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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Wednesday, 04 November 2026

Window: Uploads of 31 October and 2, 3 and 4 November 2026 (Sunday 1 November excluded), with stragglers swept from 29 and 30

FCC: 4 judgments | SC: 5 judgments | LHC: 3 judgments | SHC: 3 judgments | IHC: no new entries

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Window and method. This issue covers judgments approved for reporting and uploaded by the Supreme Court, the Federal Constitutional Court, the Lahore High Court and the Sindh High Court on the working days 31 October and 2, 3 and 4 November 2026. Sunday 1 November is excluded. Stragglers that appeared after the 30 October scan closed have been swept in: F.C.R.P. No. 128 of 2026 and C.P.L.A. No. 2118-L of 2016 of the Federal Constitutional Court, and thirteen Lahore High Court items bearing 30 October upload dates. An unusually high rate of negative endorsements at the Supreme Court. Of eleven in-window Supreme Court uploads, five carry the endorsement "Not Approved for Reporting" and are accordingly omitted: Crl.P.L.A. 1691/2022 (Gul Muhammad v. The State through Special Prosecutor, A.N.F.), Crl.P.L.A. 224-P/2025 (Shehryar v. The State), Crl.P.L.A. 172-P/2026 (Taimoor Khan v. The State), J.P. 609/2019 (Abu Huraira v. The State) and J.P. 279/2020 (Imtiaz Shaikh v. The State). This vindicates the practice recorded in the 30 October issue of reading the endorsement rather than keyword-matching it: a search for the phrase "approved for reporting" matches all five of these negative endorsements. A third image-only Supreme Court scan. C.A. No. 1468 of 2018, The Commissioner Inland Revenue, Lahore v. M/s. MCB Limited, Lahore, uploaded 30 October at 2,457 KB, has no text layer whatsoever: extraction yields twenty-six characters, all of them line breaks. It is a tax matter of likely general interest and has been added to the carry-forward queue, which now holds three items: C.P.L.A. 1157/2021, C.P.L.A. 788/2018 and C.A. 1468/2018. Portal filename mismatch at the Supreme Court. Crl. Petition No. 585 of 2018 is served from the file crl.p._585_2026.pdf. Practitioners searching the downloads directory by year will not find it under 2018. Marked "Approved for Reporting: No" at the Federal Constitutional Court. Crl. Org. Petition No. 1 of 2024 and F.C.P.L.A. No. 70-L of 2026, both uploaded 30 October and both authored by Ali Baqar Najafi, J, are marked No in the listing and are omitted. The Federal Constitutional Court's own Rules are now in force. F.C.R.P. No. 128 of 2026, digested below, is the first judgment to work systematically through the Federal Constitutional Court (Practice and Procedure) Rules, 2026, notified in the Gazette of Pakistan on 16 September 2026. The Court records that it initially adopted the Supreme Court

Rules after its creation by the Constitution (Twenty-Seventh Amendment) Act, 2025, and that the judgments of the Supreme Court are not binding upon it but carry persuasive value. The costs, security and forfeiture provisions for frivolous or vexatious review applications are set out in the entry and should be read by anyone contemplating a review in that Court. Islamabad High Court nil for a second consecutive window. The listing stands unchanged at eight items from the 30 October scan. Two Lahore High Court items held over. 2026 LHC 8341 (Director, Directorate of Intelligence & Investigation-Customs v. Habib Ullah, on the power of warrantless search under section 163 of the Customs Act, 1969 as an exception to section 162) and 2026 LHC 8457 (Ahmad Saeed Akhtar v. The State, on the trial jurisdiction of a Magistrate invested under section 30 Cr.P.C.) were extracted and are of evident interest, but are held over for want of space rather than merit. A 1980 suit decided in 2026. Civil Revision Application No. S-09 of 2006, digested below, arises from a suit instituted at Larkana in 1980 and decided on 2 November 2026, forty-six years after institution.

Federal Constitutional Court of Pakistan

4 judgments

REVIEW JURISDICTION OF THE FEDERAL CONSTITUTIONAL COURT UNDER ARTICLE 175G — THE FEDERAL CONSTITUTIONAL COURT (PRACTICE AND PROCEDURE) RULES, 2026 — COSTS, SECURITY AND FORFEITURE FOR FRIVOLOUS REVIEWS — NATURE OF LEAVE JURISDICTION UNDER ARTICLE 175F(1)(C) AND THE MERGER DOCTRINE — SECTIONS 112 AND 114 OF THE TRANSFER OF PROPERTY ACT, 1882

Balochistan Trading Company (Pvt) Ltd, Quetta v. Government of Balochistan through Commerce Department, Quetta and others

APPROVED FOR REPORTING

F.C.R.P. No. 128 of 2026 in F.C.P.L.A. No. 1267 of 2026 · Bench: Aamer Farooq, Rozi Khan Barrech and Syed Arshad Hussain Shah, JJ (judgment of the Court by Aamer Farooq, J) · Decided: 7 October 2026 · Uploaded: 29 October 2026 (straggler)

FACTS

The petitioner sought review of an order of this Court dated 19 May 2026 in F.C.P.L.A. No. 1267/2026, by which the judgment of the High Court of Balochistan in C.P. No. 99/2026 had been challenged. The underlying controversy concerned the forfeiture of a lease for arrears of rent. The petitioner had earlier filed C.P.L.A. No. 4765/2025, which was disposed of as not pressed on an offer to make payment, by orders dated 1 and 15 December 2025. It contended that, since arrears were paid on the order of the Court, forfeiture was not attracted under sections 112 and 114 of the Transfer of Property Act, 1882, and that payment had been made only on the understanding that the lease would stand restored; and that the order under review was not well reasoned, detailed reasons having been required given the nature of the controversy. The respondents were not represented.

LEGAL ISSUE

The grounds on which the Federal Constitutional Court may review its own judgment or order under Article 175G read with the Federal Constitutional Court (Practice and Procedure) Rules, 2026; whether a non-speaking order refusing leave furnishes a ground for review; and whether payment of arrears under an order of the Court precluded forfeiture of the lease.

HOLDING

The review was dismissed and the security deposited forfeited. Article 175G does not spell out the grounds of review, but Order XXVII Rule 1(b) of the Rules provides that they are analogous to those in Order 47 CPC, the rule being pari materia to its counterpart in the Supreme Court Rules, so that the case law on the subject applies. Supreme Court judgments are not binding on this Court but carry persuasive value. Review jurisdiction is limited and circumscribed, confined to errors apparent on the face of the record or shortcomings resulting in a miscarriage of justice; the Bench does not rehear the matter. On leave, a petition for leave to appeal is not an appeal as of right, and the Court looks for a question of law arising from the judgment impugned or from the lis; dismissal of a leave petition does not endorse the order against which leave is sought, no reasons need be given, and a non-speaking order furnishes no ground for review. Where leave is refused the impugned order does not merge into the refusal and the High Court's judgment remains final; where leave is granted and the petition becomes an appeal, the High Court's judgment merges into the decision of this Court. On the merits, the offer to pay was voluntary and no waiver of forfeiture or understanding as to restoration was recorded; sections 112 and 114 are not absolute.

LEGAL SIGNIFICANCE

The first systematic exposition of the Federal Constitutional Court's review jurisdiction under its own Rules, notified in the Gazette on 16 September 2026, and required reading before any review is filed in that Court. It sets out the machinery in terms: the grounds are analogous to Order 47 CPC; Rule 4 requires the Advocate-on-Record or the party to append a certificate in the form of a reasoned opinion that the application is maintainable and a review justified, with the warning that a wrong certificate can have grave repercussions; Rule 5(a) permits costs of not less than Rs. 25,000 and exposes an Advocate-on-Record to disciplinary

proceedings where the application is frivolous or vexatious; Rule 6 requires a security deposit of Rs. 50,000, forfeitable on dismissal; and the Court may dispose of a review by circulation without oral hearing. It also states, as a matter of institutional position, that judgments of the Supreme Court are persuasive but not binding on the Federal Constitutional Court. The treatment of leave jurisdiction under Article 175F(1)(c) and of the merger doctrine, following Sahabzadi Maharunisa, resolves a question that will recur as the new appellate structure settles.

LEGAL PROPOSITIONS (VERBATIM)

— The crux of the jurisprudence on the subject is that the review jurisdiction of this Court is quite limited and is circumscribed; being confined to the errors apparent on the face of the record or mistakes/shortcomings which would result in the miscarriage of justice.

— Recent trends show that litigants/lawyers treat review jurisdiction as another opportunity to reargue the case; by no means while hearing a review application the Bench is rehearing the matter, it is only to see if there is an apparent error/mistake on the face of the record.

— It is not out of place to mention here that the judgments of the Supreme Court are not binding on us, but carry persuasive value and where the jurisprudence laid down by it appeals or seems to be in consonance with the law and the Constitution, may be followed.

— The party or the AOR should exercise utmost care in handing down the certificate or opining on the issue as wrong certificate can have grave repercussions.

— By no means, petition for leave to appeal, is appeal as of right and only if leave is allowed then the petition acquires the status of appeal and is to be heard like one.

— the order against which leave is sought. While adjudicating leave application, the court is not required to give reasons for its decision.

— If the court is of the view that no case for grant of leave is made out, it can hold so simply through a non-speaking order.

— In case where leave application is refused, the order impugned does not merge into the leave refusal order and for all legal purposes order/judgment of the High Court is the final order.

— We observe with dismay that in the instant petition, no error on the face of the record was pointed out but there was reiteration of the grounds agitated before us while seeking leave to appeal.

LEGAL PRINCIPLES EXPOUNDED

The grounds of review before this Court are analogous to those in Order 47 CPC, and the case law on the corresponding Supreme Court rule applies.

Source: *In this behalf, Order XXVII Rule 1 confers on this Court power of review and Rule 1(b) ibid provides that the grounds on which a civil review application can be made or the judgment or order reviewed are analogous to the ones provided in Order 47 of the Code of Civil Procedure.*

Authority: *Article 175G of the Constitution; Order XXVII Rule 1(b), Federal Constitutional Court (Practice and Procedure) Rules, 2026; Order 47, Code of Civil Procedure, 1908*

A review will not be entertained without the prescribed security, which may be forfeited if the application is dismissed or found frivolous.

Source: *No application for review is to be entertained, as per Rule 6 of the Rules, unless the applicant deposits sum of Rupees 50,000/- as security in the designated account of the court.*

Authority: *Rules 4, 5(a) and 6, Federal Constitutional Court (Practice and Procedure) Rules, 2026*

Where leave is granted and the petition becomes an appeal, the High Court's judgment merges into the decision of this Court.

Source: *However, where the leave is allowed and the petition is converted into appeal then the order/judgment passed in appeal is the final one and the judgment/order of the High Court merges into the order/decision of this Court.*

Authority: *Article 175F(1)(c) of the Constitution; Sahabzadi Maharunisa v. Mst. Ghulam Sughran (PLD 2016 Supreme Court 358)*

On a leave application the Court looks only for a question of law arising from the impugned judgment or from the lis.

Source: *While hearing leave applications this Court is looking for a question of law arising either from the judgment impugned or from the lis which requires determination.*

Authority: *Article 175F(1)(c) of the Constitution; Kunhayammed v. State of Kerala (AIR 2000 SC 2587)*

OPERATIVE ORDER

For the above reasons, the instant review petition is dismissed. The security deposited is ordered to be forfeited under Rule 6 of the Rules.

■ **View Full Judgment**

PUBLIC EMPLOYMENT — WHETHER AN ANTECEDENT FIR CULMINATING IN ACQUITTAL BEFORE RECRUITMENT CAN DISQUALIFY A CANDIDATE — RULE 12.18 OF THE POLICE RULES, 1934 — MALICE IN LAW — GUIDING PRINCIPLES FOR ANTECEDENT VERIFICATION

Abdul Latif v. Inspector General of Police and others

APPROVED FOR REPORTING

C.P.L.A. No. 2930 of 2025 · Bench: Amin-ud-Din Khan, CJ and Ali Baqar Najafi, J (judgment by Amin-ud-Din Khan, CJ) · Decided: 16 October 2026 · Uploaded: 3 November 2026

FACTS

The petitioner secured second position on the merit list for the post of Driver Constable but was denied appointment on account of his previous involvement in FIR No. 307/2017, notwithstanding his acquittal by judgment dated 11 October 2018, some four years before the recruitment process, and notwithstanding Police Character Verification Certificates dated 13 October 2022 and 13 February 2024 issued by the District Police Officer, Dera Ghazi Khan disclosing no criminal record. His representation was rejected by the competent authority on 2 September 2024. His writ petition was dismissed on 10 April 2025 and Intra-Court Appeal No. 79/2025 on 22 May 2025 by the Lahore High Court, Multan Bench. The affidavit he had furnished was confined to his present involvement in any criminal case and did not extend to previous proceedings already culminating in acquittal. The petition, originally filed in the Supreme Court under Article 185(3), stood transferred to this Court under the Constitution (Twenty-seventh Amendment) Act, 2025.

LEGAL ISSUE

Whether the antecedent registration of a criminal case, culminating in acquittal by a competent court before the commencement of recruitment proceedings, can ipso jure constitute a subsisting disqualification warranting exclusion from appointment, and what the permissible contours of administrative discretion under the Police Rules, 1934 are in assessing character and suitability.

HOLDING

It cannot. An FIR is merely an accusatory instrument and constitutes neither proof nor presumption of guilt; once an accused has been acquitted, the appointing authority cannot disregard that adjudication or treat the accusation as established misconduct. Discretion to assess antecedents remains, but must be exercised bona fide, on objectively verifiable material and strictly according to law, and a distinction must be maintained between eligibility, suitability and disqualification. Rule 12.18 must be read harmoniously with the statutory scheme and with the principles of legality, fairness and non-arbitrariness; it cannot be enlarged to impose disqualifications beyond those contemplated by law, contrary to the maxim expressum facit cessare tacitum. The mechanical invocation of the antecedent FIR, without independent evaluation of its judicial culmination or any cogent adverse material, betrays non-application of mind and is an arbitrary exercise of statutory discretion offending Articles 4, 10A, 18 and 25, and bears the attributes of malice in law. The character verification certificates were material official evidence which could not be disregarded without cogent reasons. The affidavit, being confined to present involvement, could not be construed as concealment.

LEGAL SIGNIFICANCE

Of wide practical consequence for public recruitment, and notable for the six guiding principles issued to the competent federal and provincial authorities, and particularly to law-enforcement agencies: mere registration of an FIR shall not ipso facto disqualify; judicial acquittal shall receive due recognition subject to an objective assessment of antecedents and suitability; adverse character verification shall rest on authentic,

independently verifiable material rather than conjecture; upon acquittal the criminal case shall not be reflected adversely in the Police Character Certificate, and where proceedings remain pending only their pendency shall be disclosed without any presumption of guilt; no candidate shall ordinarily be excluded without a meaningful opportunity of hearing and a reasoned determination; and recruitment decisions shall conform to the prescribed statutory criteria, merit, proportionality and the constitutional guarantees of fairness and equality. The Court invokes the doctrine of malice in law, which arises where discretion is exercised for an unauthorised purpose or on extraneous considerations irrespective of personal animosity, and draws persuasive support from Avtar Singh in India and from the European Court of Human Rights in Allen on the continuing protection of the presumption of innocence after acquittal.

LEGAL PROPOSITIONS (VERBATIM)

— An FIR is merely an accusatory instrument and constitutes neither proof nor presumption of guilt.

— Mere involvement in a criminal case, followed by acquittal, cannot, in the absence of independently established adverse material, constitute a perpetual disqualification from public employment.

— Any contrary approach would substitute administrative suspicion for judicial determination, offending the constitutional principles of legality, fairness and equal protection of law.

— A distinction must be maintained between eligibility, suitability and disqualification, as discretion to assess suitability cannot be extended to impose disqualifications not contemplated by law.

— An acquittal by a competent court cannot be rendered ineffective through an administrative determination founded upon the same unproved allegations.

— The principle of audi alteram partem is not a mere procedural embellishment but an indispensable safeguard against administrative arbitrariness.

— Mere registration of an FIR shall not ipso facto constitute a disqualification from public employment.

— Adverse character verification shall be founded upon authentic, independently verifiable material rather than conjecture or suspicion.

— Administrative discretion cannot be employed to perpetuate an unproved criminal accusation as an indelible stigma or perpetual impediment to public employment.

LEGAL PRINCIPLES EXPOUNDED

Administrative discretion over antecedents is confined to its statutory purpose and must rest on legally sustainable grounds.

Source: *Administrative discretion must, therefore, remain confined to its statutory purpose and be exercised upon legally sustainable grounds.*

Authority: *Rule 12.18, Police Rules, 1934; maxim expressum facit cessare tacitum*

Malice in law arises from unauthorised purpose, extraneous considerations or disregard of material facts, without need of personal animosity.

Source: *The impugned action also attracts the doctrine of malice in law, which arises where statutory discretion is exercised for an unauthorized purpose, upon extraneous considerations or in disregard of material facts, irrespective of personal animosity.*

Authority: *Doctrine of malice in law; Articles 4, 10A, 18 and 25 of the Constitution*

Scrutiny of character must proceed on verified material, not on an enduring presumption of guilt after a concluded accusation.

Source: *The legitimate prerogative of the State to scrutinize the character and antecedents of prospective public servants must, therefore, be exercised upon verified material and within the confines of law, rather than upon an enduring presumption of guilt arising from a judicially concluded accusation.*

Authority: *Avtar Singh v. Union of India ((2016) 8 SCC 471); Ram Kumar v. State of Uttar Pradesh (AIR 2011 SC 2903); Allen v. the United Kingdom [GC], Application No. 25424/09*

A declaration confined to present involvement cannot be treated as concealment of concluded proceedings ending in acquittal.

Source: *In the absence of any express requirement to disclose past proceedings ending in acquittal, the petitioner's declaration could not be construed as concealment or misrepresentation.*

Authority: *Articles 4 and 25 of the Constitution*

OPERATIVE ORDER

In consequence of the foregoing discussion, the petition is converted into an appeal and allowed. The impugned judgment dated 22.05.2025, along with the consequential departmental determination excluding the petitioner from appointment as Driver Constable, is hereby set aside, being without lawful authority and of no legal effect. The respondents are directed to restore the petitioner's candidature strictly in accordance with his merit position and complete all outstanding statutory and procedural formalities, including medical fitness and other mandatory requirements, within thirty days of receipt of a certified copy of this judgment. ... The antecedent registration of FIR No. 307/2017, having culminated in judicial acquittal, shall not, per se, constitute a disqualification or furnish an independent ground for withholding appointment. No order as to costs.

■ **View Full Judgment**

CIVIL PROCEDURE — APPLICATION UNDER SECTION 12(2) CPC TO SET ASIDE A CONSENT DECREE FOR FRAUD — LIMITATION UNDER ARTICLE 181 OF THE LIMITATION ACT, 1908 AND POSTPONEMENT UNDER SECTION 18 — WHEN ALLEGATIONS OF FRAUD REQUIRE THE RECORDING OF EVIDENCE

Lachman Das and others v. Province of Sindh and others

APPROVED FOR REPORTING

C.P.L.A. No. 1130-K of 2024 · Bench: Syed Hasan Azhar Rizvi and Muhammad Karim Khan Agha, JJ (judgment by Muhammad Karim Khan Agha, J) · Decided: 6 October 2026 (reasons for short order of even date) · Uploaded: 2 November 2026

FACTS

Petitioner No. 1 instituted Suit No. 340 of 1979 before the Senior Civil Judge, Mirpurkhas for partition of properties including City Survey Nos. 756 to 759, Ward A, Mirpurkhas, claimed to be jointly owned under Hindu law. During its pendency the parties filed a compromise application under Order XXIII Rule 3 CPC under which the disputed property fell to his share; the compromise was accepted by order dated 15 July 1980 and a decree directed to be prepared. The property was used for educational purposes by the Education Department, Government of Sindh. On 28 November 2013, more than thirty-three years later, officials of the Education Department applied under section 12(2) CPC alleging fraud and misrepresentation, contending that the property had been acquired by the Government of Bombay in 1930 for the Mirpurkhas Madressah High School and that City Survey No. 556 had been fraudulently altered to 756. They said they learnt of the decree only when copies were filed in Rent Applications Nos. 9 and 10 of 2013; but in written objections in Rent Applications Nos. 2 and 3 of 1995 the Government and its educational authorities had themselves referred to Suit No. 340 of 1979 and objected that no notice of change of ownership had been served under section 18 of the Sindh Rented Premises Ordinance. The Senior Civil Judge dismissed the application on 10 February 2016; the revisional court set that order aside and directed evidence to be recorded; and the High Court declined to interfere.

LEGAL ISSUE

Whether the allegations of fraud and misrepresentation were supported by the material on record; whether the application under section 12(2) CPC was barred by limitation; and whether the revisional court was justified in directing the recording of evidence merely because fraud had been alleged.

HOLDING

The application was not supported by the material and was barred by limitation. An application under section 12(2) is governed by Article 181 of the First Schedule to the Limitation Act, 1908, prescribing three years from the accrual of the right to apply, ordinarily the date of the impugned decision; where the aggrieved person has been kept from knowledge by fraud, section 18 may postpone commencement to the date the fraud first became known, but a vague assertion as to the date of knowledge is of no legal avail, allegations of fraud or concealment requiring specific pleading with clear particulars. Here neither the precise date of knowledge nor the circumstances of discovery were disclosed, and the written objections of 1995 showed awareness of the suit and of a change of ownership. The revisional court was not justified in directing evidence merely because

fraud had been alleged: it proceeded on the assumption that such allegations invariably require issues and evidence, without examining whether their nature warranted that course, when the official records, correspondence and earlier judicial decisions were sufficient to determine them. The High Court failed to correct that legal infirmity.

LEGAL SIGNIFICANCE

Useful wherever a long-concluded decree is attacked under section 12(2) CPC, and a corrective to the reflexive assumption that an allegation of fraud necessarily requires a trial. Three propositions have general application. First, limitation for section 12(2) runs under Article 181 from the accrual of the right to apply, ordinarily the date of the decision, and section 18 postpones it only where fraud actually kept the applicant from knowledge, which must be pleaded with particulars and proved; a bare assertion of a date of knowledge will not do, still less where the applicant's own earlier pleadings show knowledge. Second, the court faced with such an application must ask whether the existing record is sufficient to determine the allegations, and if not must identify the material factual questions requiring evidence; it may not simply remit for a trial. Third, the trial court's dismissal was sustainable on these grounds even though its own reason, the competence of the applicants, was not a good one, illustrating that a right order may be upheld for different reasons.

LEGAL PROPOSITIONS (VERBATIM)

— A vague assertion regarding the date of knowledge would be of no legal avail, as allegations of fraud or concealment must be specifically pleaded with clear particulars.

— The mere assertion of knowledge of the decree in 2013 was, therefore, insufficient, in the circumstances of the case, to establish an entitlement to the benefit of section 18 of the Limitation Act.

— This shows that the respondents were aware, at least as early as 1995, of the partition suit and of a change of ownership as a result of the decree passed in that suit.

— The existing documentary record was, therefore, sufficient to resolve the allegations raised in the application under section 12(2) of the CPC, rendering the recording of further evidence unnecessary.

— Instead, it proceeded on the assumption that allegations of fraud and misrepresentation invariably required the framing of issues and recording of evidence, without examining whether the nature of those allegations actually warranted such a course.

— The material already available on record was sufficient to determine whether the allegations of fraud and misrepresentation furnished any basis for interference with the compromise decree.

LEGAL PRINCIPLES EXPOUNDED

Limitation for an application under section 12(2) CPC is three years under Article 181, running from the accrual of the right to apply.

Source: *It has been held in Bashir Ahmed v Muhammad Hussain (PLD 2019 SC 504) that the period of limitation for filing an application under section 12(2) of the CPC is three years under Article 181 of the First Schedule to the Limitation Act 1908, commencing from the date when the right to apply accrues to the aggrieved applicant, which ordinarily would be the date of the impugned decision.*

Authority: *Section 12(2), Code of Civil Procedure, 1908; Article 181, Limitation Act, 1908; Bashir Ahmed v. Muhammad Hussain (PLD 2019 SC 504)*

Section 18 postpones limitation only where fraud actually kept the applicant from knowledge of the decision.

Source: *Where, however, the aggrieved person has, by means of fraud, been kept from knowledge of the decision, the commencement of the period of limitation may be postponed, under section 18 of the Limitation Act, to the date when the fraud first became known to that person.*

Authority: *Section 18, Limitation Act, 1908*

A court must examine whether the record suffices and, if not, identify the factual questions requiring evidence.

Source: *The revisional court was required to examine whether such material was sufficient to determine the allegations and, if not, to identify the material factual questions which necessitated the recording of evidence.*

Authority: *Section 12(2) and Order XXIII Rule 3, Code of Civil Procedure, 1908*

OPERATIVE ORDER

Accordingly, this petition is converted into an appeal and allowed. Consequently, the constitutional petition filed before the High Court by petitioner No. 1 stands allowed. The impugned order of the High Court and the revisional order of the District Judge are set aside. The order of the trial court dismissing the application under section 12(2) of the CPC is restored for the reasons recorded in this judgment.

■ View Full Judgment

EXECUTION — AN EXECUTING COURT CANNOT GO BEHIND OR MODIFY A DECREE WHICH HAS ATTAINED FINALITY — CONSOLIDATION DETERMINATIONS AND THE LIMITS OF CONSTITUTIONAL JURISDICTION — THE DOCTRINE OF FINALITY AND VEXATIOUS RE-LITIGATION

Mst. Anwari daughter of Dilawar Shah through legal heirs v. Provincial Collector and others

APPROVED FOR REPORTING

C.P.L.A. No. 2118-L of 2016 · Bench: Rozi Khan Barrech and Syed Arshad Hussain Shah, JJ (judgment by Syed Arshad Hussain Shah, J) · Decided: 2 October 2026 · Uploaded: 30 October 2026 (straggler)

FACTS

The decree-holder challenged the judgment of the Lahore High Court dated 27 April 2016 dismissing her writ petition against the judgment of the Revisional Court dated 3 January 2013. In the first round of litigation the consolidation proceedings, including the allocation and reallocation of land and the assignment of Khasra numbers, had been examined up to the Supreme Court and the determination of the consolidation authorities remained undisturbed. In the second round the decree-holder sought, in execution proceedings, to have the consolidation proceedings and the acquisition of the land set aside, and in substance to have the Khasra number assigned to the land under a school changed. The executing court declined, observing that the matter had been finalised up to the Supreme Court and that the decree-holder was seeking to re-agitate it. The High Court held that in constitutional jurisdiction it could not go into factual controversies or scrutinise finalised consolidation proceedings.

LEGAL ISSUE

Whether the executing court could set aside consolidation proceedings and the acquisition of land, and whether determinations made by the consolidation authorities which have attained finality are amenable to interference in constitutional jurisdiction.

HOLDING

Leave refused. An executing court cannot modify or alter a decree which has attained finality, and cannot go behind the decree; the relief sought fell beyond the permissible scope of execution proceedings, so the executing court was justified in declining it. Determinations made by the consolidation authorities, on attaining finality in accordance with law, are not ordinarily amenable to interference in constitutional jurisdiction, which is not intended to provide a further forum for reappraisal of factual determinations entrusted to specialised statutory authorities; which Killa number should be given to the parties lies within the exclusive jurisdiction of the revenue authorities. Interference may nevertheless be warranted where a recognised legal ground such as want of jurisdiction or an established illegality is made out, and none was. The allocation having been examined in the earlier round up to the Supreme Court, the controversy could not be reopened merely by disputing the identification of the land or the Khasra numbers. The law does not countenance repeated and vexatious litigation; litigation cannot be kept alive indefinitely through successive proceedings.

LEGAL SIGNIFICANCE

A clean statement of two rules that dispose of a great deal of execution litigation. First, the executing court takes the decree as it finds it: it cannot modify or alter a decree which has attained finality, and cannot go behind it, so relief directed at setting aside the underlying administrative or revenue proceedings is outside its competence. Second, consolidation determinations which have attained finality are not amenable to writ jurisdiction, the assignment of Killa and Khasra numbers being within the exclusive province of the revenue

authorities, subject always to want of jurisdiction or established illegality. The judgment is also a vehicle for a full restatement of the doctrine of finality, quoting Muhammad Raqeeb on interest reipublicae ut sit finis litium and res judicata pro veritate occipitur, and on the principle that once a judgment attains finality between the parties it cannot be reopened unless fraud, mistake or want of jurisdiction is pleaded and established. The deprecation of vexatious and luxurious litigation will be useful in resisting second-round proceedings dressed as execution.

LEGAL PROPOSITIONS (VERBATIM)

— that an executing Court cannot modify or alter a decree which has attained finality

— A court executing a decree cannot go behind the decree.

— it is a well-settled principle of law that the determinations made by the consolidation authorities, upon attaining finality in accordance with law, are not ordinarily amenable to interference in constitutional jurisdiction.

— Hence it is established that constitutional jurisdiction is not intended to provide a further forum for reappraisal of factual determinations entrusted to specialized statutory authorities.

— The controversy could not, therefore, be reopened merely by disputing the identification of the land or the Khasra numbers assigned to it, in the absence of an independent and legally sustainable ground for interference.

— Courts have consistently deprecated the practice of indulging in vexatious and luxurious litigation, particularly where the lis has already been examined and decided by the competent judicial forums.

LEGAL PRINCIPLES EXPOUNDED

Relief directed at undoing the proceedings underlying a decree falls outside the scope of execution.

Source: *Therefore, the Executing Court was justified in declining the prayer made by the learned counsel for the decree-holder for setting aside the consolidation proceedings and the acquisition of the land, as, such relief would fall beyond the permissible scope of execution proceedings.*

Authority: *Sardar Ahmed Yar Khan Jogezai v. Province of Balochistan (2002 SCMR 122); Abdul Khaliq v. Haji (PLD 1983 Lah. 445); Topanamal v. Kundonal Gangaram (AIR 1960 SC 388)*

Writ jurisdiction over finalised consolidation determinations is confined to recognised legal grounds.

Source: *Interference may nevertheless be warranted where a recognized legal ground, such as want of jurisdiction or an established illegality, is made out.*

Authority: *Ghulam Qadir v. Member, Board of Revenue, West Pakistan (1970 SCMR 292); Allah Rehman v. Amtul Qayyum (1989 SCMR 1817); Asad Riaz v. Member, Board of Revenue, Punjab (1997 SCMR 1611)*

Finality is a rule of public interest; a concluded judgment may be reopened only for fraud, mistake or want of jurisdiction.

Source: *The doctrine of finality is primarily focused on a long-lasting and time-honored philosophy enshrined in the legal maxim "Interest reipublicae ut sit finis litium" which recapitulates that "in the interest of the society as a whole, the litigation must come to an end" or "it is in the interest of the State that there should be an end to litigation".*

Authority: *Muhammad Raqeeb v. Government of Khyber Pakhtunkhwa (2023 SCMR 992); section 11, Code of Civil Procedure, 1908*

OPERATIVE ORDER

Upshot of the foregoing discussion is that we see no illegality, infirmity, misreading or non-reading in the findings of the fora below warranting interference by this Court. Resultantly, this petition is dismissed and leave to appeal is refused.

■ **View Full Judgment**

Supreme Court of Pakistan

5 judgments

SERVICE — WHETHER OFF-DUTY CONDUCT CAN CONSTITUTE MISCONDUCT UNDER THE CIVIL SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 2020 — EFFECT OF ACQUITTAL IN THE CRIMINAL CASE ON AN INDEPENDENTLY ESTABLISHED DEPARTMENTAL FINDING — PROPORTIONALITY OF COMPULSORY RETIREMENT

Jawad Abbasi v. Director General Intelligence Bureau Division, Islamabad and another

APPROVED FOR REPORTING

C.P.L.A. No. 714 of 2026 · Bench: Ayesha A. Malik and Shahid Waheed, JJ (judgment by Shahid Waheed, J) · Decided: 27 October 2026 · Uploaded: 3 November 2026

FACTS

The petitioner was serving as a Cook in the Intelligence Bureau when disciplinary proceedings were initiated under the Civil Servants (Efficiency and Discipline) Rules, 2020. Four charges were framed: his involvement in FIR No. 294 dated 12 May 2022 under section 324 PPC on the allegation that he had set his wife on fire; that he was ill-mannered and short-tempered; that his conduct was criminal, unprofessional and prejudicial to good order and service discipline; and that his conduct had adversely affected the reputation and discipline of the department. He was served with the charge sheet and statement of allegations on 7 June 2022 and submitted his reply on 12 February 2024. The inquiry officer recorded his statement, examined thirteen witnesses in his presence and subject to his cross-examination, and found the charges proved, specifically examining and rejecting his plea that his wife had attempted suicide. The inquiry report was supplied to him and he was personally heard before the competent authority imposed the major penalty of compulsory retirement by order of 14 June 2024. His departmental appeal was rejected and the Federal Service Tribunal dismissed his service appeal on 15 January 2026. He had been acquitted in the criminal case, the criminal court having accepted his plea of attempted suicide.

LEGAL ISSUE

Whether conduct occurring in the home and unconnected with official duties can constitute misconduct under the Rules; whether the departmental finding was independently established and whether the petitioner's acquittal in the criminal case affects it; and whether the proceedings and the penalty complied with the Rules and with due process.

HOLDING

Leave refused. Nothing in Rule 2(1)(k) confines misconduct to acts committed during office hours or on departmental premises, and the expression "unbecoming of an officer and a gentleman" is directed at character and conduct generally. But misconduct is not a licence to regulate every private disagreement: conduct outside duty becomes the department's concern only where its gravity, or its connection with the service, reflects on fitness for public office or on public confidence. Judged by that standard the description of the occurrence as a private domestic matter must be firmly rejected. On the acquittal, criminal and departmental proceedings differ in purpose, forum, standard of proof and consequence and may proceed simultaneously; but the department may not substitute an accusation for evidence, and where action rests solely on nomination in a criminal case the FIR cannot sustain a penalty. Here the department framed distinct charges and the inquiry officer examined thirteen witnesses, so the findings rest on independently examined material. An acquittal records that guilt was not proved to the criminal standard; it does not declare that the conduct did not occur. On procedure, the Rules, Article 10A, section 24A of the General Clauses Act, 1897 and the principles of natural justice were all complied with, and the petitioner identified no rule breached. Compulsory retirement, the least severe of the major penalties, was not disproportionate. No substantial question of law of public importance arose under Article 212(3).

LEGAL SIGNIFICANCE

A judgment of general application on the reach of departmental discipline into private life, and one of the more quotable in recent memory. Four propositions are settled and restated at the close: off-duty conduct of sufficient gravity may constitute misconduct; departmental proceedings are distinct from and independent of criminal proceedings; an acquittal does not of itself undo misconduct independently established in

departmental proceedings; and a penalty must rest on independently established charges determined in proceedings conforming to the Rules and to natural justice. The nexus test is the controlling discipline in each direction: it defeats the plea that a home is a jurisdictional boundary, and it equally forbids the department from regulating every private indiscretion or from converting an FIR into proof. The Court draws comparative support from 5 U.S.C. § 7513(a) and from labour jurisprudence on off-duty conduct, and places the constitutional analysis on Articles 9, 14 and 25(3), the Punjab Protection of Women against Violence Act, 2016, the Domestic Violence (Prevention and Protection) Act, 2020 and CEDAW. Its observations on the recurring presentation of burn injuries as stove accidents or attempted suicide will be of use well beyond service law.

LEGAL PROPOSITIONS (VERBATIM)

— The conduct of a civil servant is not judged exclusively by the manner in which he performs his official duties.

— The word "gentleman" is not a title conferred by a letter of appointment. It is a standard of conduct, and its first and truest test is how a man treats those who live under his roof and depend upon his restraint.

— A gentleman does not cease to be one when he takes off his uniform; nor does a man who abuses his wife become one when he puts it on.

— Conduct outside duty becomes the department's concern only where its gravity, or its connection with the service, reflects upon the employee's fitness to hold public office or upon public confidence in the institution.

— The walls of a home are not a jurisdictional boundary, and violence does not become private because it is committed behind a closed door.

— The Constitution does not stop at the threshold of a home; it walks in with every woman who lives there.

— An FIR records an allegation; it is not proof of it. Suspicion may open an inquiry; only evidence can close it against the employee.

— The inquiry took neither the accuser's word nor the accused's; it took the evidence, and the evidence did not bear out the story of suicide.

— An acquittal is a verdict that guilt was not proved; it is not a certificate of good conduct.

— Two forums applying different standards to different bodies of evidence may reach different conclusions without either being in error.

LEGAL PRINCIPLES EXPOUNDED

Off-duty conduct constitutes misconduct only where it is established in conforming proceedings and bears a sufficient nexus with the service.

Source: *The question is whether the conduct complained of, once established through proceedings conforming to the Rules and to the principles of natural justice, falls within the statutory definition of misconduct and bears a sufficient nexus with the discipline, integrity, suitability or reputation of the public service.*

Authority: *Rules 2(1)(k) and 3(b), Civil Servants (Efficiency and Discipline) Rules, 2020; Government Servants (Conduct) Rules, 1964; 5 U.S.C. § 7513(a)*

Criminal and departmental proceedings differ in purpose, forum, standard of proof and consequence, and may run concurrently.

Source: *Criminal and departmental proceedings differ in purpose, forum, standard of proof and consequence.*

Authority: *Khaliq Dad v. Inspector General of Police (2004 SCMR 192); Dr. Sohail Hassan Khan v. Director General (Research), Livestock and Dairy Development Department, Punjab (2020 SCMR 1708); District Police Officer, Mianwali v. Amir Abdul Majid (2021 SCMR 420)*

Where departmental action rests solely on nomination in a criminal case, the FIR cannot sustain a penalty; it furnishes only the occasion for inquiry.

Source: *FIR No. 294 could therefore do no more than furnish the occasion for inquiry.*

Authority: *Ghulam Murtaza v. District Police Officer, Gujrat (2026 SCMR 843)*

Natural justice is read into every statute conferring power to act to a person's prejudice.

Source: *Disciplinary proceedings that may end a civil servant's career must conform to the principles of natural justice, which this Court has held are to be read into every statute conferring power to act to a person's prejudice: Mrs. Anisa Rehman v. P.I.A.C. (1994 SCMR 2232).*

Authority: *Mrs. Anisa Rehman v. P.I.A.C. (1994 SCMR 2232); Article 10A of the Constitution; section 24A, General Clauses Act, 1897; Ridge v. Baldwin [1964] AC 40*

Quantum of penalty is primarily for the competent authority; interference requires disproportion amounting to arbitrariness.

Source: *A court or tribunal will interfere only where the penalty is so disproportionate to the misconduct proved as to be arbitrary or to shock the conscience.*

Authority: *Rule 4, Civil Servants (Efficiency and Discipline) Rules, 2020; Article 212(3) of the Constitution*

OPERATIVE ORDER

Resultantly, this petition fails and is dismissed. Leave to appeal is refused.

■ **View Full Judgment**

FORFEITURE OF PROPERTY — JURISDICTION OF A SPECIAL JUDGE UNDER THE PREVENTION OF SMUGGLING ACT, 1977 DISTINGUISHED FROM FORFEITURE UNDER THE CONTROL OF NARCOTIC SUBSTANCES ACT, 1997 — ARTICLE 24 AND THIRD-PARTY PURCHASERS — SECTION 34 OPTION TO PAY FINE IN LIEU OF FORFEITURE — RECTIFICATION UNDER SECTION 40

Bashir Ahmed Malik and others v. The Director through Regional Director, ANF, Rawalpindi and others

APPROVED FOR REPORTING

Crl. Petitions Nos. 585, 625, 642 and 661 of 2018 and C.M.A. 560/2026 · Bench: Jamal Khan Mandokhail, Naeem Akhtar Afghan and Shahid Bilal Hassan, JJ (judgment by Jamal Khan Mandokhail, J) · Decided: 8 October 2026 (reasons for short order) · Uploaded: 3 November 2026

FACTS

Mr. Khalid Latif, a British national, was convicted in a narcotics case by the Southwark Crown Court on 8 March 1991. On 24 July 1995 the Regional Director, ANF issued a notice under section 6(4) and (5) of the Anti-Narcotics Force Ordinance, 1995 to the CDA concerning Plot No. 69, West Ratta Mansion Plaza, Jinnah Avenue, Blue Area, Islamabad and House No. 208, Street No. 18, Sector F-10/2, Islamabad, alleging that Khalid Latif and his father Ch. Muhammad Shafi had acquired them through narcotics. The Assistant Director advised on 10 March 1997 that the Control of Narcotic Substances Ordinance, 1995 did not apply and that proceedings should be taken under section 31 of the Prevention of Smuggling Act, 1977, and no further step was taken on the notice. On 22 August 1998 the Regional Director submitted written information to the Special Judge, Customs, Anti-Smuggling/Narcotics, Lahore. The Special Judge held by judgment of 30 August 2003 that the share of Khalid Latif in the Blue Area property and the house held by Ch. Muhammad Shafi had been acquired through drug proceeds, and ordered forfeiture. The appellants had purchased units in the commercial building and the second property, and were in possession; the second property had been transferred before the notice under section 31 issued on 7 September 1998. The Special Judge had also held the plot indivisible under the allotment order, so that the share forfeited could not be identified or separated.

LEGAL ISSUE

Whether the properties purchased by the appellants, who had no notice of the proceedings, could be forfeited; whether a Special Judge exercising jurisdiction under the Prevention of Smuggling Act, 1977 had power to order forfeiture of property found to have been acquired through drug proceeds; and whether the fora below were required to exercise the power under section 34 to offer a fine in lieu of forfeiture and the power of rectification under section 40.

HOLDING

The order of forfeiture was without jurisdiction. A Special Judge under section 32 of the Act of 1977 is empowered only to declare that property was acquired by smuggling; once he concluded that these properties had been acquired through drug proceeds he lost jurisdiction to order forfeiture under that Act, and only a Special Judge notified under the Control of Narcotic Substances Act, 1997 could make such an order on proof at a trial under that Act. No such proceedings were ever taken. Separately, the appellants had

purchased the properties and were in possession, so a third-party interest had been created; absent notice and absent rebuttal of their claim to ownership they could not be deprived of property guaranteed by Article 24. Where less than half of an indivisible property stood forfeited, section 34 required the Special Judge to offer Khalid Latif the option of paying a fine equal to the market value in lieu of forfeiture, which would have protected the appellants' rights; the failure to do so was a non-exercise of jurisdiction and an illegality. These were mistakes of law so manifest as to float on the face of the record, which section 40 empowered the fora below to rectify and which they failed to rectify.

LEGAL SIGNIFICANCE

Of direct importance wherever property is forfeited in narcotics or smuggling proceedings, and a sharp reminder that the two statutory regimes are not interchangeable. Three propositions have general application. First, the Prevention of Smuggling Act, 1977 confines the Special Judge to declaring that property was acquired by smuggling; a finding that property was acquired through drug proceeds takes the matter outside that Act and into the Control of Narcotic Substances Act, 1997, which requires a trial before a Special Judge notified under it. Second, a bona fide purchaser in possession who had no notice of forfeiture proceedings cannot be divested without his claim being rebutted, Article 24 operating in his favour. Third, where the property is indivisible and only part of it stands forfeited, section 34 is not optional: the option to pay a fine equal to market value must be offered, and failure to do so is non-exercise of jurisdiction. The treatment of section 40 is also valuable: a decision founded on a wrong or repealed law, or in conflict with the Constitution or a mandatory provision, is a mistake of law apparent on the face of the record and rectifiable, and the Court exercised Article 187 to rectify judgments of 2003 and 2008 in order to do complete justice.

LEGAL PROPOSITIONS (VERBATIM)

— In the absence of any notice to the appellants of the proceedings initiated under the provisions of the Act of 1977, how could their properties be forfeited?

— Legally, unless the claim of the appellants to be their owners was rebutted, they could not be deprived of their right to hold the properties, which is guaranteed by Article 24 of the Constitution, providing that "no person shall be deprived of his property save in accordance with law".

— The Special Judge under section 32 of the Act of 1977 is empowered only to declare that the property is acquired by smuggling.

— Once the Special Judge reached the conclusion that the properties were acquired through drug proceeds, he lost jurisdiction to pass any order regarding their forfeiture under the provisions of the Act of 1977.

— Only a Special Judge notified under the provisions of the Control of Narcotic Substances Act, 1997 can make an order for forfeiture of property, if, during the trial under the CNS Act 1997, it is proved before him that the property was acquired through drug proceeds.

— The fora below have failed to exercise their jurisdiction under section 34 of the Act of 1977, which amounts to non-exercise of jurisdiction and is, therefore, again an illegality.

— To invoke the jurisdiction under section 40 of the Act of 1977, the mistake must be apparent on the face of the record. It must be obvious upon a bare perusal and must not require detailed scrutiny of the evidence and detailed arguments.

— Where a decision is based on a wrong application of the law or on a repealed law, or is in violation of or in conflict with the Constitution or a mandatory provision of law, it is a mistake of law, which is a ground for its rectification.

LEGAL PRINCIPLES EXPOUNDED

A third-party purchaser in possession acquires an interest which cannot be extinguished without notice and rebuttal.

Source: *A third-party interest had been created in the properties, as the appellants had purchased the same and were in possession thereof.*

Authority: *Article 24 of the Constitution; section 31, Prevention of Smuggling Act, 1977*

Where part only of an indivisible property stands forfeited, the option under section 34 to pay a fine equal to market value must be offered.

Source: *the Special Judge was required to give an option to Mr. Khalid Latif to pay, in lieu of forfeiture of that part of the property, a fine equal to the market value of the property prevalent at the time of its forfeiture, as mandated by section 34 of the Act of 1977.*

Authority: *Section 34, Prevention of Smuggling Act, 1977*

Constitutional and jurisdictional errors of this order are mistakes of law apparent on the face of the record and rectifiable.

Source: *The constitutional violation and the legal grounds discussed in the paras supra disclose mistakes of law so manifest and apparent that they float on the face of the record.*

Authority: *Section 40, Prevention of Smuggling Act, 1977; Article 187 of the Constitution*

OPERATIVE ORDER

Therefore, in exercise of our appellate jurisdiction and to do complete justice under Article 187 of the Constitution, we rectify and amend the judgment dated 30.08.2003 passed by the Special Judge and the judgment dated 08.04.2008 passed by the Appellate Court, to the extent of the properties purchased by the appellants. Consequently, the judgments of the Special Judge dated 12.07.2010 and 13.02.2014 and the judgment dated 13.04.2018, passed by the Special Appellate Court, Islamabad (the High Court) are set aside. The properties purchased by the appellants, subject matter of these appeals, stand defreezed and are released in their favour.

■ View Full Judgment

CRIMINAL MEDICAL NEGLIGENCE — THE STANDARD OF CARE EXPECTED OF A MEDICAL PRACTITIONER — CIVIL NEGLIGENCE DISTINGUISHED FROM NEGLIGENCE ATTRACTING CRIMINAL LIABILITY — THE THREE ELEMENTS TO BE PROVED UNDER SECTION 319 PPC — PROTECTION OF SECTION 88 PPC

Amjad Ali v. Dr. Taqdees Naqaish and others

APPROVED FOR REPORTING

Crl.P.L.A. No. 955 of 2020 · Bench: Muhammad Hashim Khan Kakkar and Ishtiaq Ibrahim, JJ (judgment by Ishtiaq Ibrahim, J) · Decided: 6 October 2026 · Uploaded: 2 November 2026

FACTS

The respondents are medical practitioners at Shifa Hospital, Islamabad. The petitioner's wife was brought to the hospital with labour pain, was operated upon in the labour room and gave birth to twin female babies. The petitioner's grievance was that, contrary to his request, spinal anaesthesia was administered rather than an epidural injection. He instituted Private Complaint No. 128/2016 dated 16 December 2016 under sections 319, 322 and 34 PPC. The Judicial Magistrate, Section 30, Islamabad-West acquitted the accused doctors on 25 October 2017 by invoking section 249-A Cr.P.C., and the Islamabad High Court dismissed the petitioner's appeal on 16 July 2020. The record showed that post-operative complications were managed under standard medical protocols, that an initial administrative censure by the regulatory body had been withdrawn upon a finding of no medical negligence, that the petitioner's consent had admittedly been obtained before the operation, and that no previous ill-will or enmity was alleged against any of the accused doctors.

LEGAL ISSUE

What degree of negligence a medical practitioner must be shown to have displayed before criminal liability attaches, what the prosecution must prove to establish that a death occurred due to medical negligence under section 319 PPC, and whether the protection of section 88 PPC was displaced on these facts.

HOLDING

Leave refused. The applicable standard is that of an ordinarily competent practitioner exercising ordinary professional skill in the relevant field, not that of the most highly skilled specialist, and the law does not demand perfection. Liability cannot be founded merely on a failure to adopt extraordinary precautions which hindsight suggests might have prevented the harm. Conduct sufficient for civil negligence does not necessarily constitute a criminal offence: criminal liability requires a substantially higher degree of negligence characterised by grossness or serious recklessness, and where negligence is lower than gross there can be no mens rea. Under the doctrine magna culpa dolus est, gross negligence raises the presumption that the act

was intended, the degree of carelessness being measured by the imminence of the threatened mischief. For a death due to medical negligence under section 319, the prosecution must prove the existence of a duty, a breach causing death, and that the breach amounted to gross negligence. On the facts, the choice of anaesthesia resulting in an untoward outcome did not of itself establish an offence, and the circumstances did not take the doctors outside section 88 PPC, consent having been obtained and the procedure having been undertaken in good faith for the patient's benefit without intention to cause death.

LEGAL SIGNIFICANCE

The clearest recent statement of the threshold for prosecuting doctors in Pakistan, and of use both to practitioners defending such complaints and to complainants assessing them. Four propositions have general application. First, the standard of care is that of the ordinarily competent practitioner judged by a practice accepted as proper by the profession at the material time, not by hindsight. Second, the line between civil and criminal negligence is one of degree and is decisive: an ordinary lapse in care, even where it results in injury, cannot without more sustain a prosecution. Third, section 319 requires three elements to be proved, and the mere fact that injury or death occurred during treatment is no substitute for proof of gross negligence. Fourth, section 88 PPC affords a real but not absolute protection: its ingredients must co-exist, and consent, though important, is not by itself determinative of criminal liability. The Court draws on Malay Kumar Ganguly for the doctrine that great negligence is equal to intention, and the whole is a useful corrective to the practice of converting disputed clinical judgment into a criminal charge.

LEGAL PROPOSITIONS (VERBATIM)

— The law does not demand perfection from a medical practitioner and it only requires the exercise of reasonable professional competence in the discharge of the duty owed to the patient.

— The applicable standard is that of an ordinarily competent practitioner exercising ordinary professional skill in the relevant field, rather than that of the most highly skilled or exceptionally experienced specialist.

— Criminal liability requires a substantially higher degree of negligence, characterised by grossness or a degree of recklessness sufficiently serious to warrant penal consequences.

— An ordinary lapse in care, even where it results in injury, cannot, without more, sustain a criminal prosecution.

— Mere inadvertence or some degree of want of adequate care and caution might create civil liability but would not be enough to hold the doctor criminally liable.

— The mere fact that injury or death has occurred during medical treatment cannot, in itself, substitute for proof of this heightened degree of negligence.

— The protection afforded by Section 88, PPC, however, is not absolute.

— Thus, consent, though an important constituent, is not by itself determinative of criminal liability.

LEGAL PRINCIPLES EXPOUNDED

Three elements must be proved before a death is attributed to criminal medical negligence under section 319 PPC.

Source: *We are of the view that for prosecution to establish that a death occurred due to medical negligence under provisions of Section 319 Qatl-i-Khata by rash and negligent act the prosecution must prove (i) the existence of duty; (ii) a breach of the duty causing death and (iii) the breach of the duty must be characterized as gross negligence by that medical professional.*

Authority: *Section 319, Pakistan Penal Code, 1860*

Where negligence is gross, intent may be implied; the degree of carelessness is measured by the imminence of the threatened mischief.

Source: *According to this doctrine, when the degree of negligence is gross, it raises the presumption that the act was intended.*

Authority: *Doctrine of magna culpa dolus est; Malay Kumar Ganguly v. Sukumar Mukherjee (AIR 2010 SC 1162)*

The inquiry is whether the practitioner followed a practice accepted as proper by the profession at the material time.

Source: *The relevant inquiry is whether the practitioner acted in accordance with a practice accepted as proper by the medical profession at the material time and exercised the degree of care and competence reasonably expected in the circumstances.*

Authority: *Standard of the ordinarily competent practitioner*

The ingredients of section 88 PPC must co-exist; consent alone is not determinative.

Source: *The essential ingredients of the provision must co-exist, namely, that the act is done for the benefit of the person concerned, in good faith, without intention to cause death, and with the requisite consent.*

Authority: *Section 88, Pakistan Penal Code, 1860; section 249-A, Code of Criminal Procedure, 1898*

OPERATIVE ORDER

We, therefore, find that the learned Trial Court as well as the High Court have assigned cogent and convincing reasons for acquitting the respondents-accused by invoking the provisions of section 249-A Cr.P.C. No misreading or non-reading of any material piece of evidence, perversity or illegality has been pointed out which may warrant interference by this Court. Accordingly, this petition is dismissed and leave to appeal is refused.

■ **View Full Judgment**

CRIMINAL EVIDENCE — AT WHAT STAGE A WITNESS MAY BE GIVEN UP — THE ADVERSE PARTY'S RIGHT OF CROSS-EXAMINATION UNDER ARTICLE 133 OF THE QANUN-E-SHAHADAT ORDER, 1984 — RELATED WITNESSES

Qaiser Mehmood v. The State and another (with Ishtiaq Ahmad v. The State)

APPROVED FOR REPORTING

J.P. No. 228 of 2022 and Crl.P.L.A. No. 872-L of 2022 · Bench: Muhammad Hashim Khan Kakkar, Salahuddin Panhwar and Ishtiaq Ibrahim, JJ (judgment by Ishtiaq Ibrahim, J) · Decided: Heard 30 September 2026 · Uploaded: 2 November 2026

FACTS

The petitioner was charged under sections 302, 324 and 109 PPC in FIR No. 512 dated 18 November 2017 registered at Police Station Ladhay Wala Wairich, District Gujranwala, for the qatl-e-amd of Rana Liaqat Ali. By judgment dated 6 December 2019 the Additional Sessions Judge / MCTC, Gujranwala convicted him under section 302(b) PPC and sentenced him to imprisonment for life as Ta'zir with compensation of Rs. 500,000 under section 544-A Cr.P.C. The Lahore High Court dismissed his appeal on 2 March 2022, and the complainant sought enhancement of sentence. PW-11 was given up by the prosecution after his examination-in-chief had begun. The occurrence took place outside the gate of the victim's residence at about 5.30 p.m. as the deceased, with PW-9 (his son) and PW-10 (his brother), was returning home after prayers; the scene was lit by an electric bulb and the petitioner was known to the witnesses, being a resident of the same locality. The post-mortem by PW-1 recorded six firearm wounds corresponding to the ocular account.

LEGAL ISSUE

At what stage a party may give up a witness it has called, and whether giving up a witness after the commencement of examination-in-chief deprives the adverse party of its right of cross-examination under Article 133 of the Qanun-e-Shahadat Order, 1984.

HOLDING

A witness cannot be given up once the examination-in-chief has begun. A party asserting a fact is entitled to decide which witnesses to call or refrain from calling, and a witness may be given up before entering the box, and even after entering the box and being administered the oath; but once the examination-in-chief commences and a single word is uttered, the party calling the witness cannot give him up and the opposing party's absolute right of cross-examination arises. The triggering event is not the completion of the examination-in-chief but its commencement. The right of cross-examination, being a substantive procedural right conferred by law, cannot be rendered illusory by permitting a party to abandon a witness at its discretion after recording examination-in-chief, and any such request must be scrutinised by the Court on its merits so as to prevent arbitrary withdrawal and safeguard the accused's right to a fair trial. The giving up of PW-11 after chief examination was a grave error but not fatal, two other eyewitnesses remaining; and remanding after nine years would serve no useful purpose. The ocular account of PW-9 and PW-10 was natural and corroborated by the medical evidence, relationship alone being no ground to discard their testimony.

LEGAL SIGNIFICANCE

The second decision of this Court within a fortnight on Article 133 of the Qanun-e-Shahadat Order, 1984, following Crl.P.L.A. 251-P/2026 digested in the 30 October issue, and together they put the provision at the centre of trial practice. The rule stated here is precise and easy to apply: the line is drawn at the commencement, not the completion, of examination-in-chief, so that the moment a sworn witness begins to depose the adverse party's right of cross-examination attaches and the calling party loses the power to abandon him. The Court draws on the Peshawar High Court in Akhtar Ali, and from India on the Madhya Pradesh High Court in Ahmed Sayeed and the Kerala High Court in Lalitha, the last of which deprecates as unhealthy and irregular the very practice complained of here. The judgment is also a useful restatement that relationship alone is no ground to discard the evidence of a son or brother whose presence is natural and whose testimony is unshaken, and that a court will not remand a nine-year-old case for an error that has not prejudiced the result.

LEGAL PROPOSITIONS (VERBATIM)

— We are of the view that a witness cannot be given up once the examination-in-chief begins.

— It shows that examination-in-chief and cross-examination goes hand in hand and one cannot be separated from the other except when defense themselves do not want to exercise this right.

— A witness can be given up before they enters the witness box. Witness can also be given up when they enter the witness box and the oath is administered.

— The triggering event is not the completion of the entire examination-in-chief, it is the commencement of it. Once the witness is in the box, sworn, and begins to depose, the adverse party's right attaches.

— Hence, the right of cross-examination, being a substantive procedural right conferred by law, cannot be rendered illusory by permitting any party to abandon a witness at its discretion after recording examination-in-chief.

— Any such request must be scrutinized by the Court on its merits, with due regard to the circumstances and necessity of the case, so as to prevent arbitrary withdrawal of witnesses and safeguard the accused's right to a fair trial.

— While PW-9 (son) and PW-10 (brother) are undoubtedly related witnesses, relationship alone is no ground to discard evidence where their presence at the scene is natural and their testimony remains consistent, and unshaken throughout cross-examination.

LEGAL PRINCIPLES EXPOUNDED

A party chooses its witnesses, but the stage at which one may be given up is fixed by law.

Source: *We are of the opinion that a party asserting a fact is undeniably entitled to exercise its prerogative regarding which witnesses it chooses to call or refrain from calling, however, the question is that at what stage can the witness be given up.*

Authority: *Article 133(1), Qanun-e-Shahadat Order, 1984*

Once chief examination commences, the question of giving up the witness does not arise, and the practice of doing so is irregular.

Source: *Once chief examination commences, the question of 'giving up' the witness does not arise.*

Authority: *Lalitha v. Sarangadharan (1988 (2) KLT 394); State of M.P. v. Ahmed Sayeed (Cr.A. No. 456 of 2010); Akhtar Ali v. Amir Hatim (2021 PCrLJ 1439)*

Relationship does not by itself discredit an eyewitness whose presence is natural.

Source: *Real kinsmen would not let the actual murderer escape unpunished by falsely substituting an innocent person in his place.*

Authority: *Articles 132 and 133, Qanun-e-Shahadat Order, 1984*

OPERATIVE ORDER

In view of the foregoing discussion, we find no ground to interfere with the concurrent findings of the courts below. Consequently, J.P. No. 228 of 2022 is dismissed, and leave to appeal is refused. The reasons recorded by the courts below for awarding the sentence of imprisonment for life are also well-reasoned and call for no interference. No case for enhancement of sentence is made out. Accordingly, Crl.P.L.A. No. 872-L of 2022 is also dismissed, and leave to

appeal is refused.

■ View Full Judgment

CIVIL PROCEDURE — APPOINTMENT OF A RECEIVER UNDER ORDER XL RULE 1 CPC AS A HARSH AND EXTRAORDINARY REMEDY — THE MEANING OF "JUST AND CONVENIENT" — DISTINCTION FROM A TEMPORARY INJUNCTION — SCOPE OF SECTION 115 CPC — PRINCIPLE OF CONGRUENCE AND THE DOCTRINES OF ULTRA, INTRA AND EXTRA PETITA

Mst. Arshi and another v. Mst. Nissa Farhan Memon and others

APPROVED FOR REPORTING

Civil Petition No. 4906 of 2025 and C.M.A. No. 9026 of 2025 · Bench: Muhammad Ali Mazhar and Irfan Saadat Khan, JJ (judgment by Muhammad Ali Mazhar, J) · Decided: 5 August 2026 · Uploaded: 31 October 2026

FACTS

The petitioners filed Civil Suit No. 129/2025 for declaration and permanent injunction before the VIIth Senior Civil Judge, Hyderabad. Their injunction application under Order XXXIX Rules 1 and 2 CPC was dismissed by order dated 30 May 2025. On Miscellaneous Appeal No. 09/2025 under Order XLIII Rule 1 read with section 104 CPC, the VIIth Additional District Judge, Hyderabad allowed the appeal by order dated 5 August 2025, reversing the trial Court's order. The High Court of Sindh, Circuit Court, Hyderabad dismissed Revision Application No. 130/2025 by judgment dated 20 October 2025. The subject matter concerns business activities and operations conducted at "Kohinoor Petroleum Service Hyderabad", Plot No. 224/1, Survey Nos. 223 and 224, Unit No. VII, Shah Latifabad, Hyderabad, including the sale of fuel and lubricants and non-fuel services such as a car wash unit, a tyre and puncture mending shop and a tuck shop.

LEGAL ISSUE

The principles governing the appointment of a receiver under Order XL Rule 1 CPC and the distinction between the grant of a temporary injunction and the appointment of a receiver, and the proper scope of revisional jurisdiction under section 115 CPC.

HOLDING

The petition was converted into an appeal and allowed, the orders of the High Court and of the Additional District Judge being set aside and the miscellaneous appeal restored for fresh decision within forty-five days. The appointment of a receiver is a harsh and extraordinary remedy, not available as of right unless instantly recognisable and egregious facts are proved by affidavit or documentary evidence; it is governed by Order XL Rule 1 and is made where it appears just and convenient pendente lite to protect, manage and preserve property under litigation in imminent danger of being wasted, dissipated or lost. "Just" means fair to both parties as fair play commands, and "convenient" does not mean convenient to one party but a realistic and efficacious solution to preserve the property for whoever is eventually declared victorious. The benchmarks include likelihood of success, danger to the property, a balance of harm heavily favouring the applicant, absolute candour, and irreparable damage. The distinction from a temporary injunction is that an injunction requires only a fair question as to the existence of the right alleged, whereas for a receiver a good prima facie title must be made out. Section 115 is a supervisory apparatus to rectify jurisdictional error, not a mechanism for rehearing; and by the principle of congruence the Court cannot step outside the pleadings to grant relief not prayed.

LEGAL SIGNIFICANCE

A compact statement of the law on receivers, a remedy sought far more often than it is granted and frequently argued as though it were interchangeable with an injunction. The judgment makes the distinction explicit and workable: an injunction turns on whether the plaintiff has a fair question to raise as to the right alleged; a receiver requires a good prima facie title to be made out before property is taken into custodia legis. The gloss on "just and convenient" is likely to be quoted, as is the catalogue of benchmarks, including the requirement of absolute candour from the applicant. The judgment also contains a useful anatomy of section 115 CPC, separating the assumption of jurisdiction not vested, the failure to exercise vested jurisdiction, and

illegality or material irregularity in its exercise. Finally, the invocation of the principle of congruence and of the doctrines of ultra petita, intra petita and extra petita supplies a vocabulary for an objection commonly made but rarely named, that the court has granted relief which no party asked for.

LEGAL PROPOSITIONS (VERBATIM)

— So far as the appointment of receiver is concerned, it is considered as a harsh and extraordinary remedy and cannot be granted as a matter of right unless instantly recognizable and egregious facts are proven by affidavit or documentary evidence.

— The word "just" communicates that the appointment must be fair to both parties and necessitated and commanded by fair play and "convenient" does not only mean convenient or opportune to one party, rather it must be a realistic, commonsensical, efficacious and prosperous solution to preserve the property for whoever eventually is declared victorious by the Court.

— The order is discretionary and the discretion must be exercised in accordance with the principles on which judicial discretion is exercised.

— The jurisdiction conferred under Section 115 CPC is predominantly envisioned to rectify jurisdictional errors and oversights of lower courts which is a supervisory apparatus rather than a mechanism for rehearing a case.

— According to the "Principle of Congruence", the Court cannot step outside the precincts of the pleadings to grant a relief that was not prayed and cannot replenish gaps to reprieve a negligent litigant.

— At this juncture, the doctrine of "Ultra petita" "Intra petita" and "Extra petita" are also quite significant.

LEGAL PRINCIPLES EXPOUNDED

A receiver is appointed to preserve property in imminent danger, where it appears just and convenient pendente lite.

Source: *By and large, the receiver is appointed where it appears to the Court to be just and convenient pendente lite to protect, manage, and preserve property under litigation when there is an imminent danger of being wasted, dissipated, or lost whether before or after decree.*

Authority: *Order XL Rule 1, Code of Civil Procedure, 1908*

An injunction requires only a fair question as to the right alleged; a receiver requires a good prima facie title.

Source: *The distinction between a case in which temporary injunction may be granted and a case in which a receiver may be appointed is that while in either case it must be shown that property should be preserved from waste and alienation, in the former case, it is sufficient that if it be shown that the plaintiff in the suit has a fair question to raise as to the existence of the right alleged while in the latter case a good prima facie title to the property over which the receiver is sought to be appointed is to be made out*

Authority: *Order XXXIX Rules 1 and 2 and Order XL Rule 1, Code of Civil Procedure, 1908*

Illegality or material irregularity under section 115 means violating a law, a binding precedent or a procedure so as to cause a gross miscarriage of justice.

Source: *acting illegally or with material irregularity enlightens that the Court possesses jurisdiction but exercises it by violating a law or procedure which may be breaching an explicit provision of a statute or binding precedent or commit a procedural error that causes a gross miscarriage of justice.*

Authority: *Section 115, Code of Civil Procedure, 1908*

OPERATIVE ORDER

In the wake of foregoing discussion, this Civil Petition is converted into an appeal and allowed. ... who shall decide the same afresh, strictly in accordance with law, after affording adequate opportunity of hearing to all the parties, within a period of forty-five (45) days from the date of receipt of a copy of this judgment. ... The petitioners shall submit the accounts before the learned Additional District Judge, Hyderabad with advance copy to the respondent No. 1, 3 and 4 for their knowledge and consideration.

■ View Full Judgment

Lahore High Court

3 judgments

CRIMINAL PROCEDURE — CONDUCT OF A PROSECUTION INSTITUTED ON A POLICE REPORT UNDER SECTION 265A CR.P.C. — THE SUBORDINATE ROLE OF PRIVATELY INSTRUCTED COUNSEL UNDER SECTION 493 — GIVING UP A WITNESS ON THE INSTRUCTIONS OF PRIVATE COUNSEL — DIRECTIONS TO THE PROSECUTOR GENERAL, PUNJAB

Salman Ahmad Suleman v. The State and another

APPROVED FOR REPORTING

2026 LHC 8375 (Criminal Appeal No. 59286 of 2024) · Bench: Muhammad Amjad Rafiq, J · Decided: Heard 30 October 2026; signed 30 October 2026 · Uploaded: 31 October 2026

FACTS

The appellant was tried in FIR No. 498 dated 18 February 2023 registered under sections 302, 324, 186, 353 and 337-F(ii) PPC at Police Station Misri Shah, Lahore, and was convicted by the Additional Sessions Judge, Lahore on 29 August 2024 under section 302(b) PPC with imprisonment for life as Ta'zir, compensation of Rs. 500,000 under section 544-A Cr.P.C., and concurrent sentences under sections 324, 337-F(ii), 353 and 186. The occurrence was at 11.30 a.m. and the FIR was registered at 2.25 p.m.; the post-mortem followed fourteen hours later at 1.15 a.m., and the appellant, said to have been apprehended at the spot, was not medically examined until 2.43 a.m. The complainant (PW-10) conceded in cross-examination that he had been inside a grocery store and never saw the stabbing, and that he never joined the investigation. The medico-legal examination of Constable Shakeel Ahmad (PW-9) was delayed twelve days and showed a stitched wound whose duration contradicted the occurrence; he conceded that the accused was uninjured when handed to SI Pervaiz. No statement of the alleged chasers was recorded, no CCTV footage was collected, and no blood grouping or DNA analysis connected the recovered dagger to anyone. By a statement dated 22 August 2024 the State prosecutor gave up a surviving injured witness, Haider Ali, on the instructions of the complainant's private counsel.

LEGAL ISSUE

Whether a prosecution instituted upon a police report may be conducted, or a material witness given up, at the instance of privately instructed counsel rather than by the Public Prosecutor; and whether the prosecution had proved its case beyond reasonable doubt.

HOLDING

The appeal was allowed and the appellant acquitted. Section 265A Cr.P.C. requires that in every trial before a Court of Session initiated upon a police report the prosecution shall be conducted by the Public Prosecutor, and section 493 confines privately instructed counsel to acting under his direction. The prosecutor inverted these roles by abandoning a surviving injured witness simply on the instructions of the complainant's private counsel, which is a flagrant subversion of statutory mandates. On the merits, the inexplicable delays in the FIR, the post-mortem and the medical examination warped the complexion of the case; the complainant was shown not to be an eyewitness at all; the delayed medico-legal examination of PW-9 could not establish a weapon-inflicted injury and he conceded the accused was uninjured on apprehension; no identification parade was held although the witnesses had no prior acquaintance with the accused and no description was given in the FIR or in their statements; and the recovery of the dagger, without forensic linkage and with the ocular account discarded, was inconclusive. The prosecution failed to discharge its burden and the benefit of doubt accrued to the appellant as of right.

LEGAL SIGNIFICANCE

An emphatic statement on the independence of the prosecution service, and the second decision in this issue on the abandonment of witnesses, the Supreme Court having held in J.P. 228 of 2022, digested above, that a witness cannot be given up once examination-in-chief has begun. Read together they close the practice from both ends: the Supreme Court fixes the stage at which a witness may no longer be given up, and this judgment fixes who may decide to give one up at all. The statutory analysis is simple and important: in a case instituted on a police report the Public Prosecutor conducts the prosecution and privately instructed counsel acts under his direction, so a private lawyer cannot be permitted to dictate the fate of vital testimony. The Court follows Gulzar Hossain, calls on the Prosecutor General, Punjab to issue comprehensive general

guidelines across the province and to coordinate with stakeholders to guarantee the autonomous functioning of prosecutors in the districts, and directs that strict disciplinary action be initiated against both the delinquent prosecutor and the District Public Prosecutor, with a copy of the judgment transmitted to the Prosecutor General.

LEGAL PROPOSITIONS (VERBATIM)

— As mandated by Section 265A of Cr.P.C., a prosecution instituted upon a police report must be conducted exclusively by the Public Prosecutor.

— In a profound abdication of statutory duty, the prosecutor abandoned the witness simply on the instructions of the complainant's private counsel, remaining entirely oblivious to the foundational principles of criminal procedure.

— Allowing a private counsel to usurp the conduct of a prosecution is a flagrant subversion of statutory mandates.

— To deflect from the clear command of the law is a derelict betrayal of duty, an egregious failure through which a public prosecutor sabotages the entire pursuit of justice and sacrifices the fate of the parties they were sworn to protect.

— Under these critical circumstances, holding an identification parade before a Magistrate with the active participation of both the complainant and the witnesses was not merely a procedural formality; it was an absolute legal imperative.

— Thus, in the absence of such forensic corroboration, the recovery remains inconclusive.

— It is equally well-settled that it is better to let off one hundred guilty persons than to punish a single innocent person.

LEGAL PRINCIPLES EXPOUNDED

Privately instructed counsel may only assist, and must act under the direction of, the Public Prosecutor.

Source: *A privately engaged counsel is strictly limited to assisting the prosecutor under Sections 493 of Cr.P.C., yet the prosecutor inverted these roles, allowing a private lawyer to dictate the fate of vital testimony and undermining the pursuit of justice.*

Authority: *Sections 265A and 493, Code of Criminal Procedure, 1898*

The decision whether to give up a witness is the prerogative of the Prosecutor concerned, not of the complainant.

Source: *In a similar situation, when an application was filed by the complainant to give up a particular witness and the application was dismissed by the learned trial Court holding that it is the prerogative of Prosecutor concerned, this Court in a judgment reported as "GULZAR HOSSAIN versus ADDITIONAL SESSIONS JUDGE, JHANG and 4 others" (2004 P Cr. L J 1353), has upheld the decision of learned trial Court.*

Authority: *Gulzar Hossain v. Additional Sessions Judge, Jhang (2004 PCrLJ 1353)*

The Prosecutor General must secure the autonomous functioning of prosecutors by general guidelines and accountability.

Source: *It is imperative that the Prosecutor General issues comprehensive general guidelines across the province to ensure strict compliance with statutory mandates, while actively coordinating with key stakeholders to guarantee the unhindered, autonomous functioning of prosecutors in the districts.*

Authority: *Sections 265A and 493, Code of Criminal Procedure, 1898; Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006*

OPERATIVE ORDER

For what has been discussed hereinabove, this Court has no hesitation in holding that the prosecution has miserably failed to bring on record any iota of evidence connecting the appellant with the commission of the offence, whereas it was incumbent upon the prosecution to establish his guilt beyond any reasonable doubt. Consequently, the instant Criminal Appeal filed by Salman Ahmad Suleman, accused/appellant, is allowed, and the convictions and sentences recorded by the learned trial Court are set aside. He is acquitted of the charge and shall be released forthwith, if not required to be detained in any other case. ... Office shall transmit copy of this judgment to the Prosecutor General Punjab.

■ View Full Judgment

BAIL — THE PUNJAB CHILD MARRIAGE RESTRAINT ORDINANCE, 2026 AS A SPECIAL LAW — SECTION 5 AND THE DELIBERATE USE OF "COHABITATION" RATHER THAN "RAPE" — ADDITION OF SECTION 376(III) PPC WITHOUT FRESH MATERIAL — DISPLACEMENT OF THE EARLIER BULUGH PRECEDENTS

Mayoon v. The State and others

APPROVED FOR REPORTING

2026 LHC 8370 (Crl. Misc. No. 3388-B/2026, Rawalpindi Bench) · Bench: Tariq Mahmood Bajwa, J · Decided: 21 October 2026 · Uploaded: 31 October 2026

FACTS

The petitioner sought post-arrest bail in FIR No. 74 dated 15 April 2026 registered under sections 3, 4, 5 and 7 of the Punjab Child Marriage Restraint Ordinance, 2026 and section 376(iii) PPC at Police Station Injra, District Attock. The complainant's daughter had contracted marriage with the petitioner on 12 April 2026 without her parents' consent. Her age was first stated in the FIR as fourteen years and later as twelve; an ossification test assessed her as between fifteen and sixteen. On 18 April 2026 she recorded a statement under section 164 Cr.P.C. before the Judicial Magistrate stating that she had attained puberty two years earlier, had contracted the marriage of her own accord, and that neither had anyone abducted her nor committed zina with her. Section 365-B PPC was consequently deleted and sections 3, 4 and 5 of the Ordinance added. Section 376(iii) PPC was added on 7 May 2026 on the intervention of the prosecution without any fresh incriminating material. At the date of the alleged marriage the Punjab Child Marriage Restraint Act, 2026 had not yet been enacted and the Ordinance was in force.

LEGAL ISSUE

Whether, on the material available, the offences prima facie attracted fall within the prohibitory clause of section 497 Cr.P.C., which turns on the construction of sections 3, 4 and 5 of the Punjab Child Marriage Restraint Ordinance, 2026 and on whether section 376(iii) PPC was properly added.

HOLDING

Bail was granted. While deciding a bail petition the Court may tentatively examine the applicability of the penal provisions on the material available. Section 5 of the Ordinance specifically addresses child abuse arising from child marriage and prescribes punishment for it, providing that any form of cohabitation resulting from a child marriage shall constitute child abuse; although child marriage has been criminalised, the marriage itself has not thereby been declared void. The deliberate use of the expression "cohabitation" rather than "rape", and the specific punishment prescribed, prima facie indicate that the legislature has separately addressed the consequences of cohabitation in the context of child marriage, so that the addition of section 376(iii) PPC without supporting material appears unwarranted; and in any event a special law governing a particular subject prevails over the general law. The line of precedent treating puberty as relevant to a valid marriage rested on the erstwhile framework and cannot be applied after the Ordinance. On the material available the conduct at most falls within sections 3 and 4, which carry imprisonment not exceeding three years, so the offences do not fall within the prohibitory clause, and bail should be favourably considered absent exceptional circumstances.

LEGAL SIGNIFICANCE

The first construction of the Punjab Child Marriage Restraint Ordinance, 2026 to reach the reports, and important for both prosecution and defence in a field that has just been recast by statute. Three propositions have general application. First, the Ordinance deals comprehensively with the consequences of child marriage, and the legislature's choice of "cohabitation" in section 5 rather than "rape" indicates a separate and self-contained treatment, so that the reflexive addition of section 376(iii) PPC without independent material is open to challenge. Second, being a special law on a particular subject the Ordinance prevails over the general law, following Sui Northern Gas Pipelines and Syed Mushahid Shah. Third, and of wide consequence, the Court holds that the earlier line of authority from this Court and the Supreme Court treating

Bulugh as relevant to the validity of a marriage was founded on the erstwhile legal framework and cannot be applied to controversies arising under the Ordinance. The judgment also notes that although child marriage is now criminalised, the marriage itself has not been declared void by the provision under consideration.

LEGAL PROPOSITIONS (VERBATIM)

— A perusal of section 5 of the under discussion special law reveals that it has specifically addressed the question of child abuse arising from child marriage and prescribed punishment for the same under subsection (2).

— The provision contemplates that any form of cohabitation resulting from child marriage shall constitute child abuse, Although child marriage has been criminalized, the marriage itself has not, by virtue of the provision under consideration, been declared void.

— The deliberate use of the expression "cohabitation", rather than "rape", and the specific punishment prescribed therefor, prima facie, indicate that the legislature has separately addressed the consequences of cohabitation in the context of child marriage.

— Even otherwise it is a well-settled principle of statutory interpretation that a special law, being a specific legislative provision governing a particular subject, prevails over the general law.

— However, the legal landscape has undergone a substantial change following the Ordinance ibid, the ratio decidendi of the earlier precedents was founded upon the erstwhile legal framework and, therefore, cannot be applied to the present controversy.

— When an offence falls within the ambit of non-prohibitory clause, the concession of bail be favourably considered and should only be declined in exceptional cases, but no such exceptional circumstance has been pointed out for refusal of bail.

LEGAL PRINCIPLES EXPOUNDED

A special law governing a particular subject prevails over the general law.

Source: *Reliance in this respect is placed on the case laws reported as Sui Northern Gas Pipelines Ltd. (SNGPL), Islamabad vs. Messrs S.K. Pvt. Limited and others (2025 SCMR 570) and Syed Mushahid Shah and others vs. Federal Investigation Agency and others (2017 SCMR 1218).*

Authority: *Sections 3, 4 and 5, Punjab Child Marriage Restraint Ordinance, 2026; Sui Northern Gas Pipelines Ltd. v. Messrs S.K. (Pvt.) Ltd. (2025 SCMR 570); Syed Mushahid Shah v. Federal Investigation Agency (2017 SCMR 1218)*

Precedents treating Bulugh as determinative of a valid marriage rested on the superseded framework.

Source: *In this regard, it may be observed that Islamic jurists and scholars have historically recognized Bulugh (puberty or the attainment of reproductive maturity) as a significant threshold in determining the transition from childhood to maturity.*

Authority: *Punjab Child Marriage Restraint Ordinance, 2026*

A penal provision may not be added to a case without fresh incriminating material and consistently with the statutory framework.

Source: *In these circumstances, the addition of section 376(iii) PPC, without supporting material, appears unwarranted on the facts presently available and in the light of the applicable statutory framework.*

Authority: *Section 376(iii), Pakistan Penal Code, 1860; section 497, Code of Criminal Procedure, 1898; Tariq Bashir v. The State (PLD 1995 SC 34); Muhammad Amjad Naeem v. The State (2025 SCMR 1130)*

OPERATIVE ORDER

Consequently, this petition is allowed and petitioner is admitted to bail subject to his furnishing bail bonds in the sum of Rs.5,00,000/- (Rupees five lac) with one surety, in the like amount to the satisfaction of the learned trial court. The observations are tentative in nature and would not be taken as conclusive.

■ View Full Judgment

HARASSMENT — THE STATUTORY DEFINITION IN SECTION 2(H) OF THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010 — LIMITS OF THE OMBUDSPERSON'S JURISDICTION — PARTICULARS OF A COMPLAINT — SCOPE OF ARTICLE 199 REVIEW OF PENALTY

Dr. Mohi-ud-Din Dilshad v. Mst. Asia Munir and others

APPROVED FOR REPORTING

2026 LHC 8275 (Writ Petition No. 64369 of 2021, with W.P. No. 70796 of 2021) · Bench: Muhammad Ajmal Zahid, J · Decided: Heard 29 October 2026 · Uploaded: 30 October 2026

FACTS

Respondent No. 1 complained of harassment at the workplace, alleging that the petitioner had attempted to develop personal relations with her, made inappropriate and sexually demeaning remarks during their professional interaction, shown her a vulgar picture and on another occasion blocked her car to attract her attention, and that these incidents formed part of a continuing course of conduct affecting her working environment. The petitioner denied the allegations and said the complaint was motivated by personal animosity and departmental politics. The Ombudsperson, Punjab accepted the allegations and imposed the major penalty of compulsory retirement by order dated 26 March 2021. On representation the Governor, Punjab, by order dated 11 August 2021, observed that the petitioner's conduct was unprofessional and that the allegations as to inappropriate remarks had not been satisfactorily rebutted, but considered compulsory retirement disproportionate and substituted the minor penalty of withholding of annual increment for one year under section 4(4)(i)(b). The petitioner sought the setting aside of the order and dismissal of the complaint; respondent No. 1 sought restoration of the major penalty.

LEGAL ISSUE

Whether conduct found to be unprofessional or objectionable satisfies the statutory definition of harassment in section 2(h) of the Act so as to engage the jurisdiction of the Ombudsperson, and the extent to which the High Court in constitutional jurisdiction may interfere with the quantum of penalty.

HOLDING

Both petitions were dismissed. The decisive consideration is not merely whether conduct is objectionable or unbecoming, but whether its nature, context and effect bring it within the specific statutory parameters of harassment; conduct falling short may still constitute misconduct under the service rules, but cannot be brought within the Ombudsperson's jurisdiction merely by describing it as workplace harassment. Applying the Federal Constitutional Court in Usman Shahid v. Nadia Sarwar, every instance of misconduct or objectionable behaviour does not necessarily constitute sexual harassment, and the jurisdiction conferred by the Act cannot be enlarged beyond that conferred by the legislature. The objection that the complaint failed to specify date, time and place was misconceived: proceedings under the Act are not criminal proceedings on an FIR, and the absence of precise particulars cannot of itself be a ground for rejection where the allegations relate to a course of conduct, the question being whether they are sufficiently intelligible to be answered and determined. On the record, the petitioner demonstrated no legally sustainable ground for setting aside the order, and respondent No. 1 demonstrated no unlawfulness in the Governor's substitution of the minor penalty; constitutional jurisdiction does not permit the Court to enhance or reduce a penalty on its own assessment.

LEGAL SIGNIFICANCE

Of practical importance in a jurisdiction that has grown rapidly and is frequently invoked for conduct that may be unprofessional without being harassment within the statute. The judgment applies the Federal Constitutional Court's decision in Usman Shahid v. Nadia Sarwar, digested in the 29 September issue, and carries forward its governing distinction that every instance of sexual harassment constitutes harassment but every instance of harassment does not necessarily constitute sexual harassment. Three points have general application. First, the conduct complained of must be tested against the statutory definition rather than characterised as harassment because it is inappropriate; where it does not satisfy the definition the proper route is disciplinary action under the service rules. Second, a complaint under the Act is not to be rejected

merely for want of particulars of date, time and place where it concerns a course of conduct, the test being intelligibility sufficient to permit an answer and a determination. Third, the Court will not act as a court of appeal on quantum: interference requires a demonstrable legal infirmity, not a different view of the gravity of the conduct.

LEGAL PROPOSITIONS (VERBATIM)

— Thus, the decisive consideration is not merely whether the conduct is objectionable or unbecoming of an employee, but whether its nature, context and effect bring it within the specific statutory parameters of harassment.

— Conduct falling short of these requirements may nevertheless constitute misconduct warranting disciplinary action under the applicable service rules; however, it cannot be brought within the jurisdiction of the Ombudsperson merely by describing it as workplace harassment.

— Where the allegations, even if accepted, do not satisfy the applicable definition, the conduct may, depending upon its nature, attract disciplinary consequences under the relevant service law; however, the jurisdiction of the Ombudsperson cannot be enlarged beyond that conferred by the legislature.

— The absence of precise particulars of date, time or place, by itself, cannot constitute an automatic ground for rejection of a complaint

— No single allegation should be isolated from the remaining circumstances where the complaint concerns a course of conduct. Conversely, the cumulative nature of the allegations cannot, by itself, dispense with the requirement that the essential statutory ingredients be established.

— The exercise of constitutional jurisdiction does not permit this Court to enhance or reduce a penalty merely on the basis of its own assessment of the seriousness of the conduct.

— The relevant question is whether the allegations, considered as a whole and in the light of the available material, are sufficiently intelligible to enable the respondent to answer them and the competent forum to determine whether the conduct complained of falls within the statutory definition of harassment.

LEGAL PRINCIPLES EXPOUNDED

Not every instance of workplace misconduct amounts to sexual harassment within the statute.

Source: *The Court emphasized that every instance of misconduct or objectionable behaviour at the workplace does not necessarily constitute sexual harassment within the contemplation of the statute.*

Authority: *Usman Shahid v. Nadia Sarwar (C.P.L.A. Nos. 1011 and 1113 of 2025, Federal Constitutional Court, decided 23.07.2026); section 2(h), Protection against Harassment of Women at the Workplace Act, 2010*

The jurisdiction conferred by the Act cannot be invoked merely because conduct is inappropriate or unprofessional.

Source: *The conduct complained of must satisfy the essential ingredients of the applicable statutory definition, and the jurisdiction conferred by the Act cannot be invoked merely because the conduct is inappropriate, unprofessional or otherwise amenable to disciplinary action under the relevant service rules.*

Authority: *Sections 2(h) and 4(4)(i)(b), Protection against Harassment of Women at the Workplace Act, 2010*

Constitutional jurisdiction is supervisory and requires a recognised infirmity before interference.

Source: *Constitutional jurisdiction is supervisory in nature and is not ordinarily exercised to substitute the Court's own assessment for that of a competent statutory authority merely because another view may be possible.*

Authority: *Article 199 of the Constitution; Rahim Shah v. Chief Election Commissioner of Pakistan (PLD 1973 SC 24); Muhammad Lehrasab Khan v. Mst. Aqeel-un-Nisa (2001 SCMR 338)*

OPERATIVE ORDER

For the foregoing reasons, both Constitutional Petitions, being devoid of merit, are dismissed.

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Sindh High Court 3 judgments

INCOME TAX — WHETHER A DEVELOPMENT AUTHORITY ESTABLISHED BY PROVINCIAL STATUTE IS EXEMPT FROM FEDERAL INCOME TAX — SECTION 49(4) OF THE INCOME TAX ORDINANCE, 2001 — ARTICLES 165 AND 165A — SRB V. CAA DISTINGUISHED

Commissioner Inland Revenue Zone-I, RTO, Hyderabad v. M/s. Hyderabad Development Authority, Hyderabad

APPROVED FOR REPORTING

2026 SHC KHI 2133 (Income Tax Reference Applications Nos. 449 to 453 of 2022) · Bench: Agha Faisal and Shah Nawaz Memon, JJ · Decided: Heard 28 October 2026; decided 2 November 2026 · Uploaded: 2 November 2026

FACTS

The respondent was established under the Hyderabad Development Authority Act for the development, improvement and beautification of the urban areas of Hyderabad. For tax years 2011 to 2013 it filed returns declaring losses, which were treated as assessments; the Additional Commissioner found them erroneous in so far as prejudicial to the interest of revenue and amended them under section 122(5A), charging minimum tax on turnover with default surcharge and penalty, the department's position throughout being that the respondent had been treating itself as exempt. For tax years 2014 and 2015 the returns were likewise amended with disallowances and additions. The orders were remanded in appeal so that the respondent's status might be ascertained, and fresh orders were made and upheld by the Commissioner (Appeals) on 30 August 2021 and 20 September 2021 in view of section 49(4). On appeal the Appellate Tribunal, by order dated 4 July 2022, accepted a contention taken by additional grounds that the respondent performs the functions of the Provincial Government and falls outside the taxing power of the Federation, relying on SRB v. CAA, on the Rules of Business of the Government of Sindh, 1986 and on the HDA (Amendment and Revival) Act, 2013, and applying a control and function test deleted the demands for all five years without taking up the remaining grounds.

LEGAL ISSUE

Whether the Tribunal was justified in holding the respondent not liable to income tax on the strength of SRB v. CAA, and whether a development authority established by provincial law falls within section 49(4) of the Income Tax Ordinance, 2001 so as to be outside the exemption claimed.

HOLDING

All four questions were answered in the negative and the reference applications allowed. SRB v. CAA concerned a provincial sales tax and the competence to impose it, not section 49(4), and a judgment is an authority for what it decides; the Supreme Court there did not decide the Article 165(1) question at all. On Article 165, as summarised in XEN Shahpur, the exemption is available to a government and not to a separate juristic person, even one wholly owned by Government, Article 165A having been enacted for the removal of doubt as to Parliament's power to tax the income of such bodies, and a development authority established by statute has been held to be a separate juristic personality not to be equated with Government for that purpose. XEN Shahpur itself concerned a civil servant discharging the functions of the Provincial Government, so that Government itself was taxed; the respondent stands differently as a body corporate established by statute, and section 49(4), added in 2007, gives statutory expression to the same distinction. The Lahore High Court in Rawalpindi Development Authority construed the same sub-section to the same effect, and there is no inconsistency with the Supreme Court decisions to be reconciled, which were not concerned with sub-section (4). The result does not turn on the Tribunal's finding as to association with Government. The remaining grounds, depending on the record, remain open for the Tribunal.

LEGAL SIGNIFICANCE

Settles a question of considerable revenue significance for every development authority and similar statutory body in the Province, and corrects a line of argument that has been run with some success before the Tribunal. Three propositions have general application. First, section 49(4) of the Income Tax Ordinance, 2001 must be applied as written: a body corporate established by statute is not Government, and the sub-section gives statutory expression to the distinction drawn under Article 165. Second, the exemption in Article 165(1) belongs to a government and not to a separate juristic person even if wholly owned by Government, Article

165A having been enacted for the removal of doubt; a control and function test cannot be used to cross that line. Third, and of general methodological value, SRB v. CAA is confined to what it decided, namely provincial sales tax and legislative competence, and cannot be transposed to federal income tax liability; a judgment is an authority for what it decides. The Court also makes clear that allowing the reference does not restore the demands: the grounds specific to the individual assessments were never decided and the appeals must now be heard on them.

LEGAL PROPOSITIONS (VERBATIM)

— The sub-section was not in issue in CAA, which concerned a provincial sales tax and the competence to impose it, and a judgment is an authority for what it decides.

— the exemption in Article 165(1) is available to a government and not to a separate juristic person, even one wholly owned by Government

— The respondent stands differently, as a body corporate established by statute, and section 49(4), which was added to the Ordinance in 2007, gives statutory expression to the same distinction.

— With respect, we see no inconsistency to be reconciled, because those decisions were not concerned with the construction of sub-section (4), which must be applied as it is written, and the settled reading of Article 165 points the same way.

— Our conclusion rests on the text of the Ordinance, and not on the Lahore judgment, with which it is, however, in accord.

— In the negative. The respondent falls within the purview of section 49(4) of the Ordinance.

— In a reference this Court decides the questions of law arising from the order of the Tribunal, and that order stands modified accordingly.

— The consequence of our answers is therefore not that the demands stand restored, but that the appeals must be decided by the Tribunal on those grounds.

LEGAL PRINCIPLES EXPOUNDED

A decision on the provincial sales tax liability of a federal authority does not govern the federal income tax liability of a provincial development authority.

Source: *In the negative. The decision of the Supreme Court on the provincial sales tax liability of a federal authority does not extend to the federal income tax liability of a development authority established by Provincial law, which is governed by section 49(4).*

Authority: *Section 49(4), Income Tax Ordinance, 2001; SRB v. CAA (2017 SCMR 1344)*

A statutory development authority is a separate juristic personality and not Government for the purposes of Article 165.

Source: *a development authority established by statute was held to be a separate juristic personality that could not be equated with Government for the purposes of that Article.*

Authority: *Articles 165 and 165A of the Constitution; XEN Shahpur (2016 SCMR 1030); CBR v. WAPDA (PLD 2014 SC 766); PTV (2011 SCMR 1117)*

Grounds depending on the record and the appreciation of facts are for the Tribunal and remain open.

Source: *These depend on the record and on the appreciation of facts, which is the province of the Tribunal.*

Authority: *Section 133(5), Income Tax Ordinance, 2001; Inter Quest (2025 SCMR 257); Squibb Pakistan (2017 SCMR 1006)*

OPERATIVE ORDER

The reference applications are allowed. The order of the Tribunal dated 04.07.2022 in ITA Nos. 1476, 1477, 1478, 1503 and 1504/KB/2021, to the extent that it holds the respondent to be exempt from, and not liable to, tax under the Ordinance, is set aside. The appeals stand restored to the Tribunal, which shall decide the remaining grounds in accordance with law after hearing the parties. ... Let a copy of this judgment be sent under the seal of the Court to the learned Appellate Tribunal Inland Revenue in terms of section 133(5) of the Ordinance.

■ **View Full Judgment**

REVENUE AND CIVIL PROCEDURE — WHETHER THE SENIOR MEMBER, BOARD OF REVENUE MAY REOPEN THE BOARD'S OWN FINAL ORDER THROUGH SUO MOTU REVISION — SECTION 153 OF THE LAND REVENUE ACT, 1967 — ORDER XLI RULE 31 CPC — WHEN REMAND MAY BE DISPENSED WITH

Muhammad Bachal Khokhar v. Khawand Dino and others

APPROVED FOR REPORTING

2026 SHC LAR 2144 (Civil Revision Application No. S-09 of 2006) · Bench: Arbab Ali Hakro, J · Decided: Heard 19 October 2026; judgment 2 November 2026 · Uploaded: 2 November 2026

FACTS

On 1 August 1973 the Assistant Revenue Officer, Sukkur Barrage granted Ghulam Qadir 4-00 acres from S.No. 310 and 0-22 ghuntas from S.No. 317, Deh Mir Khan Abro, taluka Larkana. On appeal the Additional Commissioner, Sukkur reserved S.No. 310 for village asaish. In revision the Member (Relief and Settlement), Board of Revenue, Sindh, by order dated 16 January 1978, found the land separated from village Khokhar by a working karia, vacated the reservation, directed that the 4-00 acres and 0-22 ghuntas be disposed of afresh and kept the remaining 6-33 acres of S.No. 310, where Bhils were residing, out of disposal. In compliance the Assistant Revenue Officer granted 4-22 acres to Ghulam Qadir in open katchehry on 23 August 1978. On a report of the Colonization Officer dated 3 September 1979 the Senior Member, Board of Revenue took up the matter as a suo motu revision and, by order dated 26 August 1980, directed that the village of the Bhils should remain intact. The suit for declaration and permanent injunction was instituted in 1980, dismissed by the III-Senior Civil Judge, Larkana on 15 August 1998 and maintained by the I-Additional District Judge, Larkana on 25 October 2005. The defendants led no evidence.

LEGAL ISSUE

Whether the Senior Member, Board of Revenue had power to reopen, through proceedings initiated on his own motion, the Board's own final order of 16 January 1978 and the grant made in compliance with it; and whether the concurrent findings could be sustained.

HOLDING

The revision was allowed and the suit decreed in part. The appellate court failed to show how section 153 of the Land Revenue Act, 1967 conferred the power it attributed to the Senior Member, and its view runs contrary to the law declared by the Supreme Court, which binds all courts under Article 189; the Board could not undo a final order passed on its judicial side through proceedings initiated on its own motion. The order of 1980 does not purport to revise any order of the Colonization Officer or the Assistant Revenue Officer and does not mention the grant of 23 August 1978; its operative effect was to substitute a fresh determination for the Board's own final order, which no provision of law permitted, so it was without lawful authority to that extent. On the merits the finding that the grant was not approved was the result of non-reading of material evidence: the trial court confined itself to the 1973 grant and overlooked the order of 23 August 1978, and the official defendants did not deny the grant. The appellate court, as the final court of fact, was required by Order XLI Rule 31 CPC to state the points for determination, its decision and reasons, and did not; such a defect would ordinarily call for remand, but the evidence being complete, the respondents having led none, the decisive question being one of law on documents relied on by both sides and the suit having been pending since 1980, a remand would serve no purpose. Relief was confined to the limits of the suit and the jurisdiction of the Civil Court.

LEGAL SIGNIFICANCE

Three propositions of general application, and a cautionary tale about delay. First, the Board of Revenue cannot use suo motu revision to undo an order it has itself passed on its judicial side; a party relying on such a power must identify its source, and section 153 of the Land Revenue Act, 1967 does not supply it. Second, an appellate court which is the final court of fact must comply with Order XLI Rule 31 CPC by stating the points for determination, its decision on them and its reasons; reciting the pleadings and affirming the court below is not compliance. Third, remand is not an invariable consequence of such a defect: where the evidence is complete, the respondents led none and the decisive question is one of law arising on agreed

documents, the revisional court may decide the matter itself, the more so where the suit has been pending for decades. The judgment is also careful about the boundary of relief, holding that the Civil Court cannot assume the functions of the revenue authorities in the disposal of State land or in determining whether the conditions of a grant were fulfilled, and expressly leaving those questions to the competent authority. The suit was instituted in 1980 and decided in 2026.

LEGAL PROPOSITIONS (VERBATIM)

— Nor could the Board undo a final order passed on its judicial side through proceedings initiated on its own motion.

— The appellate court failed to show how Section 153 of the Land Revenue Act, 1967 conferred the power it attributed to the Senior Member, and its view runs contrary to the law declared by the Supreme Court, which binds all courts under Article 189 of the Constitution.

— Its operative effect is to substitute a fresh determination for the Board's own final order of 16.01.1978, which no provision of law permitted.

— The order of 1980 was therefore passed without lawful authority to the extent that it reopened the order of 16.01.1978 and set at naught the grant made in compliance with it.

— Pleadings are not by themselves evidence

— The finding on issue No.1 is the result of non-reading of material evidence.

— Such a defect would ordinarily call for remand. Here, however, the evidence is complete, the respondents led none, the decisive question is one of law arising on documents relied upon by both sides, and the suit has been pending since 1980.

— The relief must remain within the limits of the suit and the jurisdiction of the Civil Court.

LEGAL PRINCIPLES EXPOUNDED

A suo motu revision which does not purport to revise any subordinate order cannot be sustained as an exercise of revisional power.

Source: *It does not purport to revise any order of the Colonization Officer or the Assistant Revenue Officer, nor does it mention the grant of 23.08.1978.*

Authority: *Section 153, West Pakistan Land Revenue Act, 1967; Board of Revenue, Punjab v. Abdul Shakoor (2026 SCMR 605); Article 189 of the Constitution*

The final court of fact must state the points for determination, its decision and its reasons.

Source: *The appellate court, being the final court of fact, was also required by Order XLI Rule 31 CPC to state the points for determination, its decision thereon and the reasons for it.*

Authority: *Order XLI Rule 31, Code of Civil Procedure, 1908; Pakistan Refinery Ltd. v. Barrett Hodgson Pakistan (Pvt.) Ltd. (2019 SCMR 1726)*

Remand may be dispensed with where it would serve no purpose that cannot be served in the revision itself.

Source: *A remand would serve no purpose that cannot be served in these proceedings.*

Authority: *Section 115, Code of Civil Procedure, 1908; Abdul Majid v. Syed Muhammad Ali Shamim (2000 SCMR 1391)*

The Civil Court cannot assume the functions of the revenue authorities in the disposal of State land.

Source: *No declaration of title was sought, and the Civil Court cannot assume the functions of the revenue authorities in the disposal of State land or in determining whether the conditions of a grant were fulfilled.*

Authority: *Section 9, Code of Civil Procedure, 1908; West Pakistan Land Revenue Act, 1967*

OPERATIVE ORDER

For the foregoing reasons, the revision is within time and, in any event, discloses a jurisdictional error which this Court is bound to correct. Accordingly, it is allowed. The impugned judgments and decrees are set aside, and the suit is decreed in the following terms: ... The respondents are restrained from dispossessing the applicants of the said land otherwise than in due course of law.

■ **View Full Judgment**

FAMILY — ALLEGATIONS THAT DOCUMENTS WERE MANIPULATED OR GENERATED BY SOFTWARE OR ARTIFICIAL INTELLIGENCE — QUANTUM OF MAINTENANCE FOR A MINOR — REGULATION OF VISITATION AND THE WELFARE OF THE MINOR — LIMITS OF ARTICLE 199 IN FAMILY MATTERS

Muhammad Anwar Ahmed Siddiqui v. Mst. Izza Fakhri and others

APPROVED FOR REPORTING

2026 SHC KHI 2141 (C.P. No. S-700 of 2025) · Bench: Zulfiqar Ali Sangi, J · Decided: 2 November 2026 · Uploaded: 2 November 2026

FACTS

The petitioner and respondent No. 1 married and had one minor son. On matrimonial differences respondent No. 1 instituted Family Suit No. 3671 of 2022 seeking dissolution by Khula, recovery of dowry articles and maintenance, and the petitioner instituted Guardian & Wards Application No. 3493 of 2022 under section 25 of the Guardians and Wards Act, 1890 seeking permanent custody. The proceedings were consolidated. Interim maintenance was fixed at Rs. 10,000 per month by order dated 8 February 2023 and visitation regulated. By order dated 11 March 2024 the Family Court allowed respondent No. 1's application to produce additional evidence and modified the visitation schedule. By judgment and decree dated 10 September 2024 the Family Court dismissed the Guardian & Wards Application, decreed the suit to the extent of the reliefs granted, enhanced the minor's maintenance to Rs. 25,000 per month with an annual increase of 5 per cent, and appointed respondent No. 1 sole guardian. On appeal the VIth Additional District Judge, Karachi East partly allowed Family Appeal No. 339 of 2024 on 15 April 2025, setting aside the appointment of respondent No. 1 as guardian and the guardianship certificate for non-compliance with sections 7 and 10 of the Act of 1890, and maintaining the remaining findings. The petitioner alleged that documents produced had been manipulated or generated through computer software or artificial intelligence.

LEGAL ISSUE

Whether the petitioner had demonstrated any illegality, jurisdictional defect, material irregularity or perversity in the concurrent findings on the production of additional documents, the quantum of maintenance and the regulation of visitation so as to warrant interference under Article 199.

HOLDING

The petition was dismissed. Mere production or exhibition of a document does not of itself establish its truth or genuineness; equally, an allegation that documents have been manipulated or generated through computer software or artificial intelligence cannot be accepted merely on an assertion unsupported by legally admissible material, and a party wishing to challenge authenticity, admissibility or evidentiary value must avail the remedies available during the trial. The order permitting additional documents was not challenged at the relevant time and the petitioner was supplied the material and allowed to controvert and cross-examine. On maintenance, it is the admitted legal obligation of the father to maintain his minor child according to his means and the child's reasonable requirements, the quantum being determined not by the father's convenience but by the necessities of the minor, prevailing economic conditions, the father's capacity and the standard of living to which the minor is entitled; the petitioner had not challenged quantum before the appellate court and could not reopen it in constitutional proceedings. On visitation, a minor ordinarily requires the love and guidance of both parents and dissolution does not extinguish that relationship, but the right must be regulated so as to serve the welfare of the minor; the petitioner had not fully availed the visitation already granted, could not claim an unrestricted right, and retains liberty to approach the Guardian Court.

LEGAL SIGNIFICANCE

Chiefly notable for being among the first judgments to address an allegation that documentary evidence was generated or manipulated by artificial intelligence, and for the short answer it gives: such an allegation stands on no better footing than any other challenge to authenticity and must be supported by legally admissible material and pursued through the remedies available at trial, not asserted for the first time in constitutional proceedings. The judgment is otherwise a useful restatement of three familiar points in family litigation: production or exhibition of a document does not establish its truth; the quantum of maintenance is measured

by the needs of the child, prevailing economic conditions, the father's capacity and the standard of living to which the child is entitled, not by the father's own assessment of what is convenient; and visitation must be regulated by reference to the welfare of the minor, neither conferring an unrestricted right on the natural father nor being rendered illusory or unnecessarily restrictive. The Court also declines to let a party reopen in writ proceedings a question of quantum that was not pressed before the appellate forum.

LEGAL PROPOSITIONS (VERBATIM)

— It is important to observe that mere production or exhibition of a document does not, by itself, establish its truth or genuineness.

— Equally, an allegation that documents have been manipulated or generated through computer software or artificial intelligence cannot be accepted merely on the basis of an assertion unsupported by legally admissible material.

— If the petitioner intended to challenge the authenticity, admissibility or evidentiary value of the documents, he was required to avail himself of the remedies available during the trial proceedings.

— The quantum of maintenance is not determined exclusively by the financial convenience or personal assessment of the father; rather, the Court is required to consider the necessities of the minor, the prevailing economic conditions, the financial capacity of the father and the standard of living to which the minor is entitled.

— The dissolution of marriage between the parents does not extinguish the child's emotional relationship with either of them.

— Therefore, the petitioner cannot claim an unrestricted right to remove the minor from the custody of the mother or insist upon a particular visitation arrangement merely on the basis of his status as the natural father.

— At the same time, the visitation arrangements should not be rendered illusory or unnecessarily restrictive. The paramount consideration must remain the emotional well-being and healthy development of the minor.

LEGAL PRINCIPLES EXPOUNDED

The father's obligation to maintain his minor child is measured by his means and the child's reasonable requirements.

Source: *Coming to the question of maintenance allowance, it is an admitted legal obligation of the father to maintain his minor child according to his means and the reasonable requirements of the child.*

Authority: *Section 9, Family Courts Act, 1964; Muslim personal law*

Appointment of a guardian requires compliance with the mandatory formalities of the Act of 1890.

Source: *that the mandatory legal formalities contemplated under Sections 7 and 10 of the Guardians and Wards Act, 1890, had not been fulfilled, the appellate Court set aside that part of the judgment of the learned trial Court. Thus, the grievance of the petitioner, to that extent, already stands redressed by the appellate forum.*

Authority: *Sections 7, 10 and 25, Guardians and Wards Act, 1890*

Dissatisfaction with the regulation of visitation or maintenance is not a ground for constitutional interference.

Source: *Mere dissatisfaction with the manner in which the learned Family Court regulated the visitation arrangements or dealt with the maintenance controversy is not, by itself, sufficient to invoke the constitutional jurisdiction of this Court.*

Authority: *Article 199 of the Constitution*

OPERATIVE ORDER

Accordingly, the instant constitutional petition, being devoid of merit, is dismissed, along with the pending miscellaneous applications, if any. ... Petition dismissed in the above terms.

■ View Full Judgment