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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Thursday, 06 August 2026

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Exclusions and coverage notes: this issue sweeps the judgments uploaded on 4 and 5 August 2026; no fresh uploads had appeared by the time of the 6 August sweep. Supreme Court Civil Appeal No. 1443 of 2018 (Commissioner of Income Tax, Lahore v. M/s Sui Northern Gas Pipelines Ltd, decided 23.07.2026) was re-checked this cycle and remains a scanned image from which no machine-readable text can be extracted; it therefore continues to be excluded and will be reported once a text-bearing copy is re-uploaded. Federal Constitutional Court had no new uploads in this window, its latest being 30 July 2026, which was already covered in the 3 August issue. Islamabad High Court returned no results for this window.

Supreme Court of Pakistan

4 judgments

SINDH RENTED PREMISES ORDINANCE 1979 SS.15(2)(VII) & 21(1-C); CONSTITUTION ARTS.185(3) & 199; QANUN-E-SHAHADAT ORDER 1984 — A LANDLORD IS THE SOLE JUDGE OF HIS OWN BONA FIDE PERSONAL NEED, AND HIS UNSHAKEN SOLE TESTIMONY ON OATH, CONSISTENT WITH THE EJECTMENT APPLICATION, SUFFICES TO ESTABLISH IT

Nafees Ahmed and others v. Mst. Shaheen Begum

PETITION FOR LEAVE TO APPEAL CONVERTED INTO AN APPEAL AND ALLOWED; ORDER OF THE HIGH COURT OF SINDH AND OF THE RENT CONTROLLER SET ASIDE; EVICTION ORDER OF THE APPELLATE COURT RESTORED, WITH SIX MONTHS' GRACE TO THE TENANT; APPROVED FOR REPORTING

Civil Petition No. 44-K of 2026 (against the order dated 11.11.2025 of the High Court of Sindh, Karachi in C.P. No. S-120/2020) · Bench: Aqeel Ahmed Abbasi, J. (authoring); Irfan Saadat Khan, J. · Decided: Heard 28.07.2026; announced in open Court at Karachi · Uploaded: 05.08.2026

FACTS

The petitioners are co-owners of a building on Plot No. RB-06/107, Farooq Manzil (formerly Sadiq Manzil), Raam Bagh Quarters, Saddar Town, Karachi, comprising shops on the ground floor and flats and offices on the upper floors. The respondent occupied Flat No. A-06 (old No. 23) on the third floor as a tenant at a monthly rent of Rs. 410 plus charges. After a legal notice dated 07.01.2016 went unheeded, the petitioners instituted Rent Case No. 1066 of 2016 under clauses (ii), (iv) and (vii) of section 15(2) of the Sindh Rented Premises Ordinance, 1979, pleading default in rent since March 2011, damage to the sewerage system and building structure, and the personal bona fide need of one co-owner, Nafees Ahmed, who was residing in his sister's house. The tenant contested, asserting that rent was regularly deposited in MRC No. 1316 of 2006 and that the landlords had concealed other vacant space in the building. The Rent Controller dismissed the application on all issues on 20.01.2018. On appeal (FRA No. 72 of 2018) the VIIth Additional District and Sessions Judge, Karachi South, reversed the finding on personal bona fide need and ordered eviction on 25.11.2019. The tenant invoked Article 199 and, by order dated 11.11.2025, a Single Judge of the Sindh High Court allowed C.P. No. S-120 of 2020 and restored the dismissal of the rent case, principally because Nafees Ahmed's stated addresses varied and because he admitted in cross-examination that sixteen other flats and offices in the building were in his possession, a fact not disclosed in the ejectment application or the affidavit-in-evidence. Notably, the tenant had herself filed an application under section 21(1-C) of the Ordinance seeking, by way of settlement, Flat No. A-2 on the first floor as alternate accommodation.

LEGAL ISSUE

Whether a landlord's claim of personal bona fide need is defeated by non-disclosure, in the ejectment application and affidavit-in-evidence, of other tenements in the same building in his possession; and whether the High Court, in constitutional jurisdiction under Article 199, may substitute the concurrent factual conclusion of the final appellate forum under the Sindh Rented Premises Ordinance, 1979 on the question of good faith.

HOLDING

The Court held that the ejectment application and the affidavit-in-evidence had in fact disclosed the joint ownership of the whole building, comprising shops on the ground floor and flats and offices on the upper floors, so that the contention of concealment of the number of flats in the petitioners' possession was not relevant to proceedings confined to the subject tenement, Flat No. A-6. It reaffirmed that the landlord enjoys absolute liberty as the sole judge and master of his own requirement, with the exclusive prerogative to select the tenement that best suits him, free of the tenant's dictation, relying on *Dr. Hassan Fatima v. Pakistan Red Crescent Society* (2026 SCP 132), *Muhammad Ziafat v. Tariq Nawaz Khan* (2026 SCP 41), *Pakistan Institute of International Affairs v. Naveed Merchant* (2012 SCMR 1498), *Jang Sher v. Shabz Ali* (1997 SCMR 162), *Jehangir Rustam Kakalia v. Hashwani Sales & Services (Pvt.) Ltd* (2002 SCMR 241) and the recent reaffirmation in *Najeebullah v. Syed Shams-ud-Din* (2026 SCP 164). Since Nafees Ahmed had examined himself on oath and his testimony as to personal need remained unshaken in detailed cross-examination, and since the tenant, far from denying the need, had applied under section 21(1-C) for alternate accommodation, the sole testimony of the landlord was sufficient. *Allies Book Corporation v. Sultan Ahmad* (2006 SCMR 152)

was distinguished: there a fresh affidavit had confined the claim to sub-letting with no mention of personal need, and a shop that fell vacant during the pendency of the proceedings was let out without disclosure. The impugned order was found to rest on misreading and non-reading of the evidence and an incorrect application of law.

LEGAL SIGNIFICANCE

The judgment consolidates, in a single place, the Sindh rent-law position on personal bona fide need: it confines the concealment doctrine of *Allies Book Corporation* to its own facts, holds that disclosure of the building's composition suffices where the proceedings are confined to one tenement, and reaffirms that the sole testimony of a landlord on oath, if consistent with the ejectment application, establishes personal need. It also restates the limits of constitutional jurisdiction over concurrent rent findings, and confirms that a court cannot compel a landlord to settle in respect of premises other than the demised premises under section 21(1-C). The six-month grace period granted in the operative part is a practical model for balancing a restored eviction decree against tenant hardship.

LEGAL PROPOSITIONS (VERBATIM)

- *the landlord enjoys absolute liberty as the sole judge and master of his own requirement, retaining the exclusive prerogative to select the particular tenement that best suits his needs without being subject to the dictation or whims of the tenant*
- *the sole testimony of a landlord on oath is entirely sufficient to establish personal bona fide need, provided that such a statement remains consistent with the original averments made in the ejectment application*
- *under SRPO, 1979, the Court cannot compel any landlord to enter into any settlement in respect of a property other than the demised premises which is subject matter of rent proceedings*

LEGAL PRINCIPLES EXPOUNDED

A landlord is the sole judge and master of his own requirement and retains the exclusive prerogative to choose which of his tenements best suits his personal bona fide need; the tenant cannot dictate that choice.

Source: Moreover, it is by now well settled that the landlord enjoys absolute liberty as the sole judge and master of his own requirement, retaining the exclusive prerogative to select the particular tenement that best suits his needs without being subject to the dictation or whims of the tenant.

Authority: *Dr. Hassan Fatima v. Pakistan Red Crescent Society and others* (2026 SCP 132); *Muhammad Ziafat v. Tariq Nawaz Khan and others* (2026 SCP 41); *Pakistan Institute of International Affairs v. Naveed Merchant* (2012 SCMR 1498); *Jang Sher v. Shabz Ali* (1997 SCMR 162); *Jehangir Rustam Kakalia through Legal Heirs v. Messrs Hashwani Sales & Services (Pvt.) Limited* (2002 SCMR 241); reaffirmed in *Najeebullah v. Syed Shams-ud-Din and others* (2026 SCP 164)

The sole testimony of the landlord on oath is sufficient to establish personal bona fide need, provided it remains consistent with the averments made in the ejectment application.

Source: It is a well-settled principle of law that the sole testimony of a landlord on oath is entirely sufficient to establish personal bona fide need, provided that such a statement remains consistent with the original averments made in the ejectment application.

Authority: *Muhammad Hayat v. Muhammad Miskeen (deceased) through L.Rs. and others* (2018 SCMR 1441); *Pakistan Institute of International Affairs v. Naveed Merchant* (2012 SCMR 1498)

Where the ejectment proceedings are confined to one tenement and the pleadings disclose the composition of the building, an omission to enumerate other tenements in the landlord's possession is not a material concealment defeating good faith.

Source: therefore, the contention of the learned counsel of the respondent regarding concealment of facts pertaining to details of the number of flats in possession of the petitioners, is not relevant for the purposes of instant proceedings which were filed by the petitioners in respect of subject tenement

Authority: *Allies Book Corporation through LRs v. Sultan Ahmad* (2006 SCMR 152) distinguished on its own peculiar facts

A Rent Controller or appellate court under the Sindh Rented Premises Ordinance, 1979 has no power to compel a landlord to settle in respect of premises other than the demised premises which form the subject matter of the rent proceedings.

Source: simple reason that under SRPO, 1979, the Court cannot compel any landlord to enter into any settlement in respect of a property other than the demised premises which is subject matter of rent proceedings

Authority: Section 21(1-C), Sindh Rented Premises Ordinance, 1979; VIIth Additional District Judge (MCAC) Karachi South in FRA No. 72 of 2018, approved

OPERATIVE ORDER

The petition for leave to appeal was converted into an appeal and allowed. The impugned order dated 11.11.2025 of the High Court of Sindh, Karachi in C.P. No. S-120 of 2020 and the order of the Rent Controller dated 20.01.2018 in Rent Application No. 1066 of 2016 were set aside, and the judgment and order dated 25.11.2019 of the VIIth Additional District and Sessions Judge, Karachi South in FRA No. 72 of 2018 ordering eviction was restored. In the interest of justice and equity the respondent was allowed to remain in the subject tenement for six months from the date of judgment, during which the petitioners shall not pursue ejectment proceedings; failing vacation and handing over of peaceful possession, a writ of possession will issue with police aid without further notice.

■ View Full Judgment

ARBITRATION ACT 1940 S.20; QANUN-E-SHAHADAT ORDER 1984 ART.114; CONSTITUTION ART.185(3) — AN UNCONDITIONAL NO DEMAND CERTIFICATE ACKNOWLEDGING FINAL PAYMENT ESTOPS A CONTRACTOR FROM REVIVING SETTLED CLAIMS THROUGH ARBITRATION

M/s Ghulam Siddique, Ghulam Habib and Company (Pvt) Peshawar v. Government of NWFP through Chief Engineer Communication and others

PETITION DISMISSED AND LEAVE TO APPEAL REFUSED; APPROVED FOR REPORTING

Civil Petition No. 244-P of 2016 (against the judgment dated 29.02.2016 of the Peshawar High Court, Peshawar in R.F.A. No. 118 of 2008) · Bench: Irfan Saadat Khan, J. (authoring); Yahya Afridi, C.J.; Aqeel Ahmed Abbasi, J. · Decided: 22.07.2026 (Islamabad) · Uploaded: 05.08.2026

FACTS

The petitioner company was awarded the contract for construction of the 240-bed Medical Complex at Hayatabad, Peshawar, by Work Order No. 1834/08-M dated 16.12.1993. During execution, disputes arose regarding delays in the release of running payments said to be due to non-availability of departmental funds, and the company advanced claims for idle charges and price escalation. On completion of the project the petitioner submitted a No Demand Certificate acknowledging receipt of Rs. 8,85,55,647 vide voucher dated 08.02.1999 towards full and final payment for all articles supplied and services rendered. The petitioner subsequently applied under section 20 of the Arbitration Act, 1940 before the Civil Judge-V, Peshawar, seeking a direction to the respondents to file the contract agreement and refer the matter to arbitration under the arbitration clause. The trial Court dismissed the application on 13.05.2008; R.F.A. No. 118 of 2008 was dismissed by the Peshawar High Court on 29.02.2016 on grounds of maintainability and estoppel. No one appeared for the respondents before the Supreme Court.

LEGAL ISSUE

Whether a contractor who has executed an unconditional No Demand Certificate and accepted final payment without protest or reservation may thereafter invoke section 20 of the Arbitration Act, 1940 to re-agitate claims for idle charges and price escalation, and whether concurrent findings of the fora below on maintainability and estoppel warrant interference under Article 185(3).

HOLDING

The Court held that, leaving aside maintainability, the record unmistakably demonstrated the voluntary execution of an unconditional No Demand Certificate acknowledging receipt of Rs. 8,85,55,647 in full and final settlement of all contractual claims. Such an acknowledgment is not a mere procedural formality but a conscious representation that nothing further remains due. The petitioner pointed to no contemporaneous correspondence, protest, reservation or objection indicating that the certificate had been executed under compulsion or without prejudice to existing claims; on the contrary the record reflected unequivocal acceptance of final payment without qualification. The Court emphasised the commercial significance of such

certificates in public procurement, where they enable the employer to close accounts, settle liabilities and proceed on the legitimate assumption that no further claims remain outstanding, and held that courts must be slow to permit reopening of a concluded transaction absent fraud, coercion, misrepresentation or another recognised vitiating circumstance, none of which was pleaded or established. Article 114 of the Qanun-e-Shahadat Order, 1984 was applied: having accepted final payment and issued the certificate, the petitioner was precluded from resiling to the prejudice of the other party and could not revive claims for idle charges or escalation through recourse to arbitration. Reliance was placed on *Muhammad Raqeeb v. Government of Khyber Pakhtunkhwa* (2023 SCMR 992) and *Dr. Muhammad Javaid Shafi v. Syed Rashid Arshad* (PLD 2015 SC 212), the latter also invoking the doctrines of election and *qui approbat non reprobatur*. Finding no illegality, non-reading of evidence, perversity or arbitrariness in the concurrent findings, the Court declined to disrupt them.

LEGAL SIGNIFICANCE

This is a clear statement, in the public-procurement context, that a No Demand Certificate is a substantive bar and not a formality: it forecloses subsequent arbitration on idle charges and escalation unless a recognised vitiating circumstance is pleaded and proved. It ties the finality of construction-contract settlements to the statutory doctrine of estoppel in Article 114 of the Qanun-e-Shahadat Order, 1984 and to the doctrines of election and *approbate-and-reprobate*, and it restates the narrow compass of Article 185(3) where two fora have concurrently found against a claimant. Practitioners advising contractors should treat the moment of signing a final-payment certificate as decisive, and record any reservation contemporaneously.

LEGAL PROPOSITIONS (VERBATIM)

- *Such an acknowledgment cannot be treated as formality. It constitutes a conscious representation that no further amount remains due or payable under the contract.*
- *Commercial certainty and finality*
- *It is a settled principle of law that this Court under Article 185(3) of the Constitution will not disrupt concurrent findings of fact*

LEGAL PRINCIPLES EXPOUNDED

An unconditional No Demand Certificate acknowledging receipt of final payment is a conscious representation that nothing further is due under the contract, and cannot be treated as a mere procedural formality.

Source: *Such an acknowledgment cannot be treated as formality. It constitutes a conscious representation that no further amount remains due or payable under the contract.*

Authority: Section 20, Arbitration Act, 1940; principles governing contractual finality

Courts must be slow to permit a party to reopen a concluded transaction after unequivocal acceptance of final payment, unless the acknowledgment was procured by fraud, coercion, misrepresentation or another legally recognised vitiating circumstance.

Source: *Courts must therefore be slow to permit a party to reopen a concluded transaction after having unequivocally accepted final payment, unless it is shown that such acknowledgment was procured through fraud, coercion, misrepresentation, or any other legally recognized vitiating circumstance.*

Authority: *Public-procurement context; no vitiating circumstance pleaded or established*

Under Article 114 of the Qanun-e-Shahadat Order, 1984, a party whose declaration or conduct induces another to believe and act upon a state of affairs is precluded from resiling from that representation to the other party's prejudice.

Source: *Under Article 114 of the Qanun-e-Shahadat Order, 1984, where a party, by its declaration or conduct, induces another to believe in a particular state of affairs and to act upon that belief, it is precluded from subsequently resiling from that representation to the prejudice of the other party.*

Authority: *Muhammad Raqeeb v. Government of Khyber Pakhtunkhwa* (2023 SCMR 992); *Dr. Muhammad Javaid Shafi v. Syed Rashid Arshad and others* (PLD 2015 SC 212)

Concurrent findings of fact recorded by the fora below will not be disturbed under Article 185(3) unless demonstrably shown to suffer from gross misreading or non-reading of evidence, perversity or arbitrariness.

Source: *It is a settled principle of law that this Court under Article 185(3) of the Constitution will not disrupt concurrent findings of fact unless they are*

Authority: *Mohammad Ziafat v. Tariq Nawaz Khan and others; Muhammad Akhtar v. Mst Manna and 3 others (2001 SCMR); Sardar Ali Khan v. State Bank of Pakistan and others (2022 SCMR 145); Faqir Syed Anwar ud Din (deceased) through LRs v. Syed Raza Haider and others (PLD 2025 Supreme Court 31)*

OPERATIVE ORDER

No case for grant of leave was made out. The petition was found devoid of merit, was dismissed, and leave to appeal was refused.

■ View Full Judgment

CONSTITUTION ART.212(3); SUPREME COURT RULES 2025 ORDERS XIV & XXV; LIMITATION ACT 1908 SS.5 & 12; SERVICE TRIBUNALS (PROCEDURE) RULES 1974 R.21 — WHERE A FEDERAL SERVICE TRIBUNAL JUDGMENT IS SIGNED BUT NEVER PRONOUNCED, LIMITATION RUNS FROM THE DATE OF THE DISPATCH LETTER COMMUNICATING IT UNDER RULE 21

The Director General, Federal Directorate of Education, Islamabad v. Ms. Sajida Anjum and others (heard with Sheikh Shahid Pervaiz, Muhammad Afzal Zia and Pervaiz Akhtar)

APPLICATIONS FOR CONDONATION OF DELAY DISMISSED; CIVIL PETITIONS DISMISSED AS BARRED BY LIMITATION; APPROVED FOR REPORTING

Civil Petitions No. 352, 353, 355 and 356 of 2026 (against the judgment dated 05.11.2025 of the Federal Service Tribunal, Islamabad in Appeal Nos. 856(R)CS/2022 and 713 to 715(R)CS/2022) · Bench: Muhammad Shafi Siddiqui, J. (authoring); Yahya Afridi, C.J.; Miangul Hassan Aurangzeb, J. · Decided: 04.08.2026 (announced in open Court at Islamabad; heard 10.06.2026) · Uploaded: 04.08.2026

FACTS

The respondents are employees of the Federal Directorate of Education. On the recommendation of the Departmental Time Scale Promotion Committee and with the approval of the competent authority, they were granted Time Scale Promotion from BPS-16 to BPS-17 with effect from 02.01.2011 by Notification dated 25.04.2013, their names appearing at serial Nos. 49, 69, 116 and 343. The Accountant General Pakistan Revenues declined to act on the notification and withheld the revised pay slips; a further notification dated 05.07.2017 altered the effective date from 02.01.2011 to 01.01.2016. Departmental appeals went unattended and the respondents approached the Federal Service Tribunal, which by judgment dated 05.11.2025 accepted their appeals and directed issuance of revised pay slips in BPS-17 with effect from 02.01.2011 in conformity with the 2013 notification. The department filed petitions under Article 212(3) on 19.01.2026. The office raised a limitation objection, noting that the petitions were out of time whether reckoned from the date of signing (05.11.2025) or the date of dispatch by the Tribunal (19.11.2025). CMA No. 581 of 2026 and connected applications sought condonation, explaining that the matter had to pass through administrative channels and obtain the competent authority's approval. The Registrar of the Federal Service Tribunal was called on Court notice and confirmed that, in the absence of any procedure for announcement, the Tribunal's consistent practice is to dispatch certified copies under registered cover in accordance with Rule 21.

LEGAL ISSUE

From what point does limitation run for a petition under Article 212(3) of the Constitution against a judgment of the Federal Service Tribunal which has been signed but never pronounced in open Court; and whether routine administrative delay within a Government department constitutes sufficient cause for condonation under section 5 of the Limitation Act, 1908.

HOLDING

The Court held that neither the Constitution nor the Service Tribunals Act, 1973 prescribes a limitation period for petitions under Article 212(3); Order XXV read with Order XIV of the Supreme Court Rules, 2025 prescribes sixty days, and Order I Rule 3 makes the Limitation Act, 1908 govern the computation. Section 12 of that Act excludes the day on which the judgment was signed and announced, and the time requisite for obtaining a copy. Rule 21 of the Service Tribunals (Procedure) Rules, 1974 casts a mandatory statutory

obligation upon the Tribunal itself to dispatch certified copies under registered cover to the parties and to the Secretary, Establishment Division and the Solicitor, Law Division; unlike ordinary civil proceedings, the litigant need not apply for a copy. *Government of the Punjab v. Muhammad Shahid Hussain* (2024 SCMR 2061) proceeded on the admitted premise that the Tribunal's judgment had been pronounced in open Court in the presence of the parties, and did not determine the effect of a judgment signed but never pronounced. Distinguishing that case, the Court held that where the Tribunal does not pronounce the judgment and instead communicates it under Rule 21, that communication constitutes the first legally effective notice of the adjudication, and limitation runs from the date of the dispatch letter, which is the triggering point. *Muhammad Nawaz v. President, National Bank of Pakistan* (2002 SCMR 939) and *Pakistan Railways v. Abdul Fateh* (2012 SCMR 181) were noted as recognising the legal significance of Rule 21. Even on that basis, the petitions filed on 19.01.2026 against a judgment dispatched on 19.11.2025 remained time-barred. On condonation, the Court held that Government departments enjoy no special privilege in limitation; the applications furnished no dates, no movement chart and no material demonstrating diligence, and failed to account for each day's delay. *Chief Secretary, Government of Sindh, Karachi v. Muhammad Rafique Siddiqui* (2004 PLC (C.S.) 962) was applied.

LEGAL SIGNIFICANCE

This is the leading recent statement on when time begins to run against a petition under Article 212(3) arising from the Federal Service Tribunal, and it fills the gap left open by *Government of the Punjab* (2024 SCMR 2061). It creates a workable rule for the very common situation in which a Tribunal judgment is signed in chambers and never announced: the date of the Rule 21 dispatch letter is the triggering point, because only from then can a party effectively invoke the constitutional remedy. Equally important is the reaffirmation, in emphatic terms, that inter-departmental correspondence, movement of files and time consumed in obtaining approvals are incidents of internal governance which cannot amount to sufficient cause, and that treating them as such would make the law of limitation illusory in every Government case and offend equality before the law.

LEGAL PROPOSITIONS (VERBATIM)

- *The date of the dispatch letter is the triggering point.*
- *It is by now a settled principle of law that Government departments do not enjoy any special privilege in matters relating to limitation.*
- *the discretion to condone delay is a judicial discretion which must be exercised upon sound legal principles and not on*

LEGAL PRINCIPLES EXPOUNDED

A judgment which has neither been pronounced in open Court nor otherwise brought to the notice of the parties cannot furnish the starting point of limitation, because the constitutional remedy under Article 212(3) cannot be exercised against an undisclosed decision.

Source: *A judgment which has neither been pronounced in open Court nor otherwise brought to the notice of the parties cannot reasonably be regarded as furnishing the starting point of limitation, for the constitutional remedy under Article 212(3) cannot be effectively exercised against an undisclosed decision.*

Authority: Article 212(3), Constitution; Order XXV read with Order XIV, Supreme Court Rules, 2025; section 12, Limitation Act, 1908

Where the Federal Service Tribunal does not announce its judgment, the communication of the signed judgment under Rule 21 is not merely ministerial but an integral part of the adjudicatory process, and limitation is reckoned from the date of the dispatch letter.

Source: *Such communication in the absence of its announcement is not merely ministerial in nature but forms an integral part of the adjudicatory process contemplated by the statutory framework.*

Authority: Rule 21, Service Tribunals (Procedure) Rules, 1974; *Government of the Punjab v. Muhammad Shahid Hussain* (2024 SCMR 2061) distinguished; *Muhammad Nawaz v. President, National Bank of Pakistan* (2002 SCMR 939); *Pakistan Railways v. Abdul Fateh* (2012 SCMR 181)

The law of limitation binds the State with the same rigour as it binds an ordinary litigant; administrative procedure, inter-departmental correspondence, movement of files and time taken to

obtain approvals are incidents of internal governance and cannot by themselves constitute sufficient cause.

Source: Administrative procedures, inter - departmental correspondence, movement of files, or the time consumed in obtaining approvals from the competent authority are incidents of internal governance and cannot, by themselves, constitute

Authority: Section 5, Limitation Act, 1908; Chief Secretary, Government of Sindh, Karachi v. Muhammad Rafique Siddiqui (2004 PLC (C.S.) 962)

If routine administrative delay were accepted as sufficient cause, the law of limitation would become illusory in every Government case and would offend the principle of equality before the law by extending to the State a concession unavailable to ordinary litigants.

Source: If routine administrative delays were to be accepted as sufficient cause, the law of limitation would become illusory in every case involving the Government, a consequence repeatedly deprecated by this Court.

Authority: Section 5, Limitation Act, 1908; judicial discretion exercised on sound legal principles, not sympathy or status

OPERATIVE ORDER

The applications seeking condonation of delay, being devoid of merit, were dismissed. As a necessary corollary, Civil Petitions No. 352, 353, 355 and 356 of 2026, being barred by limitation, were also dismissed.

■ View Full Judgment

CODE OF CIVIL PROCEDURE 1908 S.12(2); DOCTRINE OF MERGER — REFUSAL OF LEAVE TO APPEAL, EVEN BY A SPEAKING ORDER, DOES NOT DIVEST THE HIGH COURT OF JURISDICTION TO ENTERTAIN AN APPLICATION UNDER SECTION 12(2), CPC

Ghulam Muhammad (deceased) through his Legal Heirs and others v. Mian Ahmed Bakhsh (deceased) through legal heirs and others (heard with connected petitions and Civil Miscellaneous Appeals against orders of the Registrar)

CIVIL PETITIONS FOR LEAVE TO APPEAL CONVERTED INTO APPEALS AND ALLOWED; HIGH COURT JUDGMENT SET ASIDE AND SECTION 12(2) APPLICATIONS RESTORED TO ITS FILE; CONNECTED CIVIL MISCELLANEOUS APPEALS AGAINST THE REGISTRAR'S ORDERS DISMISSED; APPROVED FOR REPORTING

C.P.L.A. No. 3303 of 2024 and connected C.P.L.A.s and C.M. Appeals (against the judgment dated 15.05.2024 of the Lahore High Court, Bahawalpur Bench in C.M. No. 11-C/2022 in C.R. No. 457/D/2010, and the Registrar's orders dated 07.01.2025) · Bench: Shahid Bilal Hassan, J. (authoring); Naeem Akhter Afghan, J. · Decided: 04.08.2026 (announced in open Court at Lahore; heard 16.07.2026) · Uploaded: 04.08.2026

FACTS

The controversy originated in a civil suit concerning the validity of Mutation No. 60. The trial Court dismissed the suit and upheld the mutation; the appellate Court reversed and declared the mutation void; the Lahore High Court affirmed that reversal in revisional jurisdiction by judgment dated 18.01.2018 in Civil Revision No. 457-D of 2010. Civil Petitions No. 907 and 965 of 2018 were dismissed by a leave-refusing order dated 23.01.2023 which recorded reasons agreeing with the appellate Court and High Court, and review petitions were dismissed on 22.11.2023. Thereafter the present applicants, who assert an independent interest in the suit property but were never impleaded in the suit, appeal, revision or the proceedings before the Supreme Court, filed applications under section 12(2), CPC before the High Court seeking recall of the revisional judgment on the ground that it had been rendered without their impleadment. By the impugned judgment dated 15.05.2024 the High Court declined to entertain them, holding that in view of the reasoned leave-refusing order the applications lay before the Supreme Court. Applications then filed in the Supreme Court were returned by the Registrar on 07.01.2025 as not entertainable, relying on Sahabzadi Maharunnisa v. Mst. Ghulam Sughran (PLD 2016 SC 358). Both sets of matters came up together.

LEGAL ISSUE

After the Supreme Court has declined leave to appeal against a judgment of the High Court by a speaking order, does an application under section 12(2), CPC seeking recall of the High Court's judgment lie before the High Court or before the Supreme Court?

HOLDING

The Court held that section 12(2), CPC confers jurisdiction on the court which passed the judgment, decree or order, and that mere refusal of leave by a superior court, without substitution or reversal of the impugned adjudication, does not by itself alter the identity of the competent court. It traced a consistent line of authority beginning with *Secretary, Ministry of Religious Affairs and Minorities v. Syed Abdul Majid* (1993 SCMR 1171), through *Khawaja Muhammad Yousaf v. Federation of Pakistan* (1999 SCMR 1516), *Abid Kamal v. Muddassar Mustafa* (2000 SCMR 900) and *Muhammad Yousuf through Legal Heirs v. Noor Din* (PLD 2002 SC 391), each holding that where the Supreme Court merely reaffirms a High Court judgment by refusing leave, the final judgment for section 12(2) purposes remains that of the High Court. Turning to *Nasrullah Khan v. Mukhtar-ul-Hassan* (PLD 2013 SC 478) and *Sahabzadi Maharunnisa*, the Court held that paragraph 9(iv) of *Sahabzadi Maharunnisa* must be read as a whole: its opening declaration affirms that where leave is declined the lower forum's judgment remains intact and does not merge, and the qualification that follows addresses only the exceptional situation where a detailed leave-refusing order has itself exhaustively dealt with the questions sought to be reopened. The judgment advisedly says such an application can be filed before the Supreme Court and leaves it to that Court's absolute discretion either to decide it or to send the matter to the lower fora. Read properly, it preserves a limited discretion in the Supreme Court; it does not create an exclusive forum nor impliedly divest the High Court. The High Court therefore fell into error in treating the latter part of paragraph 9(iv) as a jurisdictional bar. The Court also observed, with regret, that the long line of precedent spanning three decades had been neither comprehensively cited nor adequately addressed by counsel, requiring independent examination, and reiterated the Bar's indispensable role in the administration of justice.

LEGAL SIGNIFICANCE

This judgment settles a forum question that has generated conflicting practice since *Sahabzadi Maharunnisa* in 2016, and will be relied on whenever a stranger to earlier proceedings seeks recall under section 12(2), CPC after leave has been refused by a speaking order. It harmonises *Sahabzadi Maharunnisa* with the earlier line from *Syed Abdul Majid* onwards, confines the doctrine of merger so that a leave-refusing order does not absorb the High Court's judgment, and clarifies that the discretion recognised in paragraph 9(iv) belongs to the Supreme Court and is not a bar operating against the High Court. Its closing observations on the Bar's duty to place the complete and relevant body of precedent before the Court are themselves worth noting.

LEGAL PROPOSITIONS (VERBATIM)

- *Significantly, the Court did not hold that in every such case the High Court ceases to possess jurisdiction.*
- *The discretion recognized therein belongs to this Court and it is not a jurisdictional bar operating against the High Court.*
- *the judgment expressly reiterates the general rule while recognizing a limited discretionary exception in favour of this Court*

LEGAL PRINCIPLES EXPOUNDED

Mere refusal of leave by a superior court, without substitution or reversal of the impugned adjudication, does not alter the identity of the court competent to entertain proceedings under section 12(2), CPC; whether merger follows is governed by the doctrine of merger as developed in precedent.

Source: *The provision does not contemplate that the mere refusal of leave by a superior court, without substitution or reversal of the impugned adjudication, would by itself alter the identity of the court competent to entertain proceedings under Section 12(2), CPC.*

Authority: *Section 12(2), Code of Civil Procedure, 1908; Secretary, Ministry of Religious Affairs and Minorities v. Syed Abdul Majid* (1993 SCMR 1171); *Government of Sindh v. Ch. Fazal Muhammad* (PLD 1991 SC 197)

Where leave is declined, the judgment of the lower fora remains intact and does not merge into the leave-refusing order for the purposes of section 12(2), CPC, and the application lies before the last forum, namely the High Court.

Source: *The above declaration leaves little room for ambiguity. It expressly reiterates the principle consistently recognized since Syed Abdul Majid, namely that a leave - refusing order does not result in merger and that, ordinarily,*

an application under Section 12(2), CPC lies before the High Court.

Authority: *Sahabzadi Maharunnisa v. Mst. Ghulam Sughran* (PLD 2016 SC 358), paragraph 9(iv); *Khawaja Muhammad Yousaf v. Federation of Pakistan* (1999 SCMR 1516); *Abid Kamal v. Muddassar Mustafa* (2000 SCMR 900); *Muhammad Yousuf through Legal Heirs v. Noor Din* (PLD 2002 SC 391)

Paragraph 9(iv) of Sahabzadi Maharunnisa preserves a limited discretion in the Supreme Court to entertain an application in the nature of section 12(2), CPC where a speaking leave-refusing order has comprehensively dealt with the questions sought to be reopened; it does not create an exclusive forum or divest the High Court.

Source: Accordingly, we are persuaded that paragraph 9(iv) of *Sahabzadi Maharunnisa* is more appropriately construed as preserving a limited discretion in this Court to entertain an application in the nature of Section 12(2), CPC in an exceptional case involving a detailed leave - refusing order.

Authority: *Sahabzadi Maharunnisa v. Mst. Ghulam Sughran* (PLD 2016 SC 358); *Nasrullah Khan v. Mukhtar-ul-Hassan* (PLD 2013 SC 478)

The quality of judicial decision-making is enriched when the Court receives comprehensive assistance founded on the complete and relevant body of precedent; the Bar occupies an indispensable place in the administration of justice.

Source: We also reiterate that the Bar occupies an indispensable place in the administration of justice and the quality of judicial decision - making is inevitably enriched when the Court receives comprehensive assistance founded upon the complete and relevant body of precedent, thereby strengthening the sound and orderly development of the law.

Authority: Observations of the Court on the assistance rendered by counsel

OPERATIVE ORDER

The Civil Petitions for Leave to Appeal were converted into appeals and allowed; the judgment dated 15.05.2024 of the Lahore High Court, Bahawalpur Bench was set aside; and the applications under section 12(2), CPC stand restored to the file of the High Court for decision afresh in accordance with law. The connected Civil Miscellaneous Appeals against the Registrar's orders returning applications presented before the Supreme Court were dismissed, the Registrar's objections being maintained. The remand is not an expression of opinion on the merits: all questions, including locus standi, limitation, maintainability and the existence of fraud, misrepresentation or concealment, remain open for independent determination by the High Court, uninfluenced by the judgment except on the question of forum.

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Lahore High Court

2 judgments

QANUN-E-SHAHADAT ORDER 1984 ARTS.117, 122 & 129; PPC S.302(B); CR.P.C. SS.342 & 544-A — ARTICLE 122 IS CONTINGENT, NOT AUTOMATIC: THE PROSECUTION MUST FIRST LINK THE ACCUSED TO THE OCCURRENCE BEFORE A HUSBAND CAN BE CALLED UPON TO EXPLAIN HIS WIFE'S UNNATURAL DEATH IN THE MATRIMONIAL HOME

Tanveer v. The State and another (heard with Mian Khan v. The State and another)

CRIMINAL APPEAL ACCEPTED AND APPELLANT ACQUITTED; CRIMINAL REVISION FOR ENHANCEMENT OF SENTENCE DISMISSED AS INFRUCTUOUS; APPROVED FOR REPORTING

Criminal Appeal No. 7335 of 2022 and Criminal Revision No. 26176 of 2022 — 2026 LHC 4903 · Bench: Tariq Saleem Sheikh, J. · Decided: Heard 19.01.2026 (research assistance by Mr. Muhammad Abid, Research Officer, LHCRC) · Uploaded: 05.08.2026

FACTS

Nasreen Bibi, married to the appellant Tanveer for about four years, was found dead at her matrimonial home at Sehri time on 18.05.2020 during the last Ashra of Ramadan. Her brother Mian Khan (PW-1) applied to Zafar Iqbal/Inspector (CW-7) at about 9:15 a.m. for registration of an FIR, alleging that he, Muhammad Azam (PW-2) and Falak Sher had gone to the house, heard cries, scaled the gate and seen Ali Hassan holding the deceased by the legs and Ahmad Yar by the arms while Tanveer strangled her with a Dupatta, and that Ali Hassan aimed a pistol at them before the accused fled. FIR No. 396/2020 under sections 302 and 34 PPC was registered at 9:40 a.m. The police found Ali Hassan and Ahmad Yar uninvolved, whereupon Mian Khan filed a private complaint and all three were summoned and indicted. The prosecution produced three

witnesses and the trial court examined seven court witnesses; the appellant pleaded alibi, claiming he was on duty at the Sarhad Meran Shah Petrol Pump some 7 to 8 kilometres away. By judgment dated 17.01.2022 the Additional Sessions Judge, Chiniot acquitted the co-accused on benefit of doubt but convicted Tanveer under section 302(b) PPC, sentencing him to imprisonment for life with Rs. 400,000 compensation under section 544-A Cr.P.C. The complainant sought enhancement by criminal revision.

LEGAL ISSUE

Whether, on the acquittal of co-accused on the same evidence and in the absence of independent corroboration, the conviction of a husband for the murder of his wife can be sustained; and what are the conditions precedent to invoking Article 122 of the Qanun-e-Shahadat Order, 1984 to require a husband to explain his wife's unnatural death within the matrimonial home.

HOLDING

The Court found the prosecution case riddled with infirmities: the exact time of occurrence was disclosed for the first time in examination-in-chief; the FIR was lodged after an unexplained lapse of nearly six hours although the police station was five kilometres away on metalled roads, the Investigating Officer denying receipt of any earlier information; the names of the alleged eyewitnesses did not appear in Column No. 4 of the Inquest Report; the Inquest Report recorded the deceased's mouth as closed while the Medical Officer found it open; the witnesses claimed to have seen the strangulation while simultaneously asserting they were held at gunpoint outside the room; no firearm was recovered; no marks of scaling were noticed and no independent resident, neighbour or mosque attendee came forward despite the locality and the hour; the Dupatta was absent from the neck when the body was examined and the recovered article, a common household item, was never sent to the PFSA; the motive rested on bald statements; and the CDR showed only tower coverage. The Court set out the medico-legal features of strangulation from Cox's Medical Jurisprudence and Toxicology and noted the Medical Officer's candid admissions that classical signs were not recorded, holding that while the absence of one or more such signs does not negate strangulation, the medical evidence here did not furnish the necessary corroboration. On Article 122, the Court undertook an extended survey of Pakistani and Indian authority, including *State of Madhya Pradesh v. Balveer Singh* (2025 INSC 261), *Trimukh Maroti Kirkan v. State of Maharashtra* ((2006) 10 SCC 681), *Abdul Majeed* (2011 SCMR 941), *Muhammad Jamshaid* (2016 SCMR 1019), *Arshad Khan* (2017 SCMR 564), *Nasrullah alias Nasro* (2017 SCMR 724), *Arshad Mehmood* (2005 SCMR 1524), *Saeed Ahmed* (2015 SCMR 710), *Dilawar Ali* (2022 SCMR 1066), *Muhammad Ijaz alias Jajj* (2025 SCMR 1591) and the recent *Waris Masih v. The State* (Jail Petition No. 787/2018, decided 21.01.2026), and distilled the principle that the prosecution must first link the accused to the occurrence by reliable direct or circumstantial evidence before the husband can be called upon to explain. Since the ocular account was unreliable, the medical evidence uncorroborative, and the CDR and recovery inconclusive, the only remaining factor, the appellant's failure to inform the police or take his wife to hospital, was post-occurrence conduct that could not serve as a foundational fact.

LEGAL SIGNIFICANCE

This is a careful and citable restatement of the law on Article 122 of the Qanun-e-Shahadat Order, 1984 in matrimonial homicide, harmonising the apparently divergent lines of Supreme Court authority and integrating the very recent *Waris Masih* principles. Its central holding, that the applicability of Article 122 is contingent and not automatic, gives trial courts a clear sequencing rule: connect the accused first, then call for explanation, and only then draw an adverse inference under Article 129, Illustration (g). The judgment is also a valuable practical guide on the forensic assessment of strangulation cases, on the limits of CDR tower-coverage evidence, and on the treatment of recovery evidence once the ocular account has failed.

LEGAL PROPOSITIONS (VERBATIM)

- *The applicability of Article 122 is thus contingent, not automatic.*
- *Silence or non-explanation becomes relevant only after the prosecution has discharged its primary obligation.*
- *The absence of one or more commonly recognized signs does not negate the possibility of strangulation.*

LEGAL PRINCIPLES EXPOUNDED

In cases involving the homicidal death of a wife within the matrimonial home, the prosecution must first link the accused with the occurrence through reliable direct or circumstantial evidence before the husband may be called upon under Article 122 to explain the circumstances leading to her death.

Source: *The principles emerging from the foregoing authorities are that in cases involving the homicidal death of a wife within the matrimonial home, the prosecution must first link the accused with the occurrence through reliable direct or circumstantial evidence.*

Authority: Articles 117, 122 and 129 (Illustration (g)), Qanun-e-Shahadat Order, 1984; Waris Masih v. The State (Jail Petition No. 787/2018, decided 21.01.2026); Saeed Ahmed v. The State (2015 SCMR 710); Muhammad Ijaz alias Jaji v. The State (2025 SCMR 1591)

Post-occurrence conduct such as failure to inform the police or to take the deceased to hospital may be corroborative, but cannot in the absence of credible connecting evidence be treated as a foundational fact attracting Article 122.

Source: *Such post-occurrence conduct may constitute a corroborative circumstance but, in the absence of credible connecting evidence, it cannot be reckoned as a foundational fact so as to attract Article 122.*

Authority: Article 122, Qanun-e-Shahadat Order, 1984; Abdul Majeed v. The State (2011 SCMR 941); Nasrullah alias Nasro v. The State (2017 SCMR 724); Nazir Ahmad v. The State (2018 SCMR 787)

To invoke Article 122 merely because the wife died an unnatural death inside the matrimonial home would impermissibly shift the evidential burden; suspicion, however grave, cannot substitute proof beyond reasonable doubt.

Source: *To invoke Article 122 on that basis would amount to impermissibly shifting the evidential burden.*

Authority: Muhammad Jamshaid and another v. The State and others (2016 SCMR 1019); Muhammad Pervaiz v. The State and others (PLD 2019 SC 592)

Death by strangulation may manifest with varying internal and external features; the absence of one or more commonly recognised signs, or an intact hyoid bone, does not conclusively exclude strangulation, though each is a factor in assessing the overall medical picture.

Source: *Death by strangulation may manifest with varying internal and external features depending upon the manner, force and duration of compression. The absence of one or more commonly recognized signs does not negate the possibility of strangulation.*

Authority: H W V Cox, Medical Jurisprudence and Toxicology (6th edn), cited in Saeed Ahmed v. The State (2015 SCMR 710)

Call detail records establishing only tower coverage indicate a general geographical area and do not establish the precise physical location of the handset or the accused's presence at the place of occurrence.

Source: *This evidence indicates only tower coverage and does not establish the precise physical location of the handset or demonstrate the Appellant's presence inside the room where the occurrence allegedly took place.*

Authority: Assessment of CDR evidence produced through Nasir Ali, Computer Operator (CW-3)

OPERATIVE ORDER

Criminal Appeal No. 7335 of 2022 was accepted and the appellant acquitted. Criminal Revision No. 26176 of 2022, seeking enhancement of sentence, having become infructuous upon the acquittal, was dismissed.

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PREVENTION OF ELECTRONIC CRIMES ACT 2016 SS.27(2), 28, 41, 43 & 50; PPC SS.405, 408, 409, 107 & 109; CR.P.C. S.497 — CUSTOMER DATA IS 'PROPERTY' FOR SECTIONS 405 TO 409 PPC, AND 'BANKER' IN SECTION 409 BEARS A FUNCTIONAL, NOT DESIGNATIONAL, MEANING

Muhammad Usman v. The State and another (heard with Muhammad Atif v. The State and another)

MUHAMMAD ATIF'S BAIL APPLICATION DISMISSED; MUHAMMAD USMAN ADMITTED TO POST-ARREST BAIL; APPROVED FOR REPORTING

Crl. Misc. No. 76474-B of 2025 and Crl. Misc. No. 20288-B of 2026 — 2026 LHC 4884 · Bench: Tariq Saleem Sheikh, J. · Decided: 17.06.2026 · Uploaded: 05.08.2026

FACTS

The Zonal Director, Pakistan Telecommunication Authority complained to the NCCIA, Lahore that duplicate SIMs had been fraudulently issued against the CNICs of Sultan Masood Malik and Shabbir Hussain and used to transfer money from their UBL accounts, the activity being traced to Jazz Franchise ID No. 6561 operating as Fine Telecom at Bahawalpur Road, Yazman, and to a BVS device bearing IMEI No. 867332036305067. FIR No. 316/2025 dated 18.11.2025 was registered under sections 3, 4, 13, 14, 16 and 17 of PECA read with sections 419, 420, 468, 471 and 109 PPC; section 409 PPC was added during investigation. A raid on Fine Telecom recovered two SIM scanners, a BVS device, a CPU, a laptop and 150 SIM cards described as suspicious; Muhammad Usman, whose father Dilawar Hussain owns the franchise, was apprehended at the spot. Four further victims were identified, the aggregate alleged fraudulent transfer being Rs. 10,458,500. UBL's Fraud Risk Management Division prepared reports dated 30.12.2025 and 29.05.2026 indicating leakage of confidential customer information through insider access; Muhammad Atif, Branch Services Supervisor at UBL's District Courts Jhang Branch, was nominated on the basis of CRS access logs linked to his user ID. Co-accused Muhammad Riaz and Nayyar Abbas had already been granted post-arrest bail.

LEGAL ISSUE

Whether the Pakistan Penal Code may be invoked alongside PECA; whether customer data held by a bank constitutes 'property' for the purposes of criminal breach of trust; whether a bank employee falls within section 409 PPC as a person entrusted in the way of his business as a banker, or only within section 408 PPC; and whether either petitioner is entitled to post-arrest bail.

HOLDING

The Court held that sections 50(1), 27(1) and 28 of PECA, read together, mean that PECA operates not in derogation of the PPC and does not exclude its substantive application where the ingredients of a PPC offence are disclosed; Sheraz Khan (2022 PCr.LJ 203) and Javad Khan (2023 PCr.LJ 1092) were confined to their own ratios and both predate the Prevention of Electronic Crimes (Amendment) Act, 2025. Applying section 27(2) of PECA, which deems references to property in any law creating an offence concerning property to include information systems and data, the Court held that customer records in a bank's core banking system, including account particulars and registered mobile numbers, constitute property for sections 405 to 409 PPC. On the meaning of 'banker', the Court examined Black's Law Dictionary, section 3(b) of the Negotiable Instruments Act, 1881, United Dominions Trust Ltd v. Kirkwood [1966] 2 Q.B. 431 and the Punjab Record decision in Hira Lal ((1907) PR No. 19 of 1908), and rejected a designational test. Since section 27(1) of the Banking Companies Ordinance, 1962 makes it impossible for an individual to carry on banking business, a functional construction is required. The Court laid down a two-condition test: the property must be property with which or by means of which banking business is transacted, and the employee must be entrusted with or have dominion over it by virtue of his assigned banking function, as distinct from bare custody, casual exposure or incidental access. On abetment, section 109 PPC creates no vicarious liability merely because several roles were necessary. Applying these tests, Muhammad Atif's supervisory functions and the cumulative documentary and electronic material attracted section 409 PPC prima facie, bringing his case within the prohibitory clause. Muhammad Usman, not being a bank employee, could be liable only by abetment, and the record did not identify the act of abetment: the WhatsApp and email material was dated 13.11.2025, after the disputed activations of 06 and 09.11.2025; no technical report connected him with the

alleged tampering of the BVS device; and the recovered articles were ordinary franchise stock unsupported by any forensic report.

LEGAL SIGNIFICANCE

This order supplies the most developed Pakistani analysis to date of the interface between PECA and the Penal Code in cyber-banking fraud. Two holdings will be widely cited: first, that by force of section 27(2) of PECA customer data is 'property' capable of founding criminal breach of trust under sections 405 to 409 PPC; and second, the functional two-condition test for when a bank employee is a person entrusted 'in the way of his business as a banker' under section 409, which preserves the distinction between sections 408 and 409 and prevents every bank employee from being swept into the prohibitory clause. It also settles that PECA does not oust the substantive application of the PPC, confining Sheraz Khan and Javad Khan, and offers guidance on how access logs, audit trails and internal fraud-risk reports are to be assessed tentatively at the bail stage.

LEGAL PROPOSITIONS (VERBATIM)

- *The test is functional and two conditions must be satisfied.*
- *Section 109 PPC does not create vicarious liability merely because several acts were necessary for the completion of the offence.*
- *Where an employee has only bare custody or incidental access, without entrustment or dominion of that character, section 409 PPC is not attracted.*

LEGAL PRINCIPLES EXPOUNDED

PECA operates not in derogation of the Pakistan Penal Code; the substantive application of the PPC is not excluded merely because the same acts also attract PECA.

Source: *The cumulative effect of these provisions is that PECA does not exclude the substantive application of the PPC where the ingredients of an offence under the PPC are otherwise disclosed.*

Authority: Sections 27(1), 28, 50(1) and 50(2), Prevention of Electronic Crimes Act, 2016; Sheraz Khan v. The State (2022 PCr.LJ 203) and Javad Khan v. The State (2023 PCr.LJ 1092) distinguished

By force of section 27(2) of PECA, customer records maintained in a bank's core banking system, including account particulars and registered mobile numbers, constitute property for the purposes of sections 405 to 409 PPC.

Source: *Therefore, by force of section 27(2), such data constitutes "property" for the purposes of sections 405 to 409 PPC.*

Authority: Sections 2(1)(viii), 2(1)(xiii) and 27(2), PECA; sections 24 and 405, PPC; section 33A, Banking Companies Ordinance, 1962

The expression 'banker' in section 409 PPC is neither confined to executives nor extended to every bank employee; the test is functional, requiring that the property be that with or by means of which banking business is transacted and that the employee be entrusted with or have dominion over it by virtue of his assigned banking function.

Source: *I, therefore, hold that the expression "banker" in section 409 PPC is not confined to the president or other executives of a banking company. At the same time, it does not extend to every employee of a bank merely by reason of his employment, for such a reading would efface the distinction between sections 408 and 409 PPC.*

Authority: Section 409, PPC; section 3(b), Negotiable Instruments Act, 1881; section 27(1), Banking Companies Ordinance, 1962; United Dominions Trust Ltd v. Kirkwood [1966] 2 Q.B. 431; Hira Lal ((1907) PR No. 19 of 1908)

An abettor of an offence under section 409 PPC need not himself be a banker, but his conduct must fall within a mode of abetment recognised by section 107 PPC; section 109 does not create vicarious liability from the mere necessity of several roles.

Source: *The abettor need not himself be a banker. His own conduct, however, must fall within one of the modes of abetment recognized by section 107 PPC.*

Authority: Sections 107 and 109, PPC

In a cyber-banking case resting on access logs, system-generated records, audit trails and internal fraud-risk reports, such evidence is at the bail stage neither to be accepted uncritically nor tested by the trial standard, but examined tentatively with the rest of the investigation.

Source: At the bail stage, such evidence is neither to be accepted uncritically nor tested by the standard applicable at trial.

Authority: Section 497, Cr.P.C.; Tariq Bashir and others v. The State (PLD 1995 SC 34); Muhammad Tanveer v. The State and another (PLD 2017 SC 733); Shahzad v. The State and another (2023 SCMR 679); Syed Muhammad Ali Jaferi v. The State and another (2025 SCMR 838)

OPERATIVE ORDER

Crl. Misc. No. 20288-B of 2026 filed by Muhammad Atif was dismissed, section 409 PPC being prima facie attracted and the case falling within the prohibitory clause of section 497(1) Cr.P.C. Crl. Misc. No. 76474-B of 2025 was allowed and Muhammad Usman ordered to be released on bail on furnishing bail bonds of Rs. 1,000,000 with one surety in the like amount to the satisfaction of the trial court. The determinations of law were expressly limited to the questions necessary for disposal, and the observations on facts declared tentative and not binding on the trial court.

■ View Full Judgment

Sindh High Court

1 judgment

PPC SS.302(B), 311 & 34; SINDH ARMS ACT 2013 SS.23(1)(A) & 25; CR.P.C. SS.374, 376(A), 342 & 544-A — POLICE WITNESSES ARE ASSESSED ON THE SAME TOUCHSTONE AS ANY OTHER WITNESS, AND PROMPTITUDE IN SETTING THE CRIMINAL LAW IN MOTION EXCLUDES DELIBERATION AND FALSE IMPLICATION

Dost Ali v. The State

BOTH CRIMINAL APPEALS DISMISSED; CONVICTIONS AND SENTENCES MAINTAINED; MURDER REFERENCE ANSWERED IN THE AFFIRMATIVE AND THE DEATH SENTENCE CONFIRMED

Criminal Appeal No. D-27 of 2024, Criminal Appeal No. S-24 of 2024 and Cr. Confirmation Case No. D-18 of 2024 — 2026 SHC LAR 1514 (Circuit Court at Larkana) · Bench: Riazat Ali Sahar, J. (authoring); Ali Haider 'Ada', J. (Division Bench) · Decided: 05.08.2026 (heard 23.06.2026) · Uploaded: 05.08.2026

FACTS

On 28.03.2022 a uniformed police party on routine patrol, having recorded Roznamcha Entry No. 03 at 08:30 hours, reached the Katcha road of Village Fareed Jatoi at about 09:30 a.m. and heard cries for help from an open house. On approaching, they saw the appellant Dost Ali Gohrani Jatoi armed with a 12-bore double-barrel breech-loading gun, accompanied by an unidentified armed man. The appellant fired at Norez Jatoi and, after reloading, fired at Mst. Samul, wife of Shaukat Jatoi, both of whom died at the spot; the assailants escaped into nearby jungle. The deceased were brother-in-law and sister-in-law, allegedly killed on the false allegation of Karap. FIR No. 08 of 2022 was registered at Police Station Rustam, District Shikarpur under sections 302, 311 and 34 PPC. On 01.04.2022 the appellant was apprehended near Pir Shaheed in possession of an unlicensed 12-bore DBBL gun with an erased serial number, loaded with two live cartridges and with three more in his shirt pocket, giving rise to Crime No. 09 of 2022 under sections 23(1)(a) and 25 of the Sindh Arms Act, 2013. By judgments dated 29.04.2024 the 1st Additional Sessions Judge/MCTC, Shikarpur convicted the appellant under section 302(b) PPC on two counts and sentenced him to death as Ta'zir with Rs. 5,000,000 compensation under section 544-A Cr.P.C., and under the Sindh Arms Act to eight years' rigorous imprisonment with a fine of Rs. 200,000, and submitted Confirmation Case No. D-18 of 2024.

LEGAL ISSUE

Whether a conviction and death sentence resting principally on the ocular testimony of police officials, unsupported by any private witness, can be sustained; and whether any mitigating circumstance existed warranting reduction of the capital sentence on confirmation under section 374 Cr.P.C.

HOLDING

The Division Bench held that the testimony of the complainant ASI Loung Khan Mangi and eyewitness PC Nisar Ahmed Mahar remained consistent on every material particular as to the place of occurrence, the identity of the appellant, the weapon, the manner of assault and the deaths, and was unshaken in searching cross-examination. It was fully corroborated by the medical evidence of Dr. Tayaba Shah and Dr. Jahangir Ahmed Soomro, by the prompt preparation of mashirnamas, Danistnamas and Lash Chakas Forms, by the

site sketch of Tapedar Saifuddin, by the recovery evidence of PC Zahid Hussain, by the safe custody and transmission proved through SIP Muhammad Panjal and PC Amjad Ali, and by the positive Chemical Examiner's and Ballistic Expert's Reports connecting the crime empties to the recovered weapon. The Court rejected the contention that police witnesses are inherently unreliable, holding that a police officer's testimony is to be assessed on the same touchstone as that of any other witness where no animus, malice or previous hostility is alleged or established, and noting the practical reality that in Karo-Kari cases relatives do not come forward. Motive, though consistently alleged, was treated as an additional circumstance and not the foundation of conviction. Hazaray Khan (2024 SCMR 2042), Khair Muhammad (2025 SCMR 1599) and Ghulam Mustafa alias Raja Buledi (2025 SCMR 1633) were distinguished on their facts, and Rafaqat Ali (2016 SCMR 1766) and Muhammad Hayat (2021 SCMR 92) were applied. On sentence, the Court examined Ghulam Rasool v. The State (2025 SCMR 74) and found none of its mitigating features present: the occurrence was directly witnessed, the appellant separately fired at each deceased after reloading, the ballistic linkage was positive, and the double murder on the pretext of so-called honour disclosed a deliberate and successive course of conduct.

LEGAL SIGNIFICANCE

The judgment is a robust affirmation, in a capital case, of the evidentiary parity of police witnesses, and is notable for its candid recognition that in Karo-Kari prosecutions relatives characteristically decline to depose, so that the absence of private witnesses cannot by itself be held against the prosecution. It applies Muhammad Hayat (2021 SCMR 92) on the significance of promptitude in setting the criminal law in motion, provides a careful worked example of distinguishing recent acquittal authorities on the basis of forensic linkage and consistency of the ocular account, and offers a structured comparison against the mitigating factors catalogued in Ghulam Rasool (2025 SCMR 74) for the purpose of confirming rather than commuting a death sentence.

LEGAL PROPOSITIONS (VERBATIM)

- *It is by now well settled that the testimony of a police officer is to be assessed on the same touchstone as that of any other witness.*
- *benefit of doubt is to be extended only where a doubt arises from the record and not where it is founded upon conjectures, surmises or hypothetical possibilities*
- *the evidence is to be appreciated as a whole and not in isolated compartments*

LEGAL PRINCIPLES EXPOUNDED

The testimony of a police officer is assessed on the same touchstone as that of any other witness; departmental membership does not render it unreliable where no animus, malice or previous hostility has been alleged or established.

Source: *It is by now well settled that the testimony of a police officer is to be assessed on the same touchstone as that of any other witness. Merely because a witness belongs to the police department does not render his testimony unreliable, particularly where no animus, malice or previous hostility has been alleged or established.*

Authority: *Rafaqat Ali and others v. The State (2016 SCMR 1766)*

Promptitude in setting the criminal law in motion, followed without delay by medical and investigative proceedings, excludes the possibility of deliberation, consultation or false implication and lends intrinsic assurance to the prosecution case.

Source: *The promptitude with which the criminal law was set into motion excludes the possibility of deliberation, consultation or false implication and lends intrinsic assurance to the truthfulness of the prosecution case.*

Authority: *Muhammad Hayat and another v. The State (2021 SCMR 92)*

Benefit of doubt is to be extended only where the doubt arises from the record, not where it is founded on conjecture, surmise or hypothetical possibility; trivial discrepancies natural to human observation do not affect the substratum of the prosecution case.

Source: *It is equally well settled that benefit of doubt is to be extended only where a doubt arises from the record and not where it is founded upon conjectures, surmises or hypothetical possibilities.*

Authority: *Hazaray Khan and others v. The State and others (2024 SCMR 2042) distinguished*

In deciding a criminal appeal the evidence must be appreciated as a whole and not in isolated compartments; a complete and unbroken chain of ocular, medical, documentary and forensic evidence sustains conviction.

Source: *We are also mindful of the settled proposition that while deciding a criminal appeal, the evidence is to be appreciated as a whole and not in isolated compartments.*

Authority: *Khair Muhammad v. The State (2025 SCMR 1599) and Ghulam Mustafa alias Raja Buledi v. The State (2025 SCMR 1633) distinguished on facts*

Where none of the mitigating features recognised in Ghulam Rasool is present, and the occurrence was directly witnessed with positive ballistic linkage and a deliberate successive course of conduct, there is no legally sustainable ground for reducing the normal sentence.

Source: *We, therefore, find no legally sustainable mitigating circumstance for reducing the normal sentence awarded by the learned trial Court.*

Authority: *Ghulam Rasool v. The State (2025 SCMR 74) distinguished; sections 374 and 376(a), Cr.P.C.*

OPERATIVE ORDER

Both criminal appeals, arising out of Sessions Case No. 308 of 2022 (Crime No. 08 of 2022 under sections 302, 311 and 34 PPC) and Sessions Case No. 216 of 2022 (Crime No. 09 of 2022 under section 23(i-a) read with section 25 of the Sindh Arms Act, 2013), were dismissed and the convictions and sentences awarded on 29.04.2024 maintained. The Murder Reference under section 374 Cr.P.C. was answered in the AFFIRMATIVE and the sentence of death under section 302(b) PPC was CONFIRMED under section 376(a) Cr.P.C., with a direction to the office to communicate the judgment to the trial Court and the Jail authorities forthwith.

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