry and perform function accordingly. If according to the CPO, it was a definite matter of public importance, he at the most could make a request to the Government and thereafter it was for the Provincial Government to appoint or not to appoint any Tribunal, Commission or Committee of inquiry…In view of above, the request made by CPO to the learned Sessions Judge, for probing into the facts of the occurrence, entertaining said application by the learned Sessions Judge and its entrustment to the Magistrate are declared as illegal and without lawful authority with following directions that in future:-

i) If an application is moved by a police officer to a Sessions Judge or to a Magistrate (in case it is directly submitted), it will be his primary duty to examine that the request has been made within the parameters of Section 176 Cr.PC and it relates to cause of death only. If it is so, the application shall be entertained otherwise it may be turned down or returned to the concerned police officer as the case may be.
ii) The Magistrate holding the inquest/inquiry under Section 176 Cr.P.C under no circumstance can travel beyond his jurisdiction that is limited to determination of cause of death of the person and not the person who has caused the death.
iii) A Magistrate has no power to record a finding regarding guilt or innocence of an accused while holding the inquest.
iv) The powers in conducting the inquest which a Magistrate would have in holding an inquiry into an offence shall also be limited to determination of cause of death.

Conclusion: i) The object of inquest u/s 174 or 176 CrPC is limited to find out whether the death is natural or unnatural; such powers cannot be used to trace the person responsible for a death.
ii) The law does not permit the police officers to request for a fact finding inquiry to probe into facts of an occurrence by a magistrate.

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17. **Lahore High Court**
Muhammad Akhtar v. Ex-Officio Justice of Peace, etc.
Writ Petition No. 10416 of 2021
Mr. Justice Muhammad Tariq Nadeem
https://sys.lhc.gov.pk/appjudgments/2021LHC3365.pdf

Facts: Father of an accused challenged the order of the ex-officio Justice of Peace through which he directed the police to record the statement of the aggrieved u/s 154 CrPC, and proceed further as per law.

Issue: Whether the father of an accused, against whom an order for registration of an FIR is passed, falls within the category of an "aggrieved party" or "aggrieved person" and has he any locus standi to challenge the order on behalf of his son?

Analysis: The petitioner being father of the proposed accused cannot be termed as an "aggrieved party or aggrieved person" and by no stretch of imagination it can be said that any of his fundamental rights is infringed or he has suffered any loss. Record further depicts that the petitioner has no power-of-attorney of his son; the proposed accused. It has been ordained in the last address of Holy Prophet Hazrat Muhammad (p.b.u.h) known as "Khutba Hajjatul Wida" that father is not responsible for the deeds of his son, as well as, son is not responsible for the act of his father, therefore, taking guidance from the supra mentioned quotation of law by last prophet Hazrat Muhammad (p.b.u.h), this Court is of the view, that the father is not responsible for the wrongdoing of his son. Hence, there is no occasion to hold that the petitioner is "aggrieved person or aggrieved party" and has no locus standi to challenge the impugned order through Constitutional jurisdiction.

Conclusion: Father cannot be termed as an aggrieved person to file writ against the order for registration of an FIR against his son.

18. **Lahore High Court**
Saeed v.The State
Crl. Appeal No. 984 of 2016
Mr. Justice Muhammad Tariq Nadeem
https://sys.lhc.gov.pk/appjudgments/2021LHC3290.pdf

Facts: The Appellant was, inter alia, convicted under section 302 (b) PPC and was sentenced to life imprisonment.

Issue: i) What will be the effect where FIR is not registered at the police station?
ii) What inference could be drawn where post-mortem examination is conducted after considerable delay?

Analysis: i) In this case FIR was not lodged at the police Station rather the complainant got recorded his statement at Civil Hospital. None of the witnesses of ocular account ever proceeded to report the matter at the police station. This has left no doubt that the witnesses were not present at the place of occurrence at the relevant time, thus the FIR was chalked out with due deliberations and consultations, after preliminary investigation.
ii) Post-mortem examination on the dead body of the deceased was conducted with the delay of 06 hours. It was a case of delayed post-mortem, which casts serious doubt that the FIR was got recorded with promptitude, but the inference can be drawn that the intervening period was consumed in fabricating the prosecution story, planting the PWs; otherwise there was no justification for conducting post-mortem examination with such a considerable delay.

Conclusion: i) If FIR of a case is not registered at the police station, it gives the impression that the witnesses were not present at the crime scene and the FIR was registered after due deliberations and preliminary investigation.
ii) Inference for a delayed post-mortem examination is that the intervening period is consumed by the prosecution in fabricating a story, planting the witnesses and conducting preliminary investigation.

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19. **Lahore High Court**
Muhammad Hassan alias Aamir v. The State etc
Criminal Appeal No. 383-J of 2016
Criminal Revision No. 630 of 2016
Criminal PSLA No. 204 of 2016
Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2021LHC3380.pdf

Fact: Appellant and nine others were tried in a private complaint for offence of commission of murder. On conclusion of trial, nine co-accused were acquitted, whereas, appellant was convicted and sentenced to imprisonment for life. Appellate has challenged his conviction while complainant of case has challenged the acquittal of nine accused persons and filed Crl. Revision for enhancement of sentence of the appellant.

Issue: What is principle of "sure guilt"?

Analysis: For corroboration, confirmation of all circumstances of the crime is unnecessary; it suffices if there is confirmation as to a material circumstance of the crime and of the identity of the accused. Prosecution usually put a prima facie case known as 51% case or a case with realistic prospect of conviction before the court, yet standard of proof for evidence before the court is bit higher than one set by the prosecution. The standard of proof required before a criminal court is proof beyond reasonable doubt, yet it also goes side by side with new formulation of standard, internationally followed in some jurisdictions i.e. "Sure of guilt" keeping in view the circumstances of the case. Jurists have introduced a new concept of standard of proof that is known as "floating standard", which means every piece of evidence shall not be evaluated on the touchstone of standard of proof beyond reasonable doubt. Probability varies low or high on different types of evidences produced before the court. e.g. standard of proof required for ocular account may vary from standard of proof for medical evidence and so on for other types of evidence in a case, yet it is the totality of circumstances and the combined or cumulative effect of all types of evidence produced before the court which prove the charge beyond reasonable doubt or at least equip the court that it must be sure of guilt of accused. "Standard of proof styled as proof beyond reasonable doubt" and formulation known as "Sure of guilt" are part of our criminal justice system which is reflected from the Article 2(4) of Qanun-e-Shahadat Order, 1984 which ordains how a fact is to be proved; said Article runs as under; "A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists". The above formulation shows that either fact is so certain that court believes of its existence or it is so probable that court could suppose existence of such fact. This supposition by the court leads to formulation known as "Sure of guilt". The court can reconstruct the story while inferring it from prosecution case theory and the counter defence version.

Conclusion: See above.

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20. **Lahore High Court**
Safdar Hayat v. Ex-Officio Justice of Peace, etc
W.P. No.46741 of 2021
Mr. Justice Muhammad Shan Gul
https://sys.lhc.gov.pk/appjudgments/2021LHC3320.pdf

Facts: The petitioner challenged the order passed by an Ex-Officio Justice of Peace whereby an application filed by respondent for registration of a criminal case on account of an allegation of rape was allowed by Justice of Peace and the Station House Officer concerned was directed to register a criminal case under section

154 Cr.P.C. On the basis of the application submitted by respondent despite negative comments-cum-report filed by the District Complaint Officer as Justice of Peace was not bound by such report.

Issue: Whether the comments-cum-report filed by a District Complaint Officer/police in answer to a petition under section 22-A and 22-B Cr.P.C. before an Ex Officio Justice of Peace holding full length preliminary inquiry before registration of a crime report is legally permissible when seen in the light of section 154 Cr.P.C?

Analysis: The initial and original reason for encouraging and perpetuating such reports was to see whether the persons who knocked at the doors of an Ex-Officio Justices of Peace had approached the police hierarchy in the first instance before making their way to an Ex Officio Justice of Peace and whether if the applications preferred by such persons revealed commission of cognizable offences then why the inaction and whether such inaction was an omission? While such reports ought to have been confined only to the relaying of such information and only this information, instead, a trend has surfaced (like the present case) whereby before registration of a criminal case the police opines and comments on the merits of the case, undertakes a full length inquiry and, therefore, investigates the case before registering it. This was, evidently, never the intention behind bestowing such quasi-judicial powers on ExOfficio Justices of Peace…Furthermore, precedent cases on the issue also highlight the fact that such a report containing comments of the police can only be with reference to two queries: whether the aggrieved person has approached the police hierarchy with an application that discloses the commission of a cognizable offence and if the answer is in the affirmative then why was an F.I.R. not registered?

Furthermore, a police report containing comments of the police, summoned by an Ex-Officio Justice of Peace, shall only not offend the governing law as also the jurisprudence developed on the basis thereof if it contains comments with reference to only two aspects and nothing beyond. Of course, the first being whether the aggrieved person has approached the police hierarchy on the administrative side and satisfied the avenues available to him before seeking resort to the facility provided by sections 22-A and 22-B Cr.P.C. The second being as to why in the presence of an application revealing the alleged commission of a cognizable offence a criminal case has not been registered….Police cannot be given any latitude to inquire and investigate into, and discuss and opine on, the merits of the application by way of the report as this was never the intent behind insertion of sections 22-A and 22- B Cr.P.C.

Section 154 Cr.P.C. does not admit or allow any prior inquiry or precedent investigation before registration of an F.I.R. Section 154 Cr.P.C., is clear and unambiguous it would be legally impermissible to allow the police to read the term ‘preliminary inquiry’ or ‘prior hearing’ into the provision before registering an FIR. The condition that is sine qua non for recording an FIR under section 154

Cr.P.C. is that there must be information and that information must disclose commission of a cognizable offence.

Conclusion: See above.

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21. **Lahore High Court**
Dr. Nafeesa Saleem etc. v. Justice of Peace etc.
Writ Petition No. 16562/2020
Mr. Justice Tariq Saleem Sheikh
https://sys.lhc.gov.pk/appjudgments/2021LHC3421.pdf

Fact: The petitioner doctors were booked in complaint to Punjab Healthcare Commission for medical negligence. The Commission held an inquiry and found that the allegations were correct and imposed fine and made a reference to the Pakistan Medical and Dental Council (PMDC) for taking action against Petitioner No.2 in accordance with law. The victim approached SHO for registration of FIR against the petitioners but SHO refused to lodge FIR. Thereupon he moved an application under section 22-A Cr.P.C. before the Justice of Peace, Multan, who accepted it and directed the SHO to proceed under section 154 Cr.P.C.

Issue: i) What are national and international laws relating to rights of health?
ii) What are essentials to prosecute a doctor under the criminal law?
iii) What is scope of immunity against criminal liability under Section 29 of the PHC?

Analysis: i) Article 9 of the Constitution of Pakistan (1973); The Constitution of the World Health Organization; Article 25 of the Universal Declaration of Human Rights; Article 12 of The International Covenant on Economic, Social and Cultural Rights (1966); General Comment No. 14 (2000) issued by the United Nations' Committee on Economic, Social and Cultural Rights; and the treaty bodies, conferences and declarations (such as the Declaration of Alma-Ata and the United Nations Millennium Declaration and Millennium Development Goals) "have discussed various aspects of public health relevant to the right to health and have reaffirmed commitments to its realization.
ii) To prosecute the petitioners under the criminal law, there should be prima facie evidence in the form of credible opinion of another competent doctor to support the charge of negligence. Cause of death in cases of medical negligence could only be determined through postmortem examination. Clause (xxii) of section 2 of the PHC Act makes autopsy report mandatory to establish medical negligence.
iii) Section 29 of the PHC Act is perspicuous. It expressly declares that a healthcare service provider can be held accountable under the Act. It follows that the Commission has exclusive jurisdiction to adjudicate the complaints relating to provision of healthcare services and, subject to section 26(2), all other legal proceedings, civil or criminal, in respect thereof are barred. Therefore, the Justice

of Peace was not competent to entertain the application of respondent No.3 under section 22-A Cr.P.C.

Nevertheless, the said bar is subject to section 26(2) which lays down that where it appears to the Commission that the circumstances of a case warrant action under any other law, it may refer the matter to the concerned governmental authorities or law enforcement agencies for appropriate action under the relevant laws. Section 26(2) should be widely construed. It confers sufficient authority on the Commission to prosecute a healthcare service provider under the criminal law, if the circumstances are grave, for medical negligence, maladministration and malpractice.

Conclusion: See above.

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22. **Lahore High Court**
Riaz Ahmad v. Justice of Peace etc
W.P. No.9343 of 2021
Mr. Justice Safdar Saleem Shahid
https://sys.lhc.gov.pk/appjudgments/2021LHC2975.pdf

Facts: Complainant alleged that his daughter died due to negligence of doctor. Ex-Officio Justice of Peace directed the SHO concerned to record version of the complainant as required under Section 154 Cr.P.C. and proceed further strictly in accordance with law.

Issue: Whether criminal proceedings could be initiated against a doctor for medical negligence?

Analysis: The Punjab Healthcare Commission Act, 2010 says that if there is any negligence on the part of any person relating to the health, will be dealt with under this Act. In the interrogatory of this Act under Section 1, it is clearly mentioned that it shall apply to all healthcare establishments, public or private hospitals, non-profit organizations, charitable hospitals, trust hospitals, semi-government and autonomous healthcare organizations. Under Section 19(b) of the Act, "medical negligence" means a case where a patient sustains injury or dies as a result of improper treatment in a healthcare establishment and, in case of death, determined on the basis of medical autopsy report. Therefore, this Act bars to prosecute any person on the allegation of negligence.

Conclusion: No criminal proceedings could be initiated in presence of the special law to deal with the negligence of the practitioners being available, without exhausting the said remedy.

23. **Lahore High Court**
Sheraz Khan v. The State, etc.
Crl.Misc.No.44216-B/2021
Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2021LHC3627.pdf

Facts: Petitioner seeks post arrest bail in case under sections 13, 14, 16 of The Prevention of Electronic Crimes Act, 2016 (PECA, 2016) read with sections 109, 419, 420, 468 and 471 PPC registered at FIA, Cyber Crimes (Circle).

Issue: Whether offences under any other laws if being committed in relation to or through the use of an information system would be investigated and tried under Prevention of Electronic Crimes Act, 2016 (PECA)?

Analysis: The main object of PECA, 2016 as reflected from the preamble is to prevent unauthorized acts with respect to information system; in the light of definition clauses, the recitation and examination of relevant provisions of PECA, which are Sections 27, 28, 30, 36 (3) (b & C), 44 & 50, makes it clear that offences under PPC or any other laws cannot be tried jointly with any coordinate offence under PECA, 2016, even if it is committed in the same transaction.

Conclusion: Offences under any other laws if being committed in relation to or through the use of an information system would not be investigated and tried under Prevention of Electronic Crimes Act, 2016 (PECA).

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24. **Supreme Court of Pakistan**
Divisional Superintendent Postal Services Jhang v. Siddique Ahmed
Civil Appeal Nos. 1499 & 1500 of 2019
Mr. Justice Gulzar Ahmed, CJ, Mr. Justice Sayyed Mazahar Ali Akbar Naqvi
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1499_2019.pdf

Facts: Respondents, Postmen, were dismissed from service due to admitted misappropriation of money orders of meager amount. The Federal Service Tribunal converted the major penalty into minor one of withholding increment for two years.

Issue: Whether misappropriation of meager amount by a government servant may entail major penalty of dismissal from service?

Analysis: A Government servant who is found to have misappropriated public money, notwithstanding its amount, breaches the trust and confidence reposed in a Government servant who is charged with the responsibility of handling public money. Misappropriation of the same, whether temporary or permanent and irrespective of the amount constitutes dishonesty and misconduct. Such an employee/individual has no place in Government Service because he breaks the

trust and proves himself to be unworthy of the confidence that the State reposes in him…Any leniency in this regard is not warranted in law because misappropriation of the amount either meager or huge results in breach of trust which is reposed in a Government servant and the delinquent has no right to be retained in service.

Conclusion: Misappropriation of any amount whether meager or huge by a government servant entails major penalty of dismissal from service. Such an employee/individual has no place in Government Service because he breaks the trust and proves himself to be unworthy of the confidence that the State reposes in him.

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25. **Supreme Court of Pakistan**
Chief Secretary Govt. of the Punjab, Lahore, etc. v. Ms. Shamim Usman
Civil Petition No.1097-L of 2020.
Mr. Justice Sajjad Ali Shah, Mr. Justice Syed Mansoor Ali Shah
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1097_l_2020.pdf

Facts: Authority declined the case of proforma promotion of the respondent. The respondent instead of challenging the said order before the Punjab Service Tribunal invoked the constitutional jurisdiction of the High Court wherein through the impugned order direction was issued to the petitioner department "to grant proforma promotion to the petitioner to Grade-20".

Issue: Whether the jurisdiction of High Court in service matters is barred under Article 212 of the Constitution?

Analysis: Non-obstante clauses of Articles 212(1) and (2) begin with "notwithstanding anything hereinbefore contained," thus overriding, inter alia, the constitutional jurisdiction of the High Court under Article 199, which is already "subject to the Constitution." Article 212(1)(a) provides that a Tribunal established under the law will enjoy exclusive jurisdiction in the matters relating to terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters. The term "terms and conditions" is clearly spelt out in Chapter II of the Punjab Civil Servants Act, 1974 and the rules thereunder. Article 212(2) in unambiguous terms states that no other Court can grant injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends. Scope of jurisdiction and powers of the Tribunal are provided in sections 4 and 5 of the Act. The High Court, therefore, has no jurisdiction to entertain any proceedings in respect of terms and conditions of service of a civil servant which can be adjudicated upon by the Tribunal under the Act.

Conclusion: The jurisdiction of High Court in service matters is clearly barred under Article 212 of the Constitution.

26. **Lahore High Court**
Malik Gull Zaman v. Deputy Commissioner, etc.
Writ Petition No. 4808 of 2021/BWP
Mr. Justice Ahmad Nadeem Arshad
https://sys.lhc.gov.pk/appjudgments/2021LHC3341.pdf

Facts: The petitioner had constructed some shops and a Chobara upon his land on road. He claimed to have constructed the shops after submission of site plan/map and deposit of requisite fee in Tehsil Municipal Committee, but before the site plan could be approved and handed over to him, record of his case was got destroyed in the riots transpired after the death of a political leader. Thereafter, respondents sealed the shops and chobara of the petitioner. The petitioner challenged the act of sealing of his shops and chobara in writ jurisdiction.

Issue: Does the Local Government Act, 2019 empower the inspector/enforcement officer to seal a building that is erected without approval of building plan?

Analysis: Now the question arises whether erection or re-erection of a building without approval of building plan gave power to the authority to seal that building. In this regard it is noted that the provision of Section 284 of the Punjab Local Government Act, 2019, which empowers the Inspector and Enforcement Officer to seal the premises. But before doing this he will have to consider whether this action is warranted in the interest of public health, safety, convenience or welfare, or to avoid danger to life or property. Meaning thereby, such power can only be exercised in case of any serious threat to the public health, safety, welfare or danger to life and property. The power to seal the shops is not to be exercised automatically where the construction is against the approved plan and the plan was not got approved but the authority regardless of the legal status of the shops should be satisfied that the sealing of the shops is necessary to avoid any serious threat to the public health, safety, welfare or danger to life and property.

Conclusion: The Punjab Local Government Act, 2019, does not empower the inspector/enforcement officer to seal a building only because it was constructed without an approved plan unless that building poses serious threat to the public health, safety, welfare or danger to life and property.

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27. **Lahore High Court**
Sheikh Shahid Jamal v. National Accountability Bureau etc.
Crl. Appeal No. 416/2020
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Anwaarul Haq Pannun
https://sys.lhc.gov.pk/appjudgments/2020LHC3841.pdf

Facts: The appeal has been filed under section 13(c) of the National Accountability Ordinance, 1999 which is directed against the freezing order which was confirmed and appointment of receiver was upheld.

Issue: i) What is the significance of Freezing Orders with reference to National Accountability Ordinance 1999?
ii) What is the distinction between the terms belief and suspicion?
iii) How to distinguish between reasonable suspicion and reasonable grounds to believe?
iv) Whether the appointment of receiver is mandatory under clause (c) (ii) of section 12 of the NAO when a freezing order is made?

Analysis: i) Freezing order is now a common practice in many countries in both civil and criminal cases. In England, in civil matters it is often referred to as Mareva injunction and is issued to prevent a debtor from disposing of his assets or removing them from the country before the conclusion of the trial with a view to defeat his creditor's claim. On the other hand, in criminal cases the freezing order is issued as an interim measure to preserve the property while the proceedings are pending so that it is available if the court makes a confiscation order at the end.
The powers conferred on the Chairman NAB and the Accountability Court by section 12 are not unfettered. They can make a freezing order only if there appear reasonable grounds for believing that the accused has committed an offence under the NAO. True, the NAO does not define this expression but section 26 PPC gives us a cue about what it connotes.
ii) It is thus evident that law recognizes the distinction between belief and suspicion which is also understood in the English language. The former connotes conviction of the truth of some statement or the reality of some being or phenomenon especially when based on examination of evidence. In contrast, suspicion means the act or an instance of suspecting something wrong without proof or on slight evidence.
iii) The importance of distinguishing between reasonable suspicion and reasonable grounds to believe lies in the fact that they set different standards for judicial assessment of whether a legal threshold has been met in a particular case. In the former it suffices if the concerned person thinks that there is a possibility, which is, more than fanciful, that the relevant facts exist. On the other hand, the standard applicable to reasonable grounds to believe has both an objective and subjective facet. The person concerned must not only subjectively believe that the standard has been met, but the grounds must be objectively justifiable in the sense that an ordinary prudent person in his place would conclude that there were indeed reasonable grounds.
iv) The object of freezing is to keep the assets available to satisfy the final order of confiscation if one is made. The NAO defines the term freezing quite expansively and it includes holding, controlling and managing any property through a receiver or otherwise. Inasmuch as appointment of receiver is an extremely harsh step, the Legislature could not have intended that the Chairman NAB and the Accountability Court should invoke clause (c) (ii) of section 12 of the NAO in routine. Instead, it wanted them to act judiciously and balance the competing interests of the society and the accused in every case. Hence, the

aforesaid provision must be taken as permissive or enabling rather than being mandatory. The Court was persuaded to draw this conclusion also from two other factors: first, clause (b) of section 12 of the NAO does not make appointment of receiver compulsory where the property ordered to be frozen is a debt or other movable property. Secondly, clause (e) of section 12 uses the words *"receiver, if any, appointed under the section"* while describing the powers, duties and liabilities of a receiver. A wade through section 12 of the NAO shows that it only describes the powers, duties and liabilities of a receiver but does not specify the conditions under which he may be appointed. In the absence of any guidelines the above-mentioned principles which are based on equity and good conscience can be legitimately followed. Guidance from Order XL CPC as section 12 of the NAO has adopted a part thereof by legislative reference. Rule 1 of the said Order stipulates that a court should appoint a receiver when it appears to it just and convenient.

Conclusion: See above.

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28. **Lahore High Court**
Muhammad Sadiq Raja v. The State
Criminal Appeal No. 1809-E of 2010
Mr. Justice Sohail Nasir
https://sys.lhc.gov.pk/appjudgments/2021LHC2796.pdf

Facts: The appellant (accused), a public servant, who remained absconder, was charged for possessing assets beyond means and was convicted and sentenced under section 9 (a) (v), 10 and 31-A of the National Accountability, Ordinance, 1999 (Ordinance) by the Accountability Court. The appellant preferred an appeal, challenging the impugned judgment, on the premise that there was no evidence of malpractice against the accused and that the prosecution failed to prove the allegations leveled against the appellant.

Issues: i) Whether the appellant (accused), under the presumption enshrined therein section 14 (c) of the Ordinance, in all circumstances, is to account for the assets acquired by him?
ii) What are the pre-requisites to declare an accused an 'absconder' under section 31-A of the Ordinance?
iii**)** Whether the conviction awarded in absence of evidence of investigating officer could sustain?

Analysis: i) Under criminal law, fundamentally, the prosecution is under heavy burden to prove a case against the accused beyond any shadow of doubt. Nevertheless, the accused may only be required to offer explanation of the prosecution evidence and, if found reasonable, the benefit of this could be extended to the accused. Even in a case instituted under section 9(a)(vi)(vii) of the Ordinance, the prosecution is burdened to establish a case against the accused and if the

prosecution succeeds in doing so, the burden is deemed to be discharged and it then shifts to the accused to rebut the presumption of guilt. Therefore, despite the presumption contained in section 14(c) of the Ordinance, it is the basic duty of prosecution to prove its case and once this liability is discharged successfully, the accused is made to prove his innocence.

ii) Absconding under section 31-A of the Ordinance entails penal consequences, therefore, the prosecution is under liability to prove that the process was issued, a serious effort was made to execute the warrant, the statement of process server was recorded by the court; the Court thereafter was satisfied and it issued the proclamations in terms of Section 87 Cr.P.C and finally that the proclamations so issued were duly executed and in this context statement of process server was also recoded and then the Court being satisfied had declared the accused as a Proclaimed Offender. Prosecution in this case did not produce the officer to whom any proclamation was entrusted. In these circumstances, we are compelled to hold that the absconding of appellant in this case has not been proved by the prosecution and at the most before us, we can say, it was a long disappearance on the part of appellant. But said disappearance was not unlawful as it has been established from prosecution's evidence that appellant was abroad pursuant to approval of Ex-Pakistan leave for three years by the competent Authority.

iii) An investigating officer is a material witness of a case. In the case in hand, the investigating officer was given up by the prosecution on the score that he had died. However, neither the factum of his death was brought on record, nor any secondary evidence was adduced to testify the documents prepared by said investigating officer. Therefore, the conviction of the appellant could not sustain in the event of non-production of said witness.

Conclusion: i) In spite of the presumption contained in section 14(c) of the Ordinance, initially, it is the duty of prosecution to prove the allegations levelled against the accused and once this burden is discharged, the accused is made to rebut the presumption of guilt.

ii) See above.

iii) The conviction could not sustain in absence of evidence of an investigating officer.

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29. **Supreme Court of Pakistan**
Province of Punjab, etc. v. Hafiz Muhammad Ahmad
C.P.1274-L/2013
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Amin-ud-Din Khan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1274_l_2013.pdf

Facts: The High Court relied on a series of case law, referred to in the impugned order by reproducing the headnotes of the law reports.

Issue: Whether the headnotes preceding the judgment of a court are a part of that judgment and should be referred in the judgment?

Analysis: The headnotes preceding the judgment of a court are not a part of that judgment but are the notes prepared by the editors of the law-reports, highlighting the key law points discussed in the judgment and are supplied just to facilitate the reader with a summarized version of the salient features of the case which helps in quickly scanning through the law reports. It is a matter of common knowledge that the headnotes are at times misleading and contrary to the text of the judgment. Headnotes by the editors of the law-reports cannot be taken as verbatim extracts of the judgment and relied upon as conclusive guide to the text of the judgment reported, hence they should not be cited as such. Therefore, it is neither safe nor desirable to cite a dictum by reference to the headnotes.

Conclusion: The headnotes preceding the judgment of a court are not a part of that judgment. These cannot be taken as verbatim extracts of the judgment and relied upon as conclusive guide to the text of the judgment reported.

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30. **Lahore High Court**
Learning Alliance (Private) Limited etc. Versus Province of Punjab etc
WP No.18066/2014
Mrs. Justice Ayesha A. Malik
https://sys.lhc.gov.pk/appjudgments/2021LHC3588.pdf

Fact: Through this petition, the vires of provisions of the Lahore Development Authority Act, 1975 ("LDA Act") as well as provisions of the Lahore Development Authority Land Use Rules, 2014 ("2014 Rules") are challenged and consequently prayed that notifications seeking payment of commercialization/conversion fee be set aside.

Issue: i) Whether the LDA can levy a conversion fee in areas which are declared to be commercial?
ii) Whether each individual property is required to be converted even though it is located on a road or segment of roads declared commercial?
iii) What is criteria to determine conversion fee and what are its permissible uses?
iv) Whether provisions of section 4, 6, 13, 14, 14A, 18, 19, 28 and 37 of the LDA Act are ultra vires?

Analysis: i) Essentially there was no conversion of land use, but the exercise of re-classification became the basis of the demand for the one time fee. Interestingly LDA is charging a one time conversion fee even though the status of land use has not changed by way of the reclassification scheme. Hence LDA is charging conversion fee on roads that have been declared commercial that is where the land use is declared as commercial. This logic totally defies the concept of land use plan and land use classification as the only objective of land use classification and land use plan is to declare areas within which classified usage can take place.

Hence there appears to be no logic in requiring the owner to pay for conversion of land use, as the land use has not been converted.

ii) The said roads were declared commercial because the usage on that road was primarily commercial, hence the road was declared permanently commercial. This means that the land use for the area is commercial. Since the land usage was declared on the basis of existing usage of the land, the requirement of individual property owners to convert the land usage of property has no basis as their property stands converted with the declaration made by the LDA. The declaration of a road as commercial is based on the usage of the property around that road and not per se the actual road itself. Hence there is no justification to demand a conversion fee on properties facing roads or segment of roads as named in List A. The entire concept of land use conversion is based on changing the use of land from the one provided in the scheme or master plan or land use plan. Hence where there is no conversion in land use, a conversion fee cannot be levied.

iii) Section 28 of the LDA Act requires LDA to charge a fee for conversion of land use to meet the cost of classification or re-classification and conversion. This means that LDA can charge a fee to recover the cost it has incurred to develop an area as per its land use. In terms of Section 28 of the LDA Act, LDA must declare its costs for the conversion, classification or reclassification and can then seek to recover its costs through a conversion fee, where the land use is converted. Accordingly the requirement is that LDA declares its planning, development and expansion plans with the expected costs on an annual or bi-annual basis not only to meet the requirements of good governance and transparency but also to justify the adequacy of the costs incurred and its nexus with the fee sought to be recovered.

iv) The vires of sections challenged before this Court being 4, 6, 13, 14, 14A, 18, 19, 28 and 37 of the LDA Act have already been upheld by the august Supreme Court of Pakistan in the Imrana Tiwana Case, hence to this extent prayer of the Petitioners cannot be granted.

Conclusion: i) The LDA cannot levy a conversion fee in areas which are declared to be commercial.

ii) Each individual property is not required to be converted as it is located on a road or segment of roads declared commercial.

iii) See above.

iv) Provisions of section 4, 6, 13, 14, 14A, 18, 19, 28 and 37 of the LDA Act are not ultra vires.

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31. **Lahore High Court**
Muhammad Waqas etc v. Govt. of Punjab etc
Writ petition No.10365 of 2021
Mr. Justice Safdar Saleem Shahid
https://sys.lhc.gov.pk/appjudgments/2021LHC3263.pdf

Facts: Petitioners deposited the admission fee/requisite dues being the regular students, with administration of the college, on the instructions of respondent No.5 within

time and respondent No.5/ Administration of the college was responsible for the clearance of the petitioners/ students for the up-coming examination but their Roll number slips were not issued till yet by College Administration and the Board/ respondent No.3, rather, the respondents demanded from the petitioners/ students to deposit the fee/dues at the rate of Rs. 50,000/- as late admission fee.

Issue: Whether the petitioners can be penalized for the negligence of college administration?

Analysis: Petitioners are the regular students of the college and as per their version, they have already deposited requisite fee in the office of the clerk of the college administration on the instructions of respondent No.1 within the prescribed time and it was the duty of the college administration to forward the applications /admission forms alongwith fee to the Board/ respondent No.3 and there was no fault on the part of the students for not depositing the requisite examination fee. The petitioners are the students of the college and they cannot be penalized for the negligence if committed by the college administration.

Conclusion: Petitioners cannot be penalized for the negligence if committed by the college administration.

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32. **Lahore High Court**
Nasir Ali v. Govt of Punjab & others
W.P. No.8666/2021
Mr. Justice Abid Hussain Chattha
https://sys.lhc.gov.pk/appjudgments/2021LHC2175.pdf

Fact: The respondent registered three Drag Flow/Dredger Machines of which the petitioner claims to be owner. The petitioner seeks cancellation of registration of these machines on the ground that these do not fall within the parameter of Section 2(23) of the West Pakistan Motor Vehicles Ordinance, 1965.

Issue: i) Whether High court can decide question of ownership of machines?
ii) What are salient aspects of definition of motor vehicle?

Analysis: i) Matter of ownership pertains to factual controversy therefore the same cannot be decided in exercise of extra ordinary and discretionary constitutional jurisdiction.
ii) The following conclusions are arrived at with respect to the definition of "Motor Vehicle" under section 2(23) of the Ordinance

i. Any mechanically propelled vehicle adapted for use upon road is a "Motor Vehicle";
ii. Any mechanically propelled Vehicle not adapted for use upon road but running upon fixed rails is not a "Motor Vehicle";

iii. Any mechanically propelled vehicle adapted or not adapted for use on roads but used solely upon premises of the owner is not a "Motor Vehicle";

iv. Adapted for use upon roads is sine qua non for any Machine to qualify in the definition of "Motor Vehicle"; and

v. Construction and earth moving Machine which can be mechanically propelled and adapted for use upon roads can qualify to be registered as "Motor Vehicle" subject to physical examination of the Machine by the Registration Authority to his satisfaction.

Conclusion: See above.

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33. **Lahore High Court**
Farah Mazhar and three others v. The Federation of Pakistan, through Secretary, Ministry
W. P. No. 14226 / 2019
Mr. Justice Abid Hussain Chattha
https://sys.lhc.gov.pk/appjudgments/2021LHC3187.pdf

Fact: The husband/father of the petitioners is accused of embezzlement of funds as CEO of the Company who fled the country and took refuge in the United Kingdom. The petitioners through the memorandum issued by the Ministry of Interior, Government of Pakistan were informed that their names were placed on the Exit Control List (the "ECL"). The petitioners filed the representation seeking exclusion of their names from the ECL but that was dismissed.

Issue: i) Whether the names of family members of fugitive accused person can be placed in Exit Control List?
ii) What is scope of right of freedom of movement?

Analysis: i) The names of the petitioners were placed on the ECL without notice and hearing and without considering that the petitioners were not associated with the Company in any capacity, such as director or shareholder or in any other capacity. Even if the allegation of acquiring movable or immovable properties as benamidar of the CEO is accepted, the respondents could have invoked laws regarding attachment and protection of such properties instead of clogging their right to liberty by placing them on the ECL. It is importantly stated that none of the petitioners has been arrayed in that Reference nor any role in the occurrence has been attributed to any of the petitioners in any manner whatsoever. Accountability Reference had been filed only against the CEO of the Company. The properties in the names of the petitioners have been frozen by the competent authority.
ii) Article 15 of the Constitution of Pakistan, Privileges and Immunities Clause of the United States Constitution , Clause 42 of Magna Carta Libertatum, Article 3 & 13 of the Universal Declaration of Human Rights, Article 12 of International

Covenant on Civil and Political Rights, Article 18(1) of the Convention on Rights of Person with Disability, Articles 5(d)(i)&(ii) of the International Convention on the Elimination of all Forms of Racial Discrimination, Article 15(4) of the Convention on the Elimination of all Forms of Discrimination Against Women, Article 12(1)&(2) of the African Charter on Human and Peoples' Rights, Article 10(1)&(2) of the Convention on the Rights of the Child, Article 5 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families deal with right of movement and liberty.
The right to movement is a fundamental right subject to restrictions imposed by law in the public interest. This right is not limited to movement within Pakistan but extends and includes the right to leave and enter Pakistan. Right to movement is an inseparable part of right to life.

Conclusion: i) The names of family members of fugitive accused person cannot be placed in Exit Control List.
ii) See above.

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34. Supreme Court of the United States
Apple Inc. v. Pepper, 587 U.S. ___ (2019)
https://www.supremecourt.gov/opinions/18pdf/17-204_bq7d.pdf

Facts: The case is pertaining to antitrust laws related to third-party resellers. Robert Pepper and other plaintiffs filed an antitrust lawsuit against Apple Inc., alleging Apple was monopolizing the market for iPhone apps. Apple controls which apps can be sold through its App Store and keeps 30 percent of sales from apps developed by third-party developers that are sold in the App Store. The district court dismissed the case, ruling consumers of iPhone apps are purchasing directly from app developers, not Apple, and therefore could not sue for antitrust violations according to precedent from a 1977 U.S. Supreme Court ruling (Illinois Brick Co. v. Illinois- which determined that indirect consumers of products lack Article III standing to bring antitrust charges against producers of those products). The Ninth Circuit Court reversed the dismissal, ruling consumers are purchasing from Apple, not the app developers.

Issue: Whether consumers may sue, for antitrust damages, anyone who delivers goods to them, even where they seek damages based on prices set by third parties who would be the immediate victims of the alleged offense?

Analysis: The Court affirmed the Ninth Circuit's decision that consumers were "direct purchasers" of apps from Apple's store and had standing under Illinois Brick case to sue Apple for antitrust practices. Justice Brett Kavanaugh, writing for the majority, stated that under the test of Illinois Brick, consumers were directly affected by Apple's fee and were not secondary purchasers; that consumers could sue Apple directly since it was Apple's fee that affected the prices of the apps; and that while the structure for any damages that consumers may win in the

continuing suit may be complicated, that is not a factor to determine the standing of the suit. The Court stated that Apple's interpretation of Illinois Brick "did not make a lot of sense" and served only to "gerrymander Apple out of this and similar lawsuits." Disagreeing with Apple's reasoning, the Court explained that if adopted, it would "directly contradict the longstanding goal of effective private enforcement and consumer protection in antitrust cases." Kavanaugh was joined by Justices Ginsburg, Breyer, Sotomayor, and Kagan**.**

Conclusion: In its 5–4 decision, the Supreme Court ruled that since consumers purchased apps directly through Apple, that they have standing under Illinois Brick case (supra) to seek antitrust charges against Apple.

LIST OF ARTICLES:-

1. **MANUPATRA**
   https://www.manupatrafast.com/articles/ArticleSearch.aspx?c=4
   RESIDUAL DOUBT IN DEATH PENALTY CASES by Puneet Pathak and Dhananjai Shekhawat

   Human judgment has historically proven to be a construct not without its own flaws. It is to counteract these flaws that the concept of 'due process' was created. Due process was conceived and refined over the years through judicial examination. The criminal justice system has always demanded a rigorous standard of proof due to the nature of the penalties it imposes. In the eyes of law, every person is innocent until proven guilty beyond reasonable doubt, however, in criminal law there is no place for absolute certainty. While proof beyond reasonable doubt has been the accepted standard, it falls under scrutiny in cases of death penalty due to the finality of sanction. In line with what Lafayette said, there has been demand for a stricter standard of proof for death sentence. Although, a significant number of nations have either imposed a complete ban, or a moratorium on capital punishment, other jurisdictions still continue to practise it. As mentioned, death penalty finds its root in the deterrent theory of punishment, and is predicated on the fact that there exists a class of criminals for whom reformation is impossible. While the merits, efficacy, and validity of death penalty is another debate altogether, it has been indubitably held that "for awarding the death sentence, the Court, while applying the rarest of rare case doctrine, is duty bound to equally consider both aggravating and mitigating circumstances and then arrive at its conclusion".

2. **COURTING THE LAW**
   https://courtingthelaw.com/2021/06/22/commentary/data-collection-and-consent-does-yes-really-mean-yes/
   DATA COLLECTION AND CONSENT: DOES YES REALLY MEAN YES? by Semra Islam

   It is proposed that where the provisions on consent under the Contract Act 1872 form a good starting point for curtailing the scope of data

collection by technology companies, it is better to adopt extensive data protection legislation. In this regard, the General Data Protection Regulation is a progressive step towards ensuring the rights of users. The GDPR attempts to resolve some significant data protection issues. For instance, it does not regard consent as freely given if the data subject has no genuine or free choice or is unable to refuse or withdraw consent without detriment. Moreover, it requires separate consent for each processing operation, with the request for consent to be presented in a manner clearly distinguishable from other matters. It is apparent that these provisions cater to and resolve many issues pertaining to consensual data collection by big technology companies and can prevent the occurrence of fraud, misrepresentation and undue influence. While Pakistan has other legislation which can be used to protect data, such as consumer protection laws or the Prevention of Electronic Crimes Act 2016, comprehensive legislation which solely pertains to regulating the scope of data collection by technology giants and is based on progressive international standards of privacy is the need of time.

3. **NOTRE DAME LAW REVIEW**
https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4980&context=ndlr

A DUAL SYSTEM OF JUSTICE: FINANCIAL INSTITUTIONS AND WHITE-COLLAR CRIMINAL ENFORCEMENT by Sebastian Bellm

Proposing more severe punishment for white-collar criminals is not a new concept. While many argue for the increased prison time of white-collar offenders, others provide "a counter-perspective on the use of prison sentences." Other areas of academic publication support the convergence of sentencing guidelines for white-collar and drug-related criminals, particularly in light of utilitarian and retributivist principles. Rather than simply recommending that white-collar criminals should be punished more, this Note proposes two distinct structural solutions that reevaluate the current policies directing the punishment of white-collar criminal conduct. Specifically, this Note argues that the Department of Justice (DOJ) should reconsider the practice of levying large fines against corporate entities that, through their public structure, pass the fines on to innocent shareholders.

After evaluating how and why the current approaches to the enforcement of white-collar laws are insufficient and fail to meet the fundamental principles of punishment, this Note proposes two solutions. First, the government organization tasked with combatting financial crimes and money laundering, should develop a more thorough and holistic approach to the reporting requirements of financial institutions. Second, judges should become more involved in the approval of Deferred Prosecution Agreements (DPAs). Rather than viewing DPAs as only bilateral agreements between prosecutors and defendants, judges should serve as

the representatives of public interest, similar to their role in plea agreements. These two proposals would strengthen the overall response to corporate white-collar crime by deterring future criminal activity.

4. **YALE LAW REVIEW**
https://www.yalelawjournal.org/forum/equal-supreme-court-access-for-military-personnel

EQUAL SUPREME COURT ACCESS FOR MILITARY PERSONNEL: AN OVERDUE REFORM by Eugene R. Fidell, Brenner M. Fissell & Philip D. Cave

Federal law currently provides for direct Supreme Court review of criminal convictions from almost all American jurisdictions, but not of most court-martial convictions. For them, an Article I court can veto access to the Supreme Court. This Essay argues for elimination of that veto.

5. **HARVARD LAW REVIEW**
https://harvardlawreview.org/2018/05/music-as-a-matter-of-law/

MUSIC AS A MATTER OF LAW by Joseph P. Fishman

What is a musical work? Philosophers debate it, but for judges the answer has long been simple: music means melody. Though few recognize it today, that answer goes all the way back to the birth of music copyright litigation in the nineteenth century. Courts adopted the era's dominant aesthetic view identifying melody as the site of originality and, consequently, the litmus test for similarity. Surprisingly, music's single-element test has persisted as an anomaly within the modern copyright system, where multiple features of eligible subject matter typically are eligible for protection.

Yet things are now changing. Recent judicial decisions are beginning to break down the old definitional wall around melody, looking elsewhere within the work to find protected expression. Many have called this increasing scope problematic. This Article agrees — but not for the reason that most people think. The problem is not, as is commonly alleged, that these decisions are unfaithful to bedrock copyright doctrine. A closer inspection reveals that, if anything, they are in fact more faithful than their predecessors. The problem is instead that the bedrock doctrine itself is flawed. Copyright law, unlike patent law, has never shown any interest in trying to increase the predictability of its infringement test, leaving second comers to speculate as to what might or might not be allowed. But the history of music copyright offers a valuable look at a path not taken, an accidental experiment where predictability was unwittingly achieved by consistently emphasizing a single element out of a multi-element work. As a factual matter, the notion that melody is the primary locus of music's

value is a fiction. As a policy matter, however, that fiction has turned out to be useful. While its original, culturally myopic rationale should be discarded, music's unidimensional test still offers underappreciated advantages over the "everything counts" analysis that the rest of the copyright system long ago chose.

6. **BANGLADESH LAW JOURNAL**
http://www.biliabd.org/article%20law/Vol13/Ummey%20Sharaban%20Tahura.pdf
CASE MANAGEMENT: A MAGIC LAMP IN REDUCING CASE BACKLOGS by Ummey Sharaban Tahura

Delay in disposing cases hinders justice. Case management can be a way to reduce delay. The case flow management or case management is the conceptual heart of court management in general. In this article, the role of case management in reducing case backlogs will be priorities in the historical background how it emerged and spread on USA, UK, Australia, and New Zealand. The Aim of my research is to study the impact of case management in reducing case backlogs and why it is necessary in the trial court. To do so, I will try to address two key questions, what the purpose of case management should be and how it could be successful in reducing backlogs. Research shows that there are some common features of case management but at the same time it also to be recalled that all features may not be applicable for all courts or even it may not be possible to apply all those features at the same time in one court. It would rather be more flexible to get an effective result. The successes of the case management also depend on the case managers who will apply the case management technique. There is a great debate of who should perform the role of case managers. I have also highlighted on what features can make case management more effective and what would be their future approach. Over the last two decades, the judiciary of developed country has widely accepted the role of case management with respect to reduce the caseload, and they have gotten extraordinary positive result in reducing caseload. The area of this research is limited to the civil courts only. So in Doctrinal Approach, this article will consider how case management is applied in the civil court proceedings, how it works and how it can be a successful tool in reducing backlogs in the light of Australian civil courts.

7. **GLOBAL VILLAGE SPACE**
https://www.globalvillagespace.com/judges-use-of-social-media-ethical-or-unethical/
JUDGES' USE OF SOCIAL MEDIA: ETHICAL OR UNETHICAL? by Barrister Ahmed Pansota

Recently, an increased number of judges are embracing social media, and use it just like everyone else. However, according to author, there are

certain ethical codes that every judge should follow while engaging with the public through social media. Such codes of conduct ensure that Judges remain unbiased and free from social manipulation.