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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Sunday, 21 June 2026

Upload Window: 18-20 June 2026

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Federal Constitutional Court of Pakistan

1 judgment

COOPERATIVE SOCIETIES — EXCLUSIVE JURISDICTION OF COOPERATIVE COURT & MAINTAI

Sindh Secretariat Cooperative Housing Society Ltd. & others v. Province of Sindh & others

PETITION CONVERTED INTO APPEAL AND ALLOWED; IMPUGNED HIGH COURT JUDGMENT SET ASIDE; MATTER REMANDED TO COOPERATIVE COURT

F.C.P.L.A. No.73-K of 2026 · Bench: Justice Syed Hasan Azhar Rizvi; Justice Muhammad Karim Khan Agha · Decided: 16.06.2026 · Uploaded: 18-06-2026

FACTS

The petitioner-society had earlier instituted Constitution Petition No. D-3478 of 2025 assailing the Supersession Notification dated 15.07.2025 by which the affairs of the Sindh Secretariat Cooperative Housing Society Limited were placed under supersession. That petition was disposed of on 24.07.2025 directing the respondents to conduct elections within three months. In the meantime certain members instituted Civil Suit No. 5742 of 2025 before the Special Court for Cooperative Societies, Karachi challenging the Supersession Notification; on 11.11.2025 an interim order suspended the Notification and directed elections within three months under an Election Officer appointed by the Registrar, Cooperative Housing Societies. That interim order was suspended by the High Court vide order dated 12.12.2025 in Miscellaneous Appeal No. 181 of 2025, after which the election process was resumed. Elections were held on 14.12.2025, the successful candidates notified on 16.12.2025, and the new Managing Committee assumed charge. Constitution Petition No. D-6281 of 2025 was then instituted on 29.12.2025 before the Sindh High Court seeking a declaration that the elections were unlawful; that petition was allowed by judgment dated 17.03.2026 invalidating the entire election process and directing fresh elections under an Election Officer appointed by the Registrar, Cooperative Societies, Sindh. In January 2026 Suit No. 123 of 2026 was also instituted before the Special Court for Cooperative Societies, with substantially identical pleadings, prayers, array of respondents and even vakalatnama. The petitioner-society approached the Federal Constitutional Court contending that the constitutional petition was not maintainable in view of the alternate statutory remedy under the Sindh Cooperative Societies Act, 2020 and that the parallel proceedings amounted to forum shopping.

LEGAL ISSUE

Whether a challenge to the validity of concluded elections of a cooperative society — involving disputed questions of fact regarding the voters' list, custody of original record, transparency and conduct of the election — is maintainable in constitutional jurisdiction under Article 199 when Sections 73, 116 and 117 of the Sindh Cooperative Societies Act, 2020 read with Rule 53 of the Sindh Cooperative Societies Rules, 2020 vest exclusive first-instance jurisdiction in the Cooperative Court to try disputes touching the business of a cooperative society, including elections.

HOLDING

The Federal Constitutional Court held that the Sindh Cooperative Societies Act, 2020 creates a complete jurisdictional route for resolution of disputes touching the business of a cooperative society: Section 73 identifies the class of disputes; Section 116 constitutes the Cooperative Court; Section 117 vests jurisdiction in that forum; and Rule 53 of the 2020 Rules defines the contours of triable disputes. The language of Section 73 is mandatory and the expression 'shall be tried' indicates that such disputes must be tried by the Cooperative Court as a matter of first instance. The challenge to the elections held on 14.12.2025 was in substance a dispute touching the affairs, business and management of the society and squarely fell within the jurisdiction of the Cooperative Court. The controversy raised before the High Court involved disputed questions of fact — preparation of voters' list, custody and availability of original record, transparency of the election process and legality of the conduct of elections — which could not be finally determined on pleadings and affidavits, and which were not for the constitutional court to decide as a court of first instance. The High

Court ought to have declined to entertain the constitutional petition and relegated the parties to the Cooperative Court. The Impugned Judgment did not identify any admitted or patent violation of a mandatory statutory provision justifying bypass of the statutory remedy and did not fall within the exceptional categories (coram non judice, without jurisdiction, mala fide or violative of natural justice on admitted facts) where writ may issue despite an alternate remedy. The petition was converted into appeal, allowed, the Impugned Judgment dated 17.03.2026 set aside, and the matter remanded to the Cooperative Court for decision on the legality and authenticity of the elections, preferably within thirty working days.

LEGAL SIGNIFICANCE

The judgment is an authoritative restatement by the Federal Constitutional Court of the doctrine of exclusive statutory jurisdiction in cooperative-society disputes in Sindh and establishes the controlling reading of Sections 73, 116 and 117 of the Sindh Cooperative Societies Act, 2020 and Rule 53 of the 2020 Rules. By harmonising the High Court's earlier ruling in Syed Muhammad Kazim v. Rub Razi Cooperative Housing Society Ltd. (2024 YLR 1668), the Supreme Court's decision in Muhammad Dawood v. Mst. Sakeena Farooque (2025 SCMR 1229) and the recent Qureshi Cooperative Society Ltd. v. Province of Sindh, the Court squarely confirms that election disputes within a cooperative society are within the exclusive first-instance jurisdiction of the Cooperative Court. It further reinforces that the High Court's writ jurisdiction is not to be used as a fact-finding election forum where a special statutory forum exists, and that parallel proceedings before different fora with substantially identical pleadings amount to forum shopping and abuse of process. The decision will be heavily relied upon by Cooperative Societies and Registrars across Sindh to resist constitutional petitions filed in the first instance to upset election results.

LEGAL PROPOSITIONS (VERBATIM)

— The language of section 73 is mandatory. The expression 'shall be tried' indicates that disputes falling within the statutory field are to be tried by the Cooperative Court and not by any other forum as a matter of first instance, subject only to the exclusions expressly mentioned therein.

— The legal position emerging from sections 73, 116 and 117 of the Act read with Rule 53 of the Rules is that the Act creates a complete jurisdictional route.

— The challenge to elections held on 14.12.2025 was, in substance, a dispute touching the affairs, business and management of the society. Such dispute squarely fell within the jurisdiction of the Cooperative Court.

— Disputed questions of fact are not ordinarily to be adjudicated in constitutional jurisdiction.

— The High Court ought to have declined to entertain the constitution petition and relegated the parties to the remedy available before the Cooperative Court.

LEGAL PRINCIPLES EXPOUNDED

Where a special statute creates rights and obligations and simultaneously establishes a special adjudicatory structure for disputes arising thereunder, the statutory forum must be approached in the first instance and constitutional jurisdiction is not to be invoked as a court of first instance.

Source: *The Act does not merely create rights and obligations in relation to cooperative societies; it also creates a special adjudicatory structure for resolution of disputes arising out of the constitution, management, business, working and affairs of such societies. Therefore, where the controversy falls within the field occupied by the Act and the Rules framed thereunder, the forum created by the statute has to be approached in the first instance.*

Authority: *Sindh Cooperative Societies Act, 2020, sections 73, 116 and 117; Sindh Cooperative Societies Rules, 2020, Rule 53*

Disputes touching the business of a cooperative society — including challenges to the validity of elections — fall within the exclusive first-instance jurisdiction of the Cooperative Court constituted under the Sindh Cooperative Societies Act, 2020.

Source: *the Cooperative Court has exclusive jurisdiction to try disputes including elections of the society. This authority directly applies to the present case, as the dispute before the High Court was not collateral or administrative in nature, but a challenge to the validity of a concluded election of a cooperative society.*

Authority: *Qureshi Cooperative Society Ltd. v. Province of Sindh (order dated 29.04.2026 in C.P. No. D-1618 of 2025, High Court of Sindh); Syed Muhammad Kazim v. Rub Razi Cooperative Housing Society Ltd. (2024 YLR 1668); Muhammad Dawood v. Mst. Sakeena Farooque (2025 SCMR 1229)*

Constitutional jurisdiction may be exercised despite the availability of an alternate remedy only in exceptional cases — where the impugned action is coram non judice, without jurisdiction, mala fide, or violative of natural justice on admitted facts — and not where the alleged defects are disputed and require factual determination.

Source: *We are conscious that constitutional jurisdiction may be exercised despite availability of an alternate remedy in exceptional cases, such as where the impugned action is coram non judice, without jurisdiction, mala fide, or violative of natural justice on admitted facts. However, the present case did not fall within such exceptional category. The alleged defects were disputed and required factual determination.*

Authority: *Article 199, Constitution of the Islamic Republic of Pakistan, 1973*

Where a special election forum exists, the High Court must first address the question of jurisdiction and should not assume the role of a fact-finding election forum.

Source: *where a special election forum exists, the High Court must first address the question of jurisdiction and should not assume the role of a fact-finding election forum.*

Authority: *Jameel Qadir v. Government of Balochistan (2023 SCMR 1919); Special Secretary-II (Law & Order) v. Fayyaz Dawar (2023 SCMR 1442)*

OPERATIVE ORDER

In view of above, the instant petition is converted into appeal and allowed; and the Impugned Judgment dated 17.03.2026 is set aside with the direction to the Cooperative Court to decide the issue regarding the legality and authenticity of the elections of the society expeditiously, preferably within a period of thirty (30) working days. However, further exercise of conducting elections, if any, shall be carried out in accordance with law. Copy of this order be sent to the concerned District Judge for its onward transmission to the relevant special judge for the Cooperative Societies, Karachi.

■ **View Full Judgment**

Supreme Court of Pakistan

6 judgments

REINSTATEMENT AFTER ACQUITTAL — F.R. 54 & BACK BENEFITS OF CIVIL SERVANT

Mian Abdul Saeed v. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education and others

APPEAL ALLOWED; TRIBUNAL JUDGMENT SET ASIDE; MATTER REMITTED FOR FRESH ORDER ON BACK BENEFITS WITHIN TWO MONTHS

C.A. No.680/2020 · Bench: Chief Justice Yahya Afridi; Justice Muhammad Ali Mazhar · Decided: 20.11.2025 · Uploaded: 20-06-2026

FACTS

The appellant served in BPS-17 as Secondary School Teacher (SST(G)) at Government High School Gokand, District Buner. Following registration of FIR No.491 dated 10.09.2012 under Sections 302/324/147/148/149 PPC at Police Station Daggar, Buner, he was suspended from duty with effect from 30.09.2012 vide notification dated 31.12.2012 with payment of subsistence allowance. Upon his conviction by the Additional District Judge, Buner vide judgment dated 19.12.2013, he was removed from service vide Office Order dated 06.07.2015, the removal made effective from the date of conviction. The Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat acquitted him on appeal vide judgment dated 11.12.2017. He thereafter filed a departmental appeal seeking reinstatement with all back benefits. The departmental appeal was partly allowed vide order dated 19.04.2018, ordering reinstatement with immediate effect but treating the intervening period from the date of conviction as leave without pay, thereby denying back benefits. The appellant approached the KPK Service Tribunal in Service Appeal No.642/2018; the Tribunal partially allowed the appeal and directed the intervening period to be treated as leave of the kind due. Leave to appeal was granted by the Supreme Court vide Order dated 03.08.2020 to examine whether, on honourable acquittal, the appellant was entitled to payment of back benefits in terms of F.R. 54 for the period he had not served the department.

LEGAL ISSUE

Whether a civil servant who was removed from service solely on the basis of conviction in a criminal case and was subsequently acquitted by a superior court and reinstated in service, is entitled, in terms of Fundamental Rule 54 read with Section 17 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, to full pay and allowances for the intervening period of absence from duty, and whether the intervening period must be treated as period spent on duty rather than as leave without pay.

HOLDING

The Supreme Court held that F.R. 54, read with C.S.R. 193(b), Article 241 of the Constitution and Section 17 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, directly governs the consequences of reinstatement on acquittal. Where a government servant has been dismissed or removed and is reinstated, the revising or appellate authority, if the servant is honourably acquitted, must grant him the full pay and allowances to which he would have been entitled if he had not been dismissed or removed, and the period of absence from duty must be treated as period spent on duty. The benefit of F.R. 54 is not allowable automatically or ipsi dixit, but operates once reinstatement is accorded on acquittal from criminal proceedings after dismissal or removal from service. In the present case, the sole ground of removal was conviction; the revising/appellate authority recorded no reasons for treating the intervening period as leave without pay and the competent authority also failed to determine arrears of pay under Section 17 of the 1973 Act while reinstating the appellant. Further, no show cause notice was issued and no departmental inquiry was conducted before removal; the entire action rested on the criminal indictment and conviction, in violation of Article 10A of the Constitution and due process. The Court accordingly allowed the civil appeal, set aside the impugned Tribunal judgment, and directed the competent authority to reconsider the case and pass a fresh order granting back benefits in terms of F.R. 54 within two months.

LEGAL SIGNIFICANCE

The judgment reasserts, on the authority of Dr. Muhammad Islam (1998 SCMR 1993), Superintending Engineer GEPCO (2007 SCMR 537), Rahimullah Khan (2024 SCMR 541), Muhammad Sharif (2021 SCMR 962) and Tahir Kazmi (2025 SCP 237), that an honourable acquittal in a criminal case operates as restoration of the civil servant as if he had never left service, and that denial of back benefits under F.R. 54 in such circumstances offends Articles 4, 9, 10A, 14 and 25 of the Constitution. It is a corrective to the practice of departmental authorities of denying back benefits without recording reasons. It also reinforces the structural separation between departmental and criminal proceedings: even where a removal flows from a criminal conviction later set aside, the department remains bound to apply F.R. 54 and Section 17 of the relevant Civil Servants Act, and cannot evade them by passing an unreasoned reinstatement order treating the absence as leave without pay. The decision will be of routine application before all Service Tribunals confronting back-benefit claims of acquitted civil servants.

LEGAL PROPOSITIONS (VERBATIM)

— If a government servant is honourably acquitted and reinstated in service, he shall be granted the full pay to which he would have been entitled if he had not been dismissed or removed, and the period of absence from duty will be treated as a period spent on duty.

— The benefit of F.R. 54 is not allowable automatically or ipsi dixit but is subject to the reinstatement of an employee on acquittal from criminal cases after dismissal or removal from service.

— Where a civil servant has, under an order which is later set aside, been dismissed or removed from service or reduced in rank, he shall, on the setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine.

— Where the entire departmental action was solely based on the indictment and then acquittal of the appellant in a criminal case, without any show cause notice or departmental inquiry, that constitutes a sheer violation of Article 10A of the Constitution and due process of law.

— Even where benefit of doubt has been extended to an accused, he shall be deemed to have been honourably acquitted and is entitled to full pay and remuneration under F.R. 54(a).

LEGAL PRINCIPLES EXPOUNDED

Fundamental Rule 54, applicable to civil servants in the province by virtue of Article 241 of the Constitution, requires the revising or appellate authority on reinstatement after honourable acquittal to grant full pay and allowances for the intervening period and to treat that period as spent on duty.

Source: *F.R. 54 has the direct nexus which expounds that if a government servant is honourably acquitted, and reinstated in service, he shall be granted the full pay to which he would have been entitled if he had not been dismissed or removed, and, by an order to be separately recorded, any allowance of which he was in receipt prior to his dismissal or removal with a stipulation that period of absence from duty will be treated as a period spent on duty.*

Authority: *Fundamental Rule 54; C.S.R. 193(b); Article 241 of the Constitution of the Islamic Republic of Pakistan, 1973*

Section 17 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 entitles a civil servant to such arrears of pay as the authority setting aside an order of dismissal or removal may determine; the competent authority cannot side-step this statutory duty.

Source: *where a civil servant has, under an order which is later set aside, been dismissed or removed from service or reduced in rank, he shall, on the setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine.*

Authority: *Section 17, Khyber Pakhtunkhwa Civil Servants Act, 1973*

Departmental inquiry and criminal prosecution operate independently and concurrently with distinct standards of proof; the absence of any disciplinary proceeding before removal from service offends Article 10A of the Constitution and due process.

Source: *no opportunity was afforded to the appellant before dismissal from service through any disciplinary proceedings by the department which was sheer violation of Article 10A of the Constitution and due process of law.*

Authority: *Article 10A, Constitution of the Islamic Republic of Pakistan, 1973; Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011*

An honourable acquittal — including acquittal on the basis of benefit of doubt — entitles a reinstated civil servant to all financial benefits under F.R. 54 and reinstatement is a restorative act fully aligned with the constitutional guarantees in Articles 4, 9, 10A, 14 and 25.

Source: *the reinstatement is not an empty gesture but a restorative act, fully aligned with Articles 9, 10A, 14, and 25 of the Constitution. To reinstate a civil servant without restoring their status, entitlements, and dignity is to offer a remedy that fails to remedy and justice that falls short of being just.*

Authority: *Dr. Muhammad Islam v. Government of N.W.F.P. (1998 SCMR 1993); Superintending Engineer GEPCO v. Muhammad Yousaf (2007 SCMR 537); Rahimullah Khan v. Deputy Postmaster General (2024 SCMR 541); Muhammad Sharif v. Inspector General of Police, Punjab (2021 SCMR 962 / 2021 SCP 118); Tahir Kazmi v. Inspector General of Police, Punjab (2025 SCP 237)*

OPERATIVE ORDER

As a result of the above discussion, this Civil Appeal is allowed and the impugned judgment of the learned Service Tribunal is set aside. Although the Competent Authority (Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar) had reinstated the appellant in service with immediate effect vide Office Order dated 19.04.2018, however by means of this judgment, the competent authority is directed to reconsider the case of the appellant and pass a fresh order to the extent of granting back benefits to the appellant in terms of Fundamental Rule 54 within a period of two months from the date of receiving the copy of this judgment.

■ **View Full Judgment**

CHILD RAPE UNDER SECTION 376(III) PPC — CHILD WITNESS, MEDICAL/FORENSIC EVIDENCE

Younas Masih v. The State (through Prosecutor General Punjab)

PETITION CONVERTED INTO APPEAL AND PARTLY ALLOWED; CONVICTION MAINTAINED; DEATH SENTENCE ALTERED TO IMPRISONMENT FOR LIFE

Crl.P.L.A. No.1042 of 2025 · Bench: Justice Muhammad Hashim Khan Kakar; Justice Salahuddin Panhwar; Justice Ishtiaq Ibrahim · Decided: 12.05.2026 · Uploaded: 20-06-2026

FACTS

The petitioner, Younas Masih, was working as a sweeper at Government Girls High School, Housing Colony, Sheikhupura. According to the application Ex.PJ filed by the widowed mother of the ten-year-old victim ('M'), PW-6, M had become subdued and frightened and unwilling to go to school. On being questioned on 11.10.2021 in the presence of PW-8, the Child Protection Focal Person, M disclosed that on 08.10.2021 at about 07:00 a.m. the petitioner had taken her to a secluded part of the school premises (variously described in the record as a 'room' and a 'washroom'), threatened her and committed rape. FIR No.803/2021 was registered the same day under Section 376(iii) PPC at Police Station Housing Colony, Sheikhupura. The Investigating Officer (PW-5) prepared the site plan Ex.PE, recorded Section 161 Cr.P.C. statements, procured medico-legal examination of M on the same day (PW-9 found scratch marks and abrasions on the inner portion of the right breast and mid portion of the left breast, ruptured hymen and redness and swelling around the vaginal introitus), and arrested the petitioner; DNA related proceedings were undertaken on 13.10.2021. The PFSA report Ex.PN recorded absence of seminal material on the vaginal and anal swabs. The petitioner was found potent (PW-11). In his Section 342 Cr.P.C. statement the petitioner denied the allegation, pleaded false implication arising from a quarrel at the main gate and did not appear under Section 340(2) Cr.P.C. or lead defence evidence. The trial court (Additional Sessions Judge, Gender-Based Violence Court, Sheikhupura) convicted him under Section 376(iii) PPC vide judgment dated 21.04.2022 and sentenced him to death with fine of Rs.300,000 and compensation of Rs.100,000 payable to M under Section 17 of the Anti-Rape (Investigation and Trial) Act, 2021. The Lahore High Court vide judgment dated 12.05.2025 dismissed Criminal Appeal No.28362 of 2022 and answered Capital Sentence Reference No.08-ARA-2022 in the affirmative, maintaining the conviction and death sentence.

LEGAL ISSUE

First, whether the ten-year-old victim M (PW-7) was competent under Article 3 of the Qanun-e-Shahadat Order, 1984 to testify and whether her testimony was reliable enough to sustain conviction. Secondly, whether the medical evidence and the negative PFSA semen report created a reasonable doubt. Thirdly, whether the three days and six hours delay in registration of the FIR was fatal. Fourthly, whether, on maintaining conviction under Section 376(iii) PPC, the sentence of death should stand or be converted to imprisonment for life.

HOLDING

On independent reappraisal the Supreme Court held that M was a competent witness whose core account — identity of the accused, place of occurrence (the school), removal of clothes, slap on resistance, threat and the sexual act — remained intact and was not shaken in cross-examination, and that a child witness found competent under Article 3 of the Qanun-e-Shahadat Order, 1984 may sustain conviction even on a capital charge. The medical evidence — breast abrasions, vaginal redness and swelling, ruptured hymen — formed a corroborative constellation rather than a single observation, and the generic concessions of PW-9 about theoretical alternative causes did not establish any actual non-sexual mechanism on the record. The negative PFSA semen report Ex.PN, the offence of rape requiring no proof of ejaculation, was not exculpatory in the totality of the evidence; biological recovery is time-sensitive and a single negative laboratory result cannot defeat reliable ocular and medical evidence. The delay in lodging the FIR was satisfactorily explained by the age and trauma of the child, the dependent position of her widowed mother and the institutional silence of school personnel; once disclosure to her mother occurred the police were promptly approached. The plea of false implication based on an alleged quarrel was an unsupported bare assertion, not put to the victim and not advanced by defence evidence. Cumulatively the prosecution had proved the charge beyond reasonable

doubt and the conviction under Section 376(iii) PPC was lawful and safe. On sentence, the Court held that Section 376(iii) provides alternative punishments and the legislature has not made death automatic. While the aggravating features were grave (age of victim, adult accused, betrayal of institutional trust), the record disclosed no previous conviction, no proven history of similar offences and no proven permanent physical disability of the child; in such circumstances imprisonment for life is the proportionate, lawful and judicially conscientious sentence, avoiding irreversible excess. The Court also issued country-wide directions on protection of girls in educational institutions, prompt enforcement of Section 509 PPC and the need for a dedicated regulated medico-legal service modelled on the Sindh Medico Legal Act, 2023.

LEGAL SIGNIFICANCE

The judgment is a methodologically rigorous restatement of the law governing prosecutions for child rape: it harmonises the protection of a child victim with the constitutional rights of an accused under sentence of death by articulating a three-stage discipline of evidence construction in which 'lived reality' is a reasoning method, not a substitute for proof. It reaffirms that a competent child witness can sustain conviction even on a capital charge (Farman Hussain PLD 1995 SC 1; Raja Khurram Ali Khan PLD 2020 SC 146); that the confidence-inspiring testimony of a victim of sexual assault may by itself sustain a conviction with corroboration only a rule of prudence (Atif Zareef PLD 2021 SC 550); that absence of semen on swabs is a limitation upon biological recovery not proof that the offence did not occur; and that a bare plea of false implication, neither put to the victim nor advanced under Section 340(2) Cr.P.C., does not dislodge a trustworthy and corroborated prosecution case (Muhammad Imran PLD 2025 SC 662). On sentencing, it consolidates the principle that the existence of a statutory alternative requires a separate judicial inquiry into sentence and that the irreversibility of death imposes a particularly searching duty of proportionality. The directions to all Provincial Inspectors General of Police, the IG Islamabad, the Attorney General, Advocates General and Health Departments — for preventive policing around educational institutions and for the establishment of dedicated medico-legal cadres modelled on the Sindh Medico Legal Act, 2023 — extend the judgment's effect well beyond the parties.

LEGAL PROPOSITIONS (VERBATIM)

— Every person is competent to testify under Article 3 of the Qanun-e-Shahadat Order, 1984 unless the Court finds that tender years, old age, or disease prevents him from understanding the questions or giving rational answers; a child found competent may sustain a conviction even on a capital charge.

— The confidence-inspiring testimony of a victim of sexual assault may by itself sustain a conviction; corroboration is a rule of prudence and not of law, and such a victim stands upon a higher pedestal than an injured witness.

— The offence of rape does not require proof of ejaculation, nor does the law require detection of semen as a condition precedent to conviction; absence of semen is a limitation upon biological recovery, not proof that the assault did not occur.

— Delay in registration of the FIR in cases of sexual violence against children, where satisfactorily explained by the age and trauma of the victim, the dependent position of the family, and institutional reticence, does not create reasonable doubt.

— A bare plea of false implication which is not put to the victim in cross-examination and is not advanced through a statement on oath under Section 340(2) Cr.P.C. or through evidence in defence, does not dislodge a trustworthy and corroborated prosecution case.

— Where the statute provides alternative punishments of death or imprisonment for life, the legislature has not made death automatic; on a record disclosing no proven previous conviction, no proven history of similar offences and no additional proven aggravating circumstance beyond those inherent in the conviction, the proportionate, lawful and irreversible-excess-avoiding sentence is imprisonment for life.

LEGAL PRINCIPLES EXPOUNDED

The presumption of innocence is not lessened by the gravity of the charge or the youth of the victim; it is displaced only by lawful evidence proving the charge beyond reasonable doubt, and where the petition arises from a sentence of death, the duty of independent reappraisal is at its

highest.

Source: *Every criminal case begins with the presumption of innocence. It is not lessened by the gravity of the charge, nor by the youth of the victim, nor by the natural revulsion the offence excites. It is displaced only by lawful evidence proving the charge beyond reasonable doubt.*

Authority: *Article 117, Qanun-e-Shahadat Order, 1984*

A competent child witness may sustain conviction even on a capital charge; competence under Article 3 of the Qanun-e-Shahadat Order, 1984 only admits the evidence — its weight depends upon substance, manner of testing, and corroboration.

Source: *This Court has long held the evidence of a competent child witness sufficient to sustain a conviction, even on a capital charge ... Competence, however, only admits the evidence; it does not fix its weight.*

Authority: *Article 3, Qanun-e-Shahadat Order, 1984; The State v. Farman Hussain (PLD 1995 SC 1); Raja Khurram Ali Khan v. The State (PLD 2020 SC 146)*

The confidence-inspiring testimony of a victim of sexual assault may by itself sustain a conviction; corroboration is a rule of prudence, not of law, and such a victim stands on a higher pedestal than an injured witness.

Source: *This Court has repeatedly held that the confidence-inspiring testimony of a victim of sexual assault may by itself sustain a conviction, corroboration being a rule of prudence and not of law, and that such a victim stands upon a higher pedestal than an injured witness.*

Authority: *Atif Zareef v. The State (PLD 2021 SC 550); Shakeel v. The State (PLD 2010 SC 47); Muhammad Akram v. The State (PLD 1989 SC 742); Shahzad alias Shaddu v. The State (2002 SCMR 1009); The State v. Abdul Khaliq (PLD 2011 SC 554)*

Absence of semen on swabs is a limitation upon biological recovery, not proof that the assault did not occur; a single negative laboratory result cannot displace direct and confidence-inspiring evidence corroborated by medical observations and surrounding circumstances.

Source: *The absence of semen, therefore, is a limitation upon biological recovery, not proof that the assault did not occur ... Criminal adjudication must value science, but it must not surrender judgment to a single negative laboratory result.*

Authority: *Abdul Chann v. The State (2022 SCMR 544); Atif Zareef v. The State (PLD 2021 SC 550); Salman Akram Raja v. Government of Punjab (2013 SCMR 203); Ali Haider alias Papu v. Jameel Hussain (PLD 2021 SC 362); Atta ul Mustafa v. The State (2023 SCMR 1698)*

Where the statute provides alternative punishments of death or imprisonment for life, sentencing is a discretion to be exercised judicially upon proportionality; on a record without proven previous convictions, history of similar offences, or permanent injury beyond that inherent in the conviction, imprisonment for life is the proportionate sentence which avoids irreversible excess.

Source: *Imprisonment for life is not leniency. It is one of the gravest punishments known to law ... Where the statute permits life imprisonment, and where the record does not demonstrate that death alone is indispensable, the Court must choose the punishment which is severe, lawful and proportionate, while avoiding irreversible excess.*

Authority: *Section 376(iii), Pakistan Penal Code, 1860*

OPERATIVE ORDER

For the reasons recorded above, this petition is converted into appeal and is partly allowed. The conviction of the appellant, Younas Masih, under Section 376(iii) PPC is maintained. The sentence of death is altered to imprisonment for life. The fine of Rs.300,000 (three hundred thousand) or, in default of payment thereof, simple imprisonment for six months, is maintained. The compensation of Rs.100,000 (one hundred thousand) payable to 'M' under Section 17 of the Anti-Rape (Investigation and Trial) Act, 2021, recoverable as arrears of land revenue, is also maintained. The petitioner shall have the benefit of Section 382-B Cr.P.C. The confirmation of death sentence in Capital Sentence Reference No.08-ARA-2022, as maintained by the learned High Court, stands set aside to the extent indicated above. The name and identifying particulars of 'M' shall not be disclosed in any report, publication or broadcast of these proceedings or of this judgment.

■ **View Full Judgment**

CNSA SECTION 9(C) — SAFE CUSTODY, CHAIN OF CUSTODY AND JUDICIAL SUPERVISION OF

Mehmood Khan and others v. The State (through Prosecutor General Sindh)

LEAVE GRANTED; PETITION CONVERTED INTO APPEAL AND ALLOWED; CONVICTION SET ASIDE; PETITIONERS ACQUITTED

Crl.P.L.A. No.1544 of 2025 · Bench: Justice Muhammad Hashim Khan Kakar; Justice Salahuddin Panhwar; Justice Ishtiaq Ibrahim · Decided: 11.05.2026 · Uploaded: 19-06-2026

FACTS

On 23.06.2021 at about 04:00 a.m. the petitioners were intercepted by Excise officials on Shikarpur Road, Jacobabad while travelling in a Mazda truck bearing registration No. NAE-900 (Quetta). On search, 26 kilograms of charas allegedly concealed in a secret cavity were recovered. FIR No.04 of 2021 was registered under Section 9(c) of the Control of Narcotic Substances Act, 1997 at Excise Police Station, Jacobabad. The Additional Sessions Judge-I/Model Criminal Trial Court, Jacobabad convicted the petitioners vide judgment dated 20.04.2022; their Criminal Jail Appeal No.D-22 of 2022 was dismissed by the High Court of Sindh, Circuit Court Larkana vide judgment dated 14.02.2024. Before the Supreme Court the petitioners contended (i) that the Moharrar/Malkhana incharge was not produced and the relevant register entries were not brought on record; (ii) that the alleged narcotics were dispatched to the chemical examiner with unexplained delay; (iii) that the registered owner of the vehicle, Ghulam Muhammad Pathan, was never produced; and (iv) that the description of the vehicle was 'Mazda' in the FIR but 'Isuzu' in the Excise and Taxation Officer's verification report. The State supported the impugned judgment on the strength of the positive report of the chemical examiner.

LEGAL ISSUE

Whether, in a prosecution under Section 9(c) of the Control of Narcotic Substances Act, 1997, conviction can be sustained where the prosecution has failed to establish through cogent evidence the safe custody and safe transmission of the recovered narcotic substance from the moment of recovery until receipt by the chemical examiner; and what directions ought to be issued to trial and special courts under Section 33(4) of the CNSA read with Sections 516-A and 517 Cr.P.C. for judicially supervised custody, sampling, certification and destruction of confiscated narcotic substances.

HOLDING

The Supreme Court held that the prosecution had failed to discharge its strict obligation in narcotics cases to establish an unbroken chain of custody. The non-production of the Moharrar/Malkhana incharge, the withholding of the relevant malkhana register entries, the unexplained deficiencies regarding safe custody and transmission, the non-production of the registered owner of the vehicle and the unexplained contradiction between 'Mazda' (FIR) and 'Isuzu' (verification report) cumulatively struck at the root of the prosecution case. Even a single missing link in the chain of custody creates doubt sufficient to entitle the accused to its benefit as a matter of right. While reiterating the public importance of narcotics law, the Court underscored that the rigour of that law cannot operate at the cost of due process and that courts must insist upon strict proof of recovery, custody, sampling, transmission and conscious possession. The Court further read Section 33(4) of the CNSA (which uses the imperative 'shall' and incorporates Section 516-A Cr.P.C.) as the special-law mandate for disposal of narcotic substances under judicial supervision; the discretionary 'may' in Section 517 Cr.P.C. does not authorise judicial inaction. To avoid recurring institutional risks of substitution, false implication and misuse, the Court issued country-wide directions binding all trial courts and special narcotics courts to apply Section 33(4) read with Section 516-A in the prescribed manner, restricting destruction during inquiry/trial except upon notice to parties, judicial supervision of sampling and certification, preservation of representative samples, and lawful assistance from provincial IGPs and District Police Officers. The Ministry of Interior & Narcotics Control was asked to consider framing or updating a comprehensive regulatory framework for periodic destruction of confiscated narcotic substances. Leave was granted, the petition was converted into appeal and allowed, the conviction was set aside and the petitioners were acquitted.

LEGAL SIGNIFICANCE

The judgment is a significant restatement and consolidation of Pakistan's safe-custody/safe-transmission jurisprudence in narcotics prosecutions, expressly endorsing the doctrine that a single missing link in the chain of custody operates as benefit of doubt as of right and not of grace. By weaving together Section 33(4) of the CNSA, 1997 and Sections 516-A and 517 of the Cr.P.C., 1898 and applying the lex specialis principle to the 'shall'/'may' divide, the Court provides a binding template for the disposal, sampling, certification, preservation and destruction of confiscated narcotic substances under judicial supervision. Its country-wide directions — to be implemented by all Provincial Inspectors General of Police, the IG Islamabad, District Police Officers, prosecutors and special narcotics courts — institutionalise a structured response to recurring deficiencies (non-production of malkhana record, delayed transmission, casual destruction) and embed an environmentally sound destruction standard. The judgment will be of routine application in trial, appellate and revisional proceedings under the CNSA.

LEGAL PROPOSITIONS (VERBATIM)

— In narcotics cases the prosecution is required to affirmatively establish safe custody and safe transmission of the recovered substance, and even a single missing link in the chain of custody creates doubt sufficient to entitle the accused to benefit thereof.

— Even a single circumstance creating reasonable doubt in a prudent mind regarding guilt of accused would be sufficient to extend benefit of doubt, not as a matter of grace but as a matter of right.

— The seriousness of narcotics offences does not dilute the standard of proof; because the statute provides harsh punishments, Courts must insist upon strict proof of recovery, custody, sampling, transmission and conscious possession.

— Section 33(4) of the CNSA, 1997, employing 'shall' and being lex specialis, prevails over the 'may' in Section 516-A Cr.P.C.; the expression 'may' in Section 517 Cr.P.C. does not authorise judicial inaction.

— No destruction under Section 516-A Cr.P.C. shall be ordered during inquiry or trial unless notice is issued to the accused and prosecution, representative samples are prepared under judicial supervision, and proper certification is made part of the record.

LEGAL PRINCIPLES EXPOUNDED

In a prosecution under the CNSA, the prosecution must affirmatively prove an unbroken chain of safe custody and safe transmission of the recovered narcotic substance from recovery till receipt by the chemical examiner; a single missing link creates doubt entitling the accused to acquittal as of right.

Source: *It is by now a settled principle of law that in narcotics cases, the prosecution is required to affirmatively establish safe custody and safe transmission of the recovered substance and even a single missing link in the chain of custody creates doubt sufficient to entitle the accused to benefit thereof.*

Authority: *Section 9(c), Control of Narcotic Substances Act, 1997; Ahmed Ali v. The State (2023 SCMR 781); Zahid Sarfraz Gill v. The State (2024 SCMR 934)*

Section 33(4) of the CNSA, being lex specialis and employing the imperative 'shall', prevails over the discretionary 'may' in Section 516-A Cr.P.C.; the 'may' in Section 517 Cr.P.C. nevertheless imposes a duty of judicial application of mind and does not authorise judicial inaction.

Source: *Section 33(4) of the CNSA, 1997 mandates that the narcotics substance shall be dealt in the manner provided under Section 516-A Cr.P.C ... The 'shall' stated in CNSA being Lex Specialis will prevail over the 'May' in Cr.P.C ... The expression 'may' in section 517 Cr.P.C. does not authorise judicial inaction.*

Authority: *Section 33(4), Control of Narcotic Substances Act, 1997; Sections 516-A and 517, Code of Criminal Procedure, 1898*

Destruction of narcotic case property during inquiry or trial requires notice to the parties, preparation of representative samples under judicial supervision, proper certification, preservation of samples for appeal/revision/forensic verification, and lawful assistance from police authorities.

Source: *No destruction under section 516-A Cr.P.C. shall be ordered during inquiry or trial unless notice is issued to the accused and prosecution, representative samples are prepared under judicial supervision, and proper certification is made part of the record.*

Authority: *Sections 33(4) and 516-A; Section 517, Cr.P.C., 1898*

The rigour of narcotics statutes cannot dilute the criminal standard of proof; in light of recurring institutional deficiencies — non-production of malkhana record, unexplained delay in transmission and casual destruction — courts must insist on strict proof of recovery, custody, sampling, transmission and conscious possession.

Source: *the seriousness of the offence does not dilute the standard of proof. Rather, because the statute provides harsh punishments, Courts must insist upon strict proof of recovery, custody, sampling, transmission and conscious possession. The rigour of narcotics law cannot be permitted to operate at the cost of due process.*

Authority: *Control of Narcotic Substances Act, 1997*

OPERATIVE ORDER

For what has been discussed above, leave is granted. This petition is converted into appeal and allowed. The conviction and sentences awarded to the petitioners are set aside and they are acquitted of the charge. They shall be released forthwith, if not required to be detained in any other case.

■ **View Full Judgment**

CNSA SECTION 9(C) — SECRET CAVITY RECOVERY, CONSCIOUS POSSESSION & PROOF THR

Alam Khan v. The State (through Prosecutor General Punjab)

LEAVE GRANTED; PETITION CONVERTED INTO APPEAL AND ALLOWED; PETITIONER ACQUITTED

Crl.P.L.A. No.51 of 2023 · Bench: Justice Muhammad Hashim Khan Kakar; Justice Salahuddin Panhwar; Justice Ishtiaq Ibrahim · Decided: 09.06.2026 · Uploaded: 19-06-2026

FACTS

On 21.12.2021 at Check Post Sakhi Sarwar, the complainant party intercepted a double-cabin vehicle bearing registration No. KWA-6262 and allegedly recovered twenty-seven packets of charas weighing one kilogram each from a secret cavity. FIR No.356 of 2021 was registered against the petitioner Alam Khan under Section 9(c) of the Control of Narcotic Substances Act, 1997. The Additional Sessions Judge, Dera Ghazi Khan convicted the petitioner under Section 9(c) and sentenced him to imprisonment for life with fine of Rs.100,000 vide judgment dated 21.06.2022. The Lahore High Court, Multan Bench dismissed Criminal Appeal No.655 of 2022 vide judgment dated 15.12.2022. Before the Supreme Court, examination of the record disclosed that the testimony of PW-1 Sajjad Akhtar SI (who claimed to have handed the case property to the Moharrir) materially contradicted that of PW-2 Moharrir Ghulam Hassan (who deposed that the case property and sample parcels were handed over by complainant Muhammad Sharif ASI). Neither the vehicle itself nor photographs of the alleged secret cavities were produced before the trial court; no excise official was brought to prove ownership; the registration particulars of the vehicle were withheld; the Malkhana Register was not produced; no road certificate or documentary material demonstrating actual transmission of sample parcels from the Malkhana to the Punjab Forensic Science Agency was placed on record.

LEGAL ISSUE

Whether a conviction under Section 9(c) of the Control of Narcotic Substances Act, 1997, founded upon alleged recovery of narcotics from secret cavities of a vehicle, can be sustained where the prosecution has failed (i) to produce the vehicle or unambiguous photographs of the secret cavities in their opened and closed states, (ii) to prove the petitioner's connection with the vehicle, (iii) to produce the Malkhana Register or any road certificate demonstrating safe transmission of samples to the forensic agency, and (iv) to reconcile a material contradiction in the prosecution evidence regarding the custody of the case property.

HOLDING

The Supreme Court held that the prosecution case suffered from serious infirmities that had escaped the notice of the Courts below. A material contradiction emerged between PW-1 and PW-2 on the identity of the person who entrusted the recovered narcotics to the Moharrir, undermining the chain of custody. Where the foundation of the charge is recovery from specially designed or concealed secret cavities within a vehicle, the existence, location, dimensions and functional capacity of such cavities are material facts requiring

satisfactory proof through the best available evidence; bald assertions by police witnesses unsupported by visual or tangible corroborative evidence fall far short of the criminal standard. The prosecution was required to preferably produce the vehicle before the trial Court or, at the very least, place on record clear, unambiguous photographs depicting the secret cavities in their opened and closed states, their precise location and the registration number — to enable independent judicial verification and to eliminate the possibility of exaggeration, embellishment or false implication. The non-production of any excise official to prove ownership and the withholding of registration particulars meant that the prosecution had not proved the petitioner's lawful and exclusive possession of the vehicle. The non-production of the Malkhana Register and the absence of any road certificate documenting transmission of sample parcels to the PFSA were equally fatal. The element of conscious possession becoming doubtful, the doubt necessarily operated in favour of the petitioner. Leave was granted, the petition converted into appeal and allowed, and the petitioner acquitted.

LEGAL SIGNIFICANCE

The judgment significantly hardens evidentiary standards for narcotics prosecutions founded on 'secret cavity' recoveries, treating production of the vehicle (or, alternatively, clear unambiguous photographs of the cavities in opened and closed states with registration particulars) as a necessary safeguard rather than a mere formality. It reinforces that conscious possession in vehicle-based recoveries must be established by proof of the accused's lawful and exclusive possession of the vehicle, requiring proof of ownership/registration through the excise authorities. It reiterates the absolute requirement of producing the Malkhana Register and the road certificate to evidence safe transmission of sample parcels to the forensic agency, and that material contradictions between investigating officers and the Moharrir on the entrustment of case property fracture the chain of custody. The decision will be readily invoked by defence counsel in CNSA prosecutions involving alleged concealment in vehicles or articles and will, in tandem with Mehmood Khan (Crl.P. 1544/2025), tighten investigative and prosecutorial discipline.

LEGAL PROPOSITIONS (VERBATIM)

— Where conviction is sought on the basis of recovery of narcotics, the prosecution must establish through trustworthy, confidence-inspiring and unimpeachable evidence that the narcotic substance allegedly recovered from the accused remained in safe custody and that the samples examined by the forensic laboratory were the very same samples allegedly drawn from the recovered substance.

— In cases where the prosecution seeks to attribute evidentiary value to the alleged recovery of narcotic substances from specially designed or concealed secret cavities within a vehicle, such a claim cannot be accepted on the basis of oral testimony alone.

— It is incumbent upon the prosecution to preferably produce the vehicle before the trial Court, where feasible, or at the very least, place on record clear, unambiguous photographs as documentary evidence depicting the secret cavities in their opened and closed states, their precise location within the vehicle, and the registration number of the vehicle.

— Mere bald assertions by police witnesses regarding the existence of secret cavities, unsupported by any visual or tangible corroborative evidence, fall far short of the standard of proof required in criminal cases involving grave penal consequences.

— When the alleged source of recovery was not produced, the secret cavities were not demonstrated, and the petitioner's connection with the vehicle was not proved through reliable evidence, the element of conscious possession becomes doubtful, and this doubt must necessarily operate in favour of the petitioner.

LEGAL PRINCIPLES EXPOUNDED

Convictions under the CNSA require trustworthy, confidence-inspiring and unimpeachable evidence of both safe custody and identity between the substance recovered and the samples examined by the forensic agency; a material contradiction on the entrustment of case property fractures the chain of custody.

Source: *It is now a settled principle of law that where conviction is sought on the basis of recovery of narcotics, the prosecution must establish through trustworthy, confidence-inspiring and unimpeachable evidence that the narcotic substance allegedly recovered from the accused remained in safe custody and that the samples examined by the*

forensic laboratory were the very same samples allegedly drawn from the recovered substance.

Authority: *Sections 9(c), Control of Narcotic Substances Act, 1997*

Where the charge rests on recovery from specially designed or concealed secret cavities within a vehicle, the existence, location, dimensions and functional capacity of those cavities are material facts to be proved by the best available evidence — preferably the vehicle itself, or, at minimum, clear unambiguous photographs of the cavities in opened and closed states with registration particulars.

Source: *the existence, location, dimensions, and functional capacity of such cavities constitute material facts that require satisfactory proof through the best available evidence. Therefore, in all such cases, it is incumbent upon the prosecution to preferably produce the vehicle before the trial Court, where feasible, or at the very least, place on record clear, unambiguous photographs as documentary evidence.*

Authority: *Section 9(c), CNSA, 1997*

Conscious possession in a vehicle-based narcotics recovery must be proved by establishing the accused's lawful and exclusive possession of the vehicle through documentary proof of ownership/registration — not by oral testimony alone.

Source: *no excise official was brought for evidence regarding ownership record and registration particulars of the vehicle were also withheld. Thus, the prosecution did not prove that the vehicle belonged to the petitioner, or that it was in his lawful and exclusive possession at the relevant time.*

Authority: *Section 9(c), CNSA, 1997*

Non-production of the Malkhana Register and absence of a road certificate or other documentary material demonstrating actual transmission of sample parcels to the forensic agency is fatal; the date, time, mode and manner of dispatch cannot be left to inference from oral testimony alone.

Source: *the prosecution also failed to produce the road certificate or any documentary material demonstrating actual transmission of the sample parcels from the Malkhana to the Punjab Forensic Science Agency. The date, time, mode and manner of dispatch were left to be inferred from oral testimony alone.*

Authority: *Section 9(c), CNSA, 1997*

OPERATIVE ORDER

For the foregoing reasons, leave is granted. This Criminal Petition is converted into appeal and allowed. The petitioner Alam Khan son of Karam Khan is acquitted of the charge under section 9(c) of the Control of Narcotic Substances Act, 1997. He shall be released forthwith if not required in any other case.

■ View Full Judgment

E&D RULES 1973 — SCOPE OF TRIBUNAL INTERFERENCE, UNREBUTTED TESTIMONY & VOLU

Additional Director Civilian Personnel, Air Headquarters Peshawar and others v. Muzafar Masih

PETITION CONVERTED INTO APPEAL AND ALLOWED; IMPUGNED TRIBUNAL JUDGMENT SET ASIDE; PENALTY OF DISMISSAL FROM SERVICE RESTORED

C.P.L.A. No.5857 of 2024 · Bench: Justice Muhammad Shafi Siddiqui; Justice Miangul Hassan Aurangzeb · Decided: 19.06.2026 · Uploaded: 19-06-2026

FACTS

The respondent was initially appointed as Skilled Trade Man (MT Fitter) on 28.08.2016 and regularised on 27.09.2017. During service, the departmental authorities received information that he was involved in activities wholly inconsistent with the standards of discipline and conduct expected from an employee serving in a sensitive defence organisation, including involvement in immoral activities within and outside PAF Camp Badaber, objectionable associations and possession/display of indecent photographs of women. A charge-sheet and statement of allegations dated 22.06.2020 were served under the Government Servants (Efficiency and Discipline) Rules, 1973; an Inquiry Committee comprising Squadron Leader Sajjad Hussain and Warrant Officer Abdul Majid was constituted. The respondent was informed of his rights, participated throughout the proceedings, and was expressly afforded the opportunity to cross-examine the eight witnesses produced (W-1 Mst. Shumaila Arif on indecent photographs, harassment and blackmail; W-3

Farzan Yaqoob and W-4 Amir Sardar Masih on being shown indecent material; W-2 Zeeshan, W-5 Suleman alias Sameer, W-6 Omair and W-7 Gulfam Masih on the immoral conduct; and W-8 Kashan Khan, an official witness, on proceedings) but consciously declined to do so. On 04.08.2020 the respondent made a detailed signed statement before the Inquiry Committee admitting his involvement in immoral activities both inside and outside the Camp and acknowledging illicit relations; the statement specifically recorded that it was made voluntarily and without pressure or duress, and was never retracted. He was issued a show-cause notice proposing a major penalty, was afforded personal hearing before the Authorised Officer (during which he again admitted misconduct and sought pardon), and was dismissed from service vide order dated 30.08.2021. His departmental appeal was dismissed on 14.10.2021. The Federal Service Tribunal, Camp Office Peshawar, by judgment dated 22.10.2024 in Appeal No.456(P)CS/2021, accepted his appeal and set aside the dismissal on the grounds that the allegations were vague, that some incidents related to a period prior to his regular appointment, and that no documentary evidence had been produced to establish misconduct during service.

LEGAL ISSUE

Whether the Federal Service Tribunal exceeded its jurisdiction under Article 212 of the Constitution by re-appraising evidence and substituting its own conclusions for those of the competent disciplinary authority in a departmental inquiry conducted under the Government Servants (Efficiency and Discipline) Rules, 1973, where (i) departmental witnesses had been examined in the presence of the delinquent and remained unrebutted because he declined to cross-examine them; (ii) the delinquent had made a voluntary signed confession before the Inquiry Committee and admitted misconduct during personal hearing; and (iii) the misconduct was of a nature ordinarily established through oral testimony, admissions and surrounding circumstances rather than documentary proof.

HOLDING

The Supreme Court held that the inquiry had been conducted strictly in accordance with law: the respondent was served with a charge-sheet, submitted a reply, participated in the inquiry, was informed of his rights, was afforded opportunity to cross-examine witnesses, was served a show-cause notice and was granted personal hearing; no violation of any mandatory provision of law had been pointed out. The testimony of the departmental witnesses had remained unchallenged because the respondent consciously elected not to cross-examine them — and, on the authority of Mst. Nur Jehan Begum (1991 SCMR 2300), Sheraz Tufail (2007 SCMR 518) and Ishfaq Ahmed (PLD 2025 SC 582), unchallenged and unrebutted testimony carries full evidentiary value and may safely be relied upon. The respondent's voluntary signed confession dated 04.08.2020 (specifically recording that it was made without pressure or duress, and never retracted) together with his admissions and plea for pardon during personal hearing constituted substantive evidence furnishing an independent basis for the dismissal. Misconduct of the present nature is ordinarily established through oral testimony, admissions, surrounding circumstances and the conduct of the delinquent; the law does not require documentary proof of every allegation in disciplinary proceedings, and the Tribunal erred in treating the absence of documentary evidence as fatal. The Tribunal also attached undue significance to incidents predating regularisation when the inquiry record contained material relating to conduct continuing during service. Following Director General, Directorate General of Training and Research (Inland Revenue) Lahore (2021 SCMR 710) and Saboor Khan (2021 SCMR 667), the Tribunal cannot, where departmental proceedings have been conducted in accordance with law and findings are supported by material on the record, interfere arbitrarily, substitute its own view, or act as an appellate forum for reassessment of evidence. The findings of the Inquiry Committee and the competent authority were supported by ample material and could not be characterised as arbitrary, capricious, perverse or based on no evidence. The petition was converted into appeal, the Tribunal's judgment dated 22.10.2024 was set aside and the order of dismissal dated 30.08.2021 (as maintained on 14.10.2021) was restored.

LEGAL SIGNIFICANCE

The decision reaffirms the disciplined and narrow scope of Service Tribunal interference in departmental disciplinary findings, particularly in sensitive defence-related employment. It consolidates the proposition that

unrebutted and uncontroverted testimony — arising from a conscious decision not to cross-examine — carries full evidentiary weight in disciplinary proceedings and may by itself sustain a major penalty. It re-emphasises that a voluntary and unretracted confession before an Inquiry Committee, especially when followed by an admission and plea for pardon at personal hearing, constitutes substantive evidence and is an independent basis for the disciplinary penalty. The judgment also dispels the misconception that documentary evidence is indispensable in every disciplinary inquiry, holding that the nature of certain misconduct (here, immoral and indecent conduct) is by its character to be established through oral testimony, admissions and surrounding circumstances. Practitioners and Tribunals will read this case as a clear restatement of the post-Ijaz Younas and Saboor Khan boundary against substitution of view.

LEGAL PROPOSITIONS (VERBATIM)

— Where departmental proceedings have been conducted in accordance with law and findings are supported by material available on the record, the Tribunal cannot interfere with the penalty in an arbitrary manner or substitute its own conclusions merely because another view may be possible.

— Departmental proceedings are distinct from criminal proceedings and once due process requirements have been satisfied, the Tribunal cannot act as an appellate forum for reassessment of evidence.

— Where a witness is not cross-examined on a material part of his testimony, such unchallenged statement ordinarily deserves to be accepted as true unless displaced by reliable evidence.

— Evidence which remains unrebutted and uncontroverted due to absence of cross-examination carries full evidentiary value and may safely be relied upon by the adjudicating forum.

— Misconduct of the present nature is ordinarily established through oral testimony, admissions, surrounding circumstances and conduct of the delinquent employee; the law does not require documentary proof of every allegation in disciplinary proceedings.

LEGAL PRINCIPLES EXPOUNDED

The Federal Service Tribunal's interference in disciplinary matters is confined to cases of violation of mandatory law or findings based on no evidence; where the inquiry is in accordance with law and the findings rest on material on record, the Tribunal cannot substitute its own view merely because another view is possible.

Source: *where departmental proceedings have been conducted in accordance with law and findings are supported by material available on the record, the Tribunal cannot interfere with the penalty in an arbitrary manner or substitute its own conclusions merely because another view may be possible.*

Authority: *Director General, Directorate General of Training and Research (Inland Revenue), Lahore v. Ijaz Younas (2021 SCMR 710); Saboor Khan v. Chairman WAPDA (2021 SCMR 667)*

Testimony left unchallenged because the delinquent consciously declined to cross-examine carries full evidentiary value in departmental proceedings and may sustain a major penalty.

Source: *evidence which remains unrebutted and uncontroverted due to absence of cross-examination carries full evidentiary value and may safely be relied upon by the adjudicating forum.*

Authority: *Mst. Nur Jehan Begum v. Syed Mujtaba Ali Naqvi (1991 SCMR 2300); Sheraz Tufail v. The State (2007 SCMR 518); Ishfaq Ahmed v. Mushtaq Ahmed (PLD 2025 SC 582)*

A voluntary signed confession before the Inquiry Committee, expressly recorded as made without pressure or duress and never retracted, together with admissions during personal hearing, constitutes substantive evidence and supplies an independent basis for imposition of the major penalty.

Source: *the inquiry record contains the respondent's own signed confession dated 04.08.2020. The confession was made before the Inquiry Committee after the respondent had been informed of his rights under the Efficiency and Discipline Rules, 1973. The statement specifically records that it was made voluntarily and without pressure or duress ... These admissions constituted substantive evidence and furnished an independent basis for the competent authority to conclude that the respondent had rendered himself unsuitable for retention in service.*

Authority: *Government Servants (Efficiency and Discipline) Rules, 1973*

Misconduct of a behavioural or moral character is ordinarily established through oral testimony, admissions and surrounding circumstances; absence of documentary evidence cannot be treated by a Tribunal as fatal to disciplinary findings.

Source: *Misconduct of the present nature is ordinarily established through oral testimony, admissions, surrounding circumstances and conduct of the delinquent employee. The law does not require documentary proof of every allegation in disciplinary proceedings.*

Authority: *Government Servants (Efficiency and Discipline) Rules, 1973*

OPERATIVE ORDER

For the foregoing reasons, this petition is converted into appeal and allowed. The impugned judgment dated 22.10.2024 passed by the Tribunal is set aside. Consequently, the order dated 30.08.2021 imposing the penalty of dismissal from service upon the respondent, as maintained in departmental appeal vide order dated 14.10.2021, is restored.

■ **View Full Judgment**

JUDICIAL DISCIPLINE — 'BAD REPUTE' OF JUDICIAL OFFICER, PROPORTIONALITY & REMOV

Lahore High Court, Lahore through its Registrar v. Muhammad Afzal Zahid (consolidated CPLAs)

CPLA NO.642-L/2025 CONVERTED INTO APPEAL AND PARTLY ALLOWED; PENALTY OF REMOVAL FROM SERVICE RESTORED; CPLAS NOS.1606 & 2172/2025 DISMISSED

CPLA Nos. 642-L, 1606 & 2172 of 2025 · Bench: Justice Shahid Waheed; Justice Naeem Akhtar Afghan; Justice Muhammad Shafi Siddiqui · Decided: 13.05.2026 · Uploaded: 19-06-2026

FACTS

The respondent in CPLA No.642-L/2025 (and petitioner in the other two CPLAs) is a judicial officer who, while serving as Additional District & Sessions Judge at Mailsi, District Vehari, received adverse remarks in his Performance Evaluation Report (PER). His departmental appeal against those remarks was rejected, prompting Service Appeal No.19 of 2010 before the Punjab Subordinate Judiciary Service Tribunal. Several complaints were lodged against him with the Lahore High Court alleging receipt of illegal gratification to influence decisions. The Authority monitored his conduct through quarterly special reports by the District & Sessions Judge; those reports indicated that he lacked a good reputation within the judiciary. Departmental disciplinary proceedings were initiated on charges of corruption, misconduct and maintaining an unrighteous and incorrigible integrity. After inquiry, findings adverse to him were returned and the competent authority imposed the major penalty of removal from service vide Notification No.65/RHC/AD dated 06.05.2013. He filed Service Appeal No.26 of 2013; both appeals were consolidated. By judgment dated 17.01.2025 the Tribunal found that there was insufficient evidence of receipt of illegal gratification but upheld the finding regarding the tarnished reputation, and modified the penalty of removal to compulsory retirement, disposing of the PER appeal as redundant. The High Court filed CPLA No.642-L/2025 seeking restoration of all inquiry findings and revival of the penalty of removal. The judicial officer filed CPLA No.1606/2025 (seeking acquittal and reinstatement) and CPLA No.2172/2025 (seeking expunction of adverse PER remarks; barred by 48 days with a defective condonation application).

LEGAL ISSUE

Whether a judicial officer found, on inquiry, to be of 'bad repute' — even in the absence of a proved specific charge of corruption — can be retained in service or otherwise sent on compulsory retirement; and whether the Punjab Subordinate Judiciary Service Tribunal erred in law by substituting the penalty of removal from service with compulsory retirement on principles drawn from civil-service jurisprudence, given the heightened standard of integrity demanded of a judge.

HOLDING

The Supreme Court affirmed the Tribunal's finding that there was insufficient evidence of receipt of illegal gratification but upheld the finding of bad reputation as not being the outcome of a flawed inquiry. The District & Sessions Judge, as the superior officer, is best placed to assess the performance, conduct and integrity of a subordinate judicial officer and his evaluation, if not tainted by malice, may serve as a 'sheet anchor' for disciplinary action; the judicial officer's belated defence (abstention from voting and denial of protocol) was an

afterthought not pleaded in his reply to the charge-sheet and was not substantiated. On the appropriate penalty, the Court held that the Tribunal had erred by applying civil-service precedents (Akhtar Ali 2009 SCMR 1197 and Farhad Ali 2011 SCMR 608, and Indian authorities) because the position of a judge cannot be equated with that of a civil servant: for a judge, integrity is 'binary' and the public confidence in the judiciary is the cornerstone of an Islamic welfare State (Ch. Shabbir Hussain, PLD 2004 SC 191). The Court drew upon Qur'anic injunctions (Al-Nisa 4:58 and 4:135), Prophetic traditions (Abu Dawood/Tirmidhi on the three types of judges; al-Bayhaqi on preferring the lesser-qualified), and classical jurists (al-Mawardi, Ibn Qudamah, Fyzee, Ghazi, Tanzil-ur-Rahman) to hold that a Qadi who loses 'adala' through conduct causing public doubt of integrity must be removed, and that retaining a corrupt or unfit official is equivalent to appointing him — both betrayals of the divine trust (amana). Compulsory retirement may be appropriate to weed out deadwood for administrative reasons, but cannot be imposed on a judge of poor reputation, because allowing him to retire with benefits would suggest that reputation is negotiable and would defeat the very purpose of the penalty. Removal from service is therefore justified where the conduct affects the integrity of the judge and the morality of the institution and damages public confidence. The penalty of removal imposed by the High Court was proportionate to the guilt established. CPLA No.642-L/2025 was accordingly converted into appeal and partly allowed, the Tribunal's penalty modification was set aside and the penalty of removal restored; CPLAs Nos.1606 and 2172/2025 were dismissed.

LEGAL SIGNIFICANCE

The judgment articulates a distinct jurisprudence of judicial discipline in Pakistan, decisively separating it from ordinary civil-service disciplinary principles. By holding that for a judge 'integrity is binary' and the standard is 'beyond reproach' rather than 'not guilty', the Court establishes that a sustained adverse reputation, even absent a proved specific act of corruption, can lawfully sustain the penalty of removal — and forecloses compulsory retirement (with its post-service benefits) as a substitute in such circumstances. It elevates the supervisory PER and the considered opinion of the District & Sessions Judge to the status of a 'sheet anchor' for disciplinary action against subordinate judicial officers, provided malice is not established. By weaving Qur'anic verses, Prophetic tradition and classical Islamic jurists with common-law authorities (Metropolitan Properties v. Lannon; Clark v. Vanstone; Bentham; Shetreet & Turenne), the Court grounds the heightened standard in both the Islamic doctrine of amana/'adala/ahliyya and the secular doctrines of judicial legitimacy and the appearance of integrity. Read with the Court's earlier decision in Federation of Pakistan v. Supreme Judicial Council (PLD 2024 SC 698), this judgment supplies authoritative guidance to the Subordinate Judiciary Service Tribunal and the High Courts on the proportionate response to charges affecting judicial reputation, and will be heavily relied upon in pending and future disciplinary proceedings against judicial officers.

LEGAL PROPOSITIONS (VERBATIM)

— If the inquiry has been fairly and properly conducted and the findings are based on evidence, the question of the adequacy or reliability of the evidence will not be a ground for the Tribunal, and even for this Court, to interfere with the findings in departmental inquiries.

— The position of a judge cannot be equated with that of a civil servant; for a civil servant, a minor lapse may attract censure, stoppage of increment, or even compulsory retirement if it affects efficiency, but for a judge, integrity is binary because the confidence of the people in the judiciary is the cornerstone of an Islamic welfare State.

— The standard for a judge is not 'not guilty' but 'beyond reproach'; retention of any judge becomes impossible once his reputation is found to be bad, because the judicial institution demands not only integrity, but also the appearance of integrity.

— Compulsory retirement, while appropriate to weed out deadwood, cannot be imposed on a judge of poor reputation, as allowing him to retire with benefits would suggest that reputation is negotiable, which would defeat the very purpose of the penalty.

— Removal from service becomes justified when the conduct affects the integrity of a judge and the institution's morality and damages public confidence — when an ill-reputed or corrupt judge is removed, the judicial

institution begins to heal because a specific tumour has been excised.

LEGAL PRINCIPLES EXPOUNDED

Findings in a fair and properly conducted departmental inquiry, supported by evidence, are not open to substitution merely because another view is possible; the Tribunal and the Supreme Court intervene only where findings are based on no evidence or are clearly perverse.

Source: *If the inquiry has been fairly and properly conducted and the findings are based on evidence, the question of the adequacy or reliability of the evidence will not be a ground for the Tribunal, and even for this Court, to interfere with the findings in departmental inquiries. The Tribunal or this Court intervenes where findings of fact are based on no evidence or are clearly perverse.*

Authority: *Ch. Shabbir Hussain v. Registrar, Lahore High Court (PLD 2004 SC 191)*

The position of a judge is distinct from that of a civil servant; for a judge, integrity is binary and the standard is 'beyond reproach', because public confidence in the judiciary is the cornerstone of an Islamic welfare State and the judiciary's authority rests on legitimacy founded on competence and integrity.

Source: *For a civil servant, a minor lapse may attract censure, stoppage of increment, or even compulsory retirement if it affects efficiency. For a judge, integrity is binary because the confidence of the people in the judiciary is the cornerstone of an Islamic welfare State ... The standard for a judge is not 'not guilty' but 'beyond reproach'.*

Authority: *Ch. Shabbir Hussain v. Registrar, Lahore High Court (PLD 2004 SC 191); Metropolitan Properties Ltd v. Lannon (1969) 1 QB 57; Clark v. Vanstone (2004) 81 ALD 21*

In Islamic jurisprudence, public office is a trust (amana) and a Qadi who loses 'adala' through conduct that causes the public to doubt his integrity must be removed; retaining a corrupt or unfit official is equivalent to appointing one and is a betrayal of divine trust.

Source: *Classical jurists Imam al-Mawardi in Al-Ahkam al-Sultaniyyah and Ibn Qudamah in Al-Mughni state that a Qadi who loses 'adala' (legal uprightness) through conduct that causes the public to doubt his integrity must be removed. The test is not whether a specific sin is proved, but whether the public perception of fairness is undermined ... Keeping a corrupt or unfit official is therefore essentially equivalent to appointing one: both constitute a betrayal of the divine trust (amana) associated with authority.*

Authority: *Qur'an, Sura Al-Nisa, verses 58 and 135; Abu Dawood, Tirmidhi (hadith on three types of judges); al-Bayhaqi, al-Sunan al-Kubra; al-Mawardi, Al-Ahkam al-Sultaniyyah; Ibn Qudamah, Al-Mughni; Fyzee (1964); Tanzil-ur-Rahman (1966); Ghazi (1993); Al-Jehad Trust v. Federation of Pakistan (PLD 1996 SC 324)*

Compulsory retirement, appropriate to weed out administrative deadwood, cannot be imposed on a judge of poor reputation because retirement with benefits would imply that reputation is negotiable; removal from service is the proportionate penalty where conduct damages the integrity of the judge and the institution and undermines public confidence.

Source: *Compulsory retirement may, in appropriate circumstances, be imposed where the aim is to weed out deadwood or where retention is no longer administratively feasible. It, in any case, cannot be imposed on a judge of poor reputation, as allowing him to retire with benefits would suggest that reputation is negotiable, which would defeat the very purpose of the penalty. As a result, removal from service becomes justified when the conduct affects the integrity of a judge and the institution's morality and damages public confidence.*

Authority: *Federation of Pakistan v. Supreme Judicial Council (PLD 2024 SC 698 at 721); Akhtar Ali v. Director, Federal Government Educational Institution (2009 SCMR 1197); Farhad Ali v. Director-General, Pakistan Post Office (2011 SCMR 608)*

Adverse remarks by the District & Sessions Judge in supervisory reports, if not shown to be tainted with malice, may serve as the 'sheet anchor' for departmental action against a subordinate judicial officer; belated defences not raised in the reply to the charge-sheet may be treated as afterthoughts.

Source: *Such opinions, if not tainted with malice, can serve as a sheet anchor for initiating disciplinary action and determining the appropriate penalty.*

Authority: *Ch. Shabbir Hussain v. Registrar, Lahore High Court (PLD 2004 SC 191); Federation of Pakistan v. Saeed Ahmad Khan; Secretary, Department of Education, Government of Punjab v. M.R. Toosy (PLD 1974 SC 151)*

OPERATIVE ORDER

We, therefore, convert CPLA No.642/2025 into an appeal and partly allow it. The judgment of the Tribunal dated 17th of January 2025, to the extent of the penalty, is modified. As a result, the penalty of removal from service imposed by the departmental authority on the judicial officer under Notification No. 65/RHC/AD dated 6th of May 2013 is

restored, and CPLA No.1606/2025 and CPLA No.2172/2025 are dismissed with no order for costs.

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Lahore High Court 4 judgments

MURDER APPEAL — CHANCE WITNESSES, DOUBTFUL FIR TIMING, CONTRADICTORY RECOVE

Bilal Ahmad v. The State (and connected Crl. Rev. by complainant)

CRIMINAL APPEAL ACCEPTED, CONVICTION AND LIFE SENTENCE SET ASIDE, APPELLANT ACQUITTED; COMPLAINANT'S CRIMINAL REVISION FOR ENHANCEMENT DISMISSED

2026 LHC 3834; Crl. Appeal No.25868-J of 2021 with Crl. Rev. No.25867 of 2021 · Bench: Aalia Neelum, Chief Justice · Decided: 12.05.2026 · Uploaded: 20-06-2026

FACTS

Bilal Ahmad, the appellant, a security guard, was tried in case F.I.R. No.95 of 2020 dated 13.01.2020 under Sections 302/404 PPC, Police Station Madina Town, Faisalabad, for the murder of one Allah Yar, a fellow security guard who, on the prosecution case, was shot dead at about 04:00 a.m. with eight straight fires from an 8MM rifle while the parties were sitting at the gate of Ali Garden, Chak No.208/R.B. after the complainant and his cousins had purportedly reconciled an earlier quarrel between the appellant and the deceased. The Additional Sessions Judge, Faisalabad, by judgment dated 10.03.2021, convicted the appellant under Section 302(b) PPC and sentenced him to imprisonment for life as ta'zir together with Rs.300,000/- compensation under Section 544-A Cr.P.C., with benefit of Section 382-B Cr.P.C. The appellant filed a jail appeal challenging the conviction; the complainant filed a Criminal Revision seeking enhancement to the sentence of death. On the record, the FIR was registered at 05:30 a.m. on a written complaint endorsed at the spot at 05:15 a.m., the investigating officer admitting that partial investigation and inquest report (Exh.PF) preceded registration of the FIR. The eyewitnesses (PW-6 complainant, PW-7 and PW-8) were chance witnesses summoned by telephone from a distance, with mutually contradictory accounts of timings, distances, the call-chain, location at the moment of firing (guard room versus gate), the abandonment of the 8MM rifle at the spot, the recovery of the deceased's 30-bore pistol on the appellant's disclosure on 31.01.2020 (deposed by PW-6 as the date of arrest), the shifting of the dead body, and an unexplained delay of 8 hours and 45 minutes in the postmortem from the time of registration of FIR. Authority letters Ex.PK/PK-1 placed both weapons in the appellant's name. The trial court had already disbelieved motive.

LEGAL ISSUE

Whether, in an unwitnessed-by-locality nocturnal occurrence involving chance witnesses whose testimonies are mutually contradictory on timing, presence, call-chain, location of firing and recovery, and where the FIR appears to have been registered after partial investigation at the spot, the inquest report and an inordinately delayed postmortem cast doubt on the genesis of the prosecution case, the conviction under Section 302(b) PPC and consequential life sentence can be sustained, or the accused is entitled to acquittal on benefit of doubt as a matter of right.

HOLDING

The High Court held the prosecution case riddled with infirmities. The presence of the chance witnesses at the place of occurrence at the unearthly hour was doubtful; their accounts of how each came to be informed and to arrive were mutually inconsistent. The site plan (Exh.PA) showed the deceased inside the guard room at point No.1 while the witnesses stood outside at point No.6, contradicting their consistent oral assertion that they were sitting with the deceased at the gate. The FIR (Exh.PC/1) appeared ante-timed: the inquest report (Exh.PF) bore particulars of the FIR though it was prepared before registration, and the postmortem was delayed 8 hours and 45 minutes from registration without explanation. The prosecution witnesses contradicted each other and the investigating officer on whether the appellant had left the 8MM rifle at the scene, on who escorted the body and on the time of shifting. The recovery of the 30-bore pistol of the

deceased on the appellant's disclosure on 31.01.2020 was undermined by PW-6's deposition that the appellant was 'arrested on 31.01.2020', and the authority letters issued both weapons in the appellant's name. Motive had already been disbelieved by the trial court. Many dents in the prosecution story rendered the case not free from doubt; the benefit of every reasonable doubt must accrue to the accused as a matter of right, not of grace. The Criminal Appeal was accepted in toto, the conviction and sentence were set aside and the appellant was acquitted; the Criminal Revision for enhancement was dismissed as devoid of legal force.

LEGAL SIGNIFICANCE

The judgment by the Chief Justice continues the consolidated line of LHC and Supreme Court authority insisting that chance-witness testimony in night-time guard-post murders must withstand cross-examination on the entry-call chain, mode and time of arrival, and consistency with the site plan; that an ante-timed FIR identified by reference to the inquest report and an unexplained postmortem delay vitiates the prosecution case; and that contradictory accounts of recovery and safe custody, especially where the alleged crime-weapons were the official issue to the accused, cannot sustain conviction. The reaffirmation of the Muhammad Akram principle — that even a single reasonable doubt entitles the accused to acquittal as a matter of right — once again restrains trial courts from rationalising prosecution gaps in capital cases.

LEGAL PROPOSITIONS (VERBATIM)

— The prosecution had not been able to prove its case against the appellant beyond any shadow of doubt, as there were many dents in the prosecution's story.

— Although the site plan is not a substantive piece of evidence according to Article 22 of the Qanun-e-Shahadat Order, 1984, as held in the case of 'Mst. Shamim Akhtar v. Fiaz Akhtar and two others' (PLD 1992 SC 211), it reflects the view of the crime scene, and the same can be used to contradict or disbelieve eyewitnesses.

— No doubt, delay in postmortem alone is not fatal to the prosecution's case, but when this court considered it with the other evidence available on the record, along with the postmortem report (Ex.PF), it does influence the mind of the Court and leaves the impression that there had been some wrangling about the time of registration of the criminal case.

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

— If there is circumstance which created reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of doubt not as a matter of grace and concession but as a matter of right.

LEGAL PRINCIPLES EXPOUNDED

A site plan, though not substantive evidence under Article 22 of the Qanun-e-Shahadat Order, 1984, can be used to contradict or disbelieve eyewitnesses when the physical positions it depicts cannot be reconciled with the ocular account.

Source: *Although the site plan is not a substantive piece of evidence according to Article 22 of the Qanun-e-Shahadat Order, 1984, as held in the case of "Mst. Shamim Akhtar v. Fiaz Akhtar and two others" (PLD 1992 SC 211), it reflects the view of the crime scene, and the same can be used to contradict or disbelieve eyewitnesses. This grave infirmity destroys the credibility of the witnesses' evidence.*

Authority: *Article 22, Qanun-e-Shahadat Order, 1984; Mst. Shamim Akhtar v. Fiaz Akhtar (PLD 1992 SC 211)*

Where the inquest report bears the particulars of the FIR though prepared before its registration, and the postmortem stands inexplicably delayed, the prosecution case is exposed to the inference that the FIR is ante-timed and there has been wrangling about the time of registration.

Source: *No doubt, delay in postmortem alone is not fatal to the prosecution's case, but when this court considered it with the other evidence available on the record, along with the postmortem report (Ex.PF), it does influence the mind of the Court and leaves the impression that there had been some wrangling about the time of registration of the criminal case.*

Authority:

Chance witnesses must establish their presence at the place of occurrence by a natural and convincing account; mutually contradictory testimony as to the call-chain, mode and time of arrival, and physical position at the moment of the firing destroys the credibility of their evidence.

Source: *It is an admitted fact that prosecution witnesses were chance witnesses. They were not supposed to be present at the place of occurrence when the incident occurred.*

Authority:

In case of doubt, the benefit must accrue to the accused as a matter of right and not of grace; even a single circumstance creating reasonable doubt in a prudent mind entitles the accused to acquittal.

Source: *It is an axiomatic principle of law that in case of doubt, the benefit thereof must accrue in favour of the accused as matter of right and not of grace. It was observed by this Court in the case of Tariq Pervez v. The State 1995 SCMR 1345 that for giving the benefit of doubt, it was not necessary that there should be many circumstances creating doubts. If there is circumstance which created reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of doubt not as a matter of grace and concession but as a matter of right.*

Authority: *Muhammad Akram v. The State (2009 SCMR 230); Tariq Pervez v. The State (1995 SCMR 1345)*

OPERATIVE ORDER

I, therefore, accept in toto Criminal Appeal No.25868-J of 2021 filed by appellant, Bilal Ahmad, son of Zahoor Ahmad, as a result whereof the conviction and sentence recorded by the learned trial court vide judgment dated 10.03.2021 are set aside. The appellant, Bilal Ahmad, son of Zahoor Ahmad, is ordered to be acquitted of the charge in case F.I.R. No.95 of 2020, dated 13.01.2020, for offenses under Sections 302/404 PPC, registered at Police Station Madina Town, Faisalabad. The appellant, Bilal Ahmad, son of Zahoor Ahmad, is directed to be released forthwith, if not required in any other case. So far as Criminal Revision No.25867 of 2021 filed by the complainant for enhancement of the sentence of the appellant/respondent No.1, Bilal Ahmad, son of Zahoor Ahmad, awarded by the trial court, is concerned, for the reasons aforesaid, the same is devoid of any legal force, which is accordingly dismissed.

■ **View Full Judgment**

PRIVATE-COMPLAINT MURDER — ANTE-TIMED FIR, CHANCE WITNESSES, BROKEN SAFE CUS

Muhammad Haneef v. The State, etc.

APPEAL ACCEPTED, CONVICTION AND LIFE SENTENCE SET ASIDE, APPELLANT ACQUITTED

2026 LHC 3819; Crl. Appeal No.81569-J of 2021 · Bench: Aalia Neelum, Chief Justice · Decided: 02.06.2026 · Uploaded: 20-06-2026

FACTS

The appellant, Muhammad Haneef, was convicted by the Additional Sessions Judge, Jaranwala, by judgment dated 30.11.2021 in a private complaint under Sections 302, 395, 109, 148, 149 PPC for the murder of Muhammad Amir, son of the complainant Alam Sher. The prosecution case was that on 02.05.2019 at about 3:00 p.m. the complainant, along with Bashir Ahmad and Muhammad Saleem and the deceased, went to the appellant's house at Chak No.586/G.B., Jaranwala, to patch up a marital dispute between the appellant's daughter Mah Jabeen and the deceased; that the appellant fired a single pistol shot which struck the deceased's left flank while two co-accused (the appellant's sons) caught hold of him; that the deceased was first taken by Rescue 1122 to Nankana Sahib Hospital where he expired, and his body was thereafter shifted to Civil Hospital, Jaranwala, where the written application (Exh.PA) was handed to Muhammad Afzal S.I (CW-6); the FIR (Exh.CW-4/E) was registered at 06:45 p.m. After investigation declared the co-accused innocent, the complainant filed the private complaint (Exh.PB); the trial court summoned all accused and ultimately convicted the appellant under Section 302(b) PPC and sentenced him to life imprisonment with Rs.500,000/- compensation under Section 544-A Cr.P.C. The High Court found the inquest report (Exh.CW.3/D) bore the FIR particulars although prepared before registration; the postmortem was conducted at 08:30 a.m. on 03.05.2019, 13 hours 45 minutes after FIR registration, and the FIR was not produced to the medical officer; PW-1 and PW-2 contradicted each other on shifting of the body; the I.O. admitted preparing the injury statement and inquest report by 06:15 p.m. though FIR was registered at 06:45 p.m.; the recovery memo (Exh.CW-6/H) named Ghulam Ahmad (PW-4) and Muhammad Hanif as witnesses while the I.O. deposed they were Ehsan Ali and Liaqat Ali; the alleged four live bullets recovered with the pistol were not

received at PFSA; no Malkhana Register No.19 entry was deposed for safe custody after the parcels were returned undeposited from PFSA.

LEGAL ISSUE

Whether a conviction for murder can be sustained where the inquest report bears the FIR particulars although prepared before its registration, the medical officer did not sign the FIR though the postmortem was 13 hours 45 minutes later, eyewitnesses are chance witnesses with mutually contradictory accounts of shifting the body, the recovery memo and the I.O.'s deposition disagree on the witnesses to recovery, live bullets allegedly recovered with the weapon are missing from the PFSA parcel, and the safe custody chain of the case property in the Malkhana is not established.

HOLDING

The High Court held that the inquest report bearing FIR particulars before the FIR's registration, the unexplained 13 hour 45 minute gap between FIR registration and postmortem, and the medical officer's non-signature of the FIR at the time of autopsy indicate that the FIR was prepared subsequently and is ante-timed. The eyewitnesses (PW-1 the complainant and PW-2) were chance witnesses, not residents of the locality, and would naturally have tried to save the deceased had they been present (the doctor putting the interval between injury and death at about four hours). Their contradictions with each other and with the I.O. on shifting of the dead body further cast serious doubt. As regards recovery, the omission to depose Malkhana Register No.19 entries breaks the safe custody chain, attracting the principle that Article 155 of the Qanun-e-Shahadat Order, 1984 has no application; the conflict between the recovery memo's witnesses and the I.O.'s named witnesses, the absence of the four live bullets at PFSA, and the contradiction between the I.O.'s deposition (no live bullets) and the recovery memo (live bullets recovered) make the parcel doubtfully relevant and render the PFSA report (Exh.PH) inconclusive. The motive was already disbelieved by the trial court. The prosecution failed to prove its case beyond doubt and benefit of doubt must enure to the accused as a matter of right. Appeal accepted in toto, conviction and sentence set aside, acquittal ordered.

LEGAL SIGNIFICANCE

The judgment by the Chief Justice consolidates the jurisprudence on (i) the diagnostic value of the inquest report bearing FIR particulars before registration and the non-signature of the FIR by the medical officer as proof that an FIR is ante-timed, (ii) the irrelevance of an unsigned-by-PFSA parcel that does not match the description in the recovery memo, and (iii) the indispensability of the Malkhana register entry for re-deposit of case property to invoke Article 155 of the Qanun-e-Shahadat Order, 1984. The decision once again confirms that in private-complaint murder trials, structural defects in the foundational documents cannot be rescued by oral testimony of relatives who are chance witnesses, and that the Muhammad Akram principle (2009 SCMR 230) governs the benefit-of-doubt evaluation as a matter of right.

LEGAL PROPOSITIONS (VERBATIM)

> *— Admittedly, the FIR was registered at 06:45 p.m. on 02.05.2019, and the autopsy was conducted at 08:50 p.m. on 03.05.2019, but the Medical Officer did not sign the FIR during the postmortem examination. This indicates that the FIR had not yet been prepared; rather, it was prepared subsequently, and the FIR is therefore ante-timed.*
>
> *— A dire necessity has been cast upon the prosecution to produce in Court the abstract of the Malkhana Register to dispel any aura of skepticism seeping into the prosecution case, especially vis-à-vis the safe custody of the case property 'being' re-deposited in the Malkhana.*
>
> *— Due to the lack of this evidence, it cannot be held that the alleged parcel of crime empty was re-deposited in the Malkhana, and its benefit will go to the accused.*
>
> *— The above depositions of prosecution witnesses suggest that they are chance witnesses because, as per the Doctor, the duration between injuries and death of the deceased was between 04-hours. If the prosecution witnesses had been present at the place of occurrence, they would have tried to save the deceased's life.*
>
> *— It is an axiomatic principle of law that in case of doubt, the benefit thereof must accrue in favour of the accused as matter of right and not of grace.*

LEGAL PRINCIPLES EXPOUNDED

Where the inquest report bears FIR particulars although prepared before registration, and the medical officer did not sign the FIR at the postmortem conducted nearly 14 hours after the reported registration, the inference of an ante-timed FIR is irresistible.

Source: *Admittedly, the FIR was registered at 06:45 p.m. on 02.05.2019, and the autopsy was conducted at 08:50 p.m. on 03.05.2019, but the Medical Officer did not sign the FIR during the postmortem examination. This indicates that the FIR had not yet been prepared; rather, it was prepared subsequently, and the FIR is therefore ante-timed.*

Authority:

The prosecution is under a dire necessity to produce an abstract of the Malkhana Register to dispel skepticism regarding the safe custody of case property re-deposited in the Malkhana; in default, Article 155 of the Qanun-e-Shahadat Order, 1984 has no application and benefit must go to the accused.

Source: *A dire necessity has been cast upon the prosecution to produce in Court the abstract of the Malkhana Register to dispel any aura of skepticism seeping into the prosecution case, especially vis-à-vis the safe custody of the case property "being" re-deposited in the Malkhana. Therefore, in the present case, the provisions of Article 155 of the Qanun-e-Shahadat Order, 1984, would have no application.*

Authority: *Article 155, Qanun-e-Shahadat Order, 1984*

Where the recovery memo describes contents (a pistol with four live bullets) different from what is received at the Punjab Forensic Science Agency (only the pistol), the parcel is not the one prepared by the investigating officer, safe custody stands compromised, and the PFSA report becomes inconclusive and of no help to the prosecution.

Source: *The parcel is not the one, the investigating officer had prepared because, according to the recovery memo (Exh.CW-6/H), live bullets were also secured with a 30-bore pistol, whereas the Punjab Forensic Science Agency did not find four live bullets in the parcel, raising doubts about the parcel's relevance to this case. This led to the safe conclusion that safe custody of the said parcel has been compromised and not proven, which ultimately renders the report (Ex.PH) inconclusive and thus of no help to the prosecution.*

Authority:

Witnesses not resident at the locality whose presence at the murder scene is established only by reference to a four-hour interval between injury and death without any rescue attempt are chance witnesses whose testimony cannot be safely relied upon.

Source: *The above depositions of prosecution witnesses suggest that they are chance witnesses because, as per the Doctor, the duration between injuries and death of the deceased was between 04-hours. If the prosecution witnesses had been present at the place of occurrence, they would have tried to save the deceased's life.*

Authority:

OPERATIVE ORDER

I, therefore, accept Criminal Appeal No.81569-J of 2021, filed by the appellant, Muhammad Haneef, son of Ghulam Muhammad, in toto. As a result, the conviction and sentence recorded by the learned trial court vide judgment dated 30.11.2021 are set aside. The appellant, Muhammad Hanif, son of Ghulam Muhammad, is ordered to be acquitted of the charge in the private complaint filed under Sections 302/395/109/148/149 PPC, registered at Police Station City, Jaranwala, District Faisalabad. The appellant, Muhammad Hanif, son of Ghulam Muhammad, is directed to be released forthwith, if not required in any other case.

■ View Full Judgment

ORAL GIFT UNDER MUSLIM LAW — MUTATION NOT TITLE; ESSENTIALS OF HIBA; MISREADIN

Ghulam Muhammad & another v. Mst. Shahida Parveen

CIVIL REVISION ALLOWED; APPELLATE JUDGMENT SET ASIDE; TRIAL-COURT JUDGMENT AND DECREE RESTORED

2026 LHC 3792; Civil Revision No.48819 of 2021 · Bench: Muhammad Sajid Mehmood Sethi, J. · Decided: 11.06.2026 · Uploaded: 19-06-2026

FACTS

The petitioners — admitted original owners of agricultural land measuring 19 Kanals 17 Marlas at Chak No.78/J.B., Tehsil Sadar, District Faisalabad — instituted a suit before the Civil Judge, Faisalabad, challenging mutation No.1819 dated 27.04.2010 purportedly sanctioning an oral gift in favour of their daughter (the respondent). They pleaded that they were elderly, uneducated villagers having three daughters including the respondent; that they had never executed any oral gift, never intended to divest themselves of their ownership, and never voluntarily appeared before any competent revenue authority for attestation of the mutation; and that the respondent, in connivance with the revenue staff, had fraudulently procured the mutation, of which they had come to know only shortly before suit. The respondent contested by asserting that the gift was made out of natural love and affection, with delivery of possession and verification before the revenue authorities. The Civil Judge, Faisalabad, by judgment and decree dated 12.12.2020, decreed the suit, holding the oral gift not established in accordance with law. The Additional District Judge, Faisalabad, by judgment and decree dated 09.07.2021, reversed and dismissed the suit, principally on the premise that the petitioners had admitted their signatures/thumb impressions on the mutation proceedings and had failed to prove fraud with particulars. The petitioners invoked the High Court's revisional jurisdiction under Section 115 C.P.C., arguing misallocation of burden of proof, misreading of evidence (including continuing possession reflected in Khasra Girdawari), non-appreciation that a mutation is not a document of title, and non-application of the adverse inference under Article 129(g) of the Qanun-e-Shahadat for withholding the Patwari and revenue officials.

LEGAL ISSUE

Whether a beneficiary claiming title to agricultural land through an oral gift can succeed merely on the strength of a mutation and the donor's admission of signatures/thumb impressions on the mutation proceedings, without specifically pleading and independently proving the essential ingredients of a valid Hiba (offer, acceptance and delivery of possession) under Muslim Personal Law; and whether the appellate court's reversal of the trial court's well-reasoned decree, by selective reading of cross-examination and disregard of Khasra Girdawari evidencing continued possession, suffers from misreading and non-reading of material evidence warranting revisional interference under Section 115 C.P.C.

HOLDING

The High Court held that a mutation entry neither creates nor extinguishes title — revenue entries are maintained primarily for fiscal purposes and do not, by themselves, confer proprietary rights. Where the gift is specifically denied by the donor and challenged, the burden lies on the beneficiary to independently establish all essential ingredients of a valid gift, regardless of the donor's admission of signatures on the mutation. The respondent failed to plead or prove (i) a clear declaration of gift by the donor; (ii) acceptance by the donee; and (iii) delivery of possession — neither the written statement nor the evidence disclosed the date, place, circumstances or witnesses of the alleged declaration, and the respondent conflated the date of attestation of the mutation with the date of the gift, which is legally impermissible. The appellate court further misread the petitioners' cross-examination by isolating their admission of signatures while ignoring their explanation that they were unaware that any gift was being recorded. The Khasra Girdawari showed the petitioners' continued cultivation after 2010 — public documents of substantial evidentiary value — and were not discussed by the appellate court. The respondent's failure to produce the concerned Patwari and revenue officials justified an adverse presumption under Article 129(g) of the Qanun-e-Shahadat. The reasoning that parental affection 'furnished support' to the alleged gift was untenable and the alleged transaction would have excluded the petitioners' other daughters altogether. The appellate judgment suffered from misreading and non-reading of

material evidence and could not be sustained. Revision allowed; appellate judgment set aside; trial court's judgment and decree restored and upheld.

LEGAL SIGNIFICANCE

The judgment reaffirms and applies the post-Khaliqdad Khan / Ramzanu Bibi line of Supreme Court authority that a mutation is merely a fiscal entry and that the onus of proving the underlying transaction lies on the beneficiary; it reinforces the Abdul Majeed v. Mst. Khalida Bibi (2026 SCMR 587) standard that pleadings and proof of an oral gift must specify when, where, in whose presence and with what acceptance and delivery; it crystallises the impermissibility of conflating the date of mutation attestation with the date of the gift; and it once again instructs appellate courts not to read cross-examination in disconnected fragments. By restoring the trial court's decree on Section 115 C.P.C. ground of misreading/non-reading, it widens the practical scope for revisional interference where the appellate court has substituted speculative reasoning (parental affection) for proof of the legal essentials of Hiba.

LEGAL PROPOSITIONS (VERBATIM)

— It is settled law that a mutation entry neither creates nor extinguishes title; revenue entries are maintained primarily for fiscal purposes and do not, by themselves, confer proprietary rights.

— Where a gift is specifically denied by the donor and challenged before a Court of law, the beneficiary cannot merely rely upon a mutation entry and must independently establish all essential ingredients of a valid gift; the burden never shifts merely because a mutation has been sanctioned or because the donor admits signatures on the mutation.

— The basic ingredients for a valid gift are: offer, acceptance and delivery of possession.

— A mutation entry cannot cure deficiencies in proof of the substantive transaction upon which it is found.

— Testimony must always be read as a whole and not in disconnected fragments.

— An expression of love and affection, even if admitted, does not establish a valid transfer of ownership of valuable agricultural land.

LEGAL PRINCIPLES EXPOUNDED

A mutation neither creates nor extinguishes title; it is an official record for fiscal purposes and its illegal approval by a revenue officer has no bearing on title and may be treated as a nullity.

Source: *The mutation, as stated above, does not confer title in favour of any party but constitutes merely an official record for fiscal purposes. As such, its illegal approval by the revenue officer had no bearing on the appellant's title and could be treated as a nullity…*

Authority: *Khaliqdad Khan v. Mst. Zeenat Khatoon (2010 SCMR 1370); Mst. Ramzanu Bibi v. Ibrahim through L.Rs. (2025 SCMR 955)*

The onus of proof of the transaction embodied in a mutation is essentially upon the beneficiary, who must prove voluntary execution by the donor and that the transaction was the result of conscious application of mind and not the product of fraud; the donor's admission of signatures on the mutation does not shift the burden.

Source: *…It is settled law that it is the duty and obligation of the beneficiary to prove the mutations by producing evidence in accordance with the accepted principles and in terms of Qanun-e-Shahadat Order, 1984. Otherwise, it does not create any title. The judgment of the Lahore High Court is in consonance with the law laid down by this Court in various pronouncements according to which onus of proof of transaction embodies in mutation is essentially upon the beneficiary and onus to prove voluntary execution of gift upon beneficiary of gift as well as to establish that transaction was the result of conscious application of mind by donor and not under influence of fraud played with him…*

Authority: *Khaliqdad Khan v. Mst. Zeenat Khatoon (2010 SCMR 1370)*

A valid oral gift under Muslim Personal Law requires offer by the donor, acceptance by the donee and delivery of possession; pleadings must specify the exact date, place, circumstances of declaration, names of witnesses and mode of delivery, and a party cannot lead evidence beyond its pleadings.

Source: *The basic ingredients for a valid gift are: offer, acceptance and delivery of possession. … no description of making of offer as to gifting out of the disputed property to the petitioner(s) by deceased Imdad Ali, acceptance of the same by them (petitioners), venue and names of witnesses in whose presence such transaction took place, has been given, which are necessary to be pleaded and proved, even the same have not been deposed during evidence either*

by the petitioners or their witnesses because a party cannot lead any evidence beyond its pleadings…

Authority: *Abdul Majeed v. Mst. Khalida Bibi (Deceased) through L.Rs. (2026 SCMR 587)*

Withholding material witnesses associated with the attestation of a disputed mutation — the concerned Patwari and revenue officials — justifies the drawing of an adverse presumption under Article 129(g) of the Qanun-e-Shahadat Order, 1984.

Source: *The respondent's failure to produce such material witnesses justified the drawing of an adverse presumption under Article 129(g) of the Qanun-e-Shahadat Order, 1984.*

Authority: *Article 129(g), Qanun-e-Shahadat Order, 1984*

Revisional jurisdiction under Section 115 C.P.C., though limited, is engaged where the subordinate court has acted with material irregularity, misapplied settled principles, or recorded findings suffering from misreading or non-reading of material evidence — including selective reading of cross-examination.

Source: *Although the revisional jurisdiction of this Court under Section 115, C.P.C. is limited in scope, interference is warranted where the subordinate Court has acted with material irregularity in the exercise of jurisdiction, misapplied settled principles of law, or recorded findings suffering from misreading or non-reading of material evidence.*

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

OPERATIVE ORDER

Consequently, this civil revision petition is allowed. The judgment and decree dated 09.07.2021 passed by the learned Additional District Judge, Faisalabad, are set aside, while the judgment and decree dated 12.12.2020 passed by the learned Civil Judge, Faisalabad, are restored and upheld.

■ **View Full Judgment**

DOUBLE MURDER OF ADVOCATES IN COURT PREMISES BY ON-DUTY ASI — TERRORISM, CAP

The State v. Intizar Hussain Shah (Capital Sentence Reference) & Intizar Hussain Shah v. The State (Criminal Appeal)

CRIMINAL APPEAL DISMISSED; CAPITAL SENTENCE REFERENCE ANSWERED IN THE POSITIVE; DEATH SENTENCE ON TWO COUNTS CONFIRMED

2026 LHC 3766; C.S.R. No.01-T of 2025 with Crl. Appeal No.339 of 2025 · Bench: Tanveer Ahmad Sheikh, J. and Syed Ahsan Raza Kazmi, J. · Decided: 04.06.2026 · Uploaded: 19-06-2026

FACTS

The appellant, Intizar Hussain Shah, an ASI of the Elite Force serving as Security Incharge at the Sessions Court premises, District Attock, was tried in case FIR No.456/2024 dated 15.06.2024 under Section 302 PPC read with Section 7 of the Anti-Terrorism Act, 1997 and Section 3 of the Lawyer Welfare and Protection Act, 2023, registered at Police Station City, Attock. The prosecution case was that on 15.06.2024 at about 10:25 a.m., while both deceased — Malik Israr Ahmad, Advocate, and Zulfiqar Mirza, Advocate — were walking towards the chamber of complainant Sardar Tauseef Ahmed Khan, Advocate (PW-12) for tea, the appellant, in uniform and armed with his official SMG rifle, emerged from behind, raised a lalkara that the deceased had caused him to lose his case and made straight firing with his official SMG, causing seven entry wounds among seventeen injuries on Malik Israr Ahmad; when Zulfiqar Mirza Advocate moved to rescue his colleague, the appellant fired multiple shots on him too, causing five injuries (cardio tamponade due to firearm injuries). The appellant ran towards the main gate where he was apprehended by on-duty officials (PW-10) and disarmed (SMG rifle P-41, recovery memo Exh.PL); 24 crime empties (P-42/1-24) were collected vide Exh.PK. The FIR was registered the same day at 12:15 p.m. CCTV footage from the Senior Civil Judge's court (USB prepared by PW-14) showed the appellant entering the premises armed with the official weapon. Autopsy was performed by a District Standing Medical Board (PW-15) commencing at 01:30 p.m. on 15.06.2024. PFSA report (Exh.PPP/1-2) confirmed the crime empties had been fired from the recovered SMG. Motive — that Malik Israr Ahmad, Advocate had represented the appellant in a family/maintenance case and a Section 22-A/22-B Cr.P.C. petition against the brothers of the appellant's wife, both lost — was documented (Exh.PCC). The Judge Anti-Terrorism Court-I, Rawalpindi, by judgment dated 23.01.2025,

sentenced the appellant to death on two counts under Section 302(b) PPC, death under Section 7(1)(a) ATA, three years R.I. under Section 3 of the Lawyer Welfare and Protection Act, 2023, with Rs.10,00,000/- compensation under Section 544-A Cr.P.C. for each deceased's legal heirs, forfeiture of property under Section 7(2) ATA, all sentences concurrent, benefit of Section 382-B Cr.P.C. The appellant filed appeal; the State filed Capital Sentence Reference. State counsel was appointed for the appellant at State expense; no representation was made for him on the appointed date.

LEGAL ISSUE

Whether (i) the prosecution proved the murder of two advocates by an on-duty ASI within the court premises beyond reasonable doubt on the strength of the consistent ocular account of advocate-eyewitnesses, immediate apprehension at the spot with the official weapon, CCTV footage, matching PFSA report on crime empties, autopsy by a District Standing Medical Board, established motive and a promptly registered FIR; (ii) such an occurrence — committed by a security officer entrusted to protect lawyers and litigants, in broad daylight within a secured court complex — attracts Section 6(b) and consequently Section 7(1)(a) of the Anti-Terrorism Act, 1997; and (iii) the capital sentence on two counts is sustainable in the absence of any mitigating circumstance.

HOLDING

The Lahore High Court held that the ocular account of the complainant (PW-12) and Rab Nawaz Hayyat, Advocate (PW-13) — both practising lawyers naturally present at the court premises — was straightforward, consistent and confidence-inspiring, neither shattered in lengthy cross-examination nor weakened by minor variations attributable to lapse of time; they were not chance witnesses. The FIR was registered with remarkable promptitude at 12:15 p.m. for an occurrence at 10:25 a.m., leaving no space for consultation or fabrication. The autopsy commenced at 01:30 p.m. the same day. The appellant had himself got deployed at the premises and had drawn the official SMG and a 9 MM pistol with ammunition on his request that morning (Exh.PF/1), reflecting determination. CCTV footage corroborated his presence in uniform within the premises. Medical evidence of PW-15 fully confirmed the nature, number and location of injuries and the weapon used. Apprehension at the spot with the official weapon was a strong incriminating factor, and PFSA report (Exh.PPP/1-2) tied the recovered SMG to the crime empties. The Section-342 plea of false implication was a bald assertion, talk in the vacuum, and was discarded outright. The conviction and sentence under Section 302(b) PPC were sustainable; no mitigating circumstance existed for murder of two innocent advocates committed in a cruel and callous manner without justification. On the ATA question, the appellant's duty was to protect litigants, advocates and court staff; instead, he took the law in his own hands, killing one advocate over a trivial grievance and the other for attempting rescue, within a foolproof/secured court premises in broad daylight, creating an atmosphere of fear, insecurity and panic, particularly among the lawyer community — the act fell squarely within Section 6(b) ATA and the conviction under Section 7(1)(a) ATA was in accordance with apex-court law. The Criminal Appeal was dismissed; the Capital Sentence Reference was replied in the positive and the death sentence on two counts was confirmed.

LEGAL SIGNIFICANCE

The judgment is a significant LHC pronouncement on three fronts. First, it confirms that the targeted in-court murder of advocates by an on-duty security officer wielding official weapons creates the design of fear, insecurity and panic among the legal community that brings the act within the definitional scope of Section 6(b) and the penal scope of Section 7(1)(a) of the Anti-Terrorism Act, 1997. Second, it consolidates the principle that lawyer-eyewitnesses naturally present in court premises cannot be branded chance witnesses, and that minor variations between day and dawn (not day and night) do not warrant disbelief. Third, it recognises that the convergence of prompt FIR registration, immediate apprehension at the spot with the weapon, matching PFSA results on crime empties, autopsy by a District Standing Medical Board, established documentary motive and corroborative CCTV footage leaves no mitigating space — the cruel and callous double-murder of two advocates without justification calls for confirmation of the capital sentence on two counts. The judgment will be relied on in ATA prosecutions involving attacks on advocates and in cases under the Lawyer Welfare and Protection Act, 2023.

LEGAL PROPOSITIONS (VERBATIM)

— F.I.R. was registered with remarkable promptitude, which does not space any consultation and deliberation for the fabrication of the story of occurrence, hence has given it credibility and reliability.

— Their presence at the spot at relevant time was quite natural and established by surrounding circumstances. They cannot be termed as chance witnesses.

— Above said small variations were between day and dawn and not between day and night. Hence, were not sufficient to disbelieve the testimony of witnesses.

— Since, murder of two innocent advocates was committed in a cruel and callous manner without any justification, as such we have also not found any mitigating circumstance in favour of the appellant.

— Mode and manner adopted by appellant created atmosphere of the fear, insecurity and panic among all the above said communities, particularly the lawyer's community. Circumstances presented a dreadful picture. Therefore, the appellant has committed an offence as defined in Section 6(b) of the Anti-Terrorism Act, 1997, as such, his conviction for an offence under Section 7(1)(a) of ATA, 1997 was in accordance with law laid down by apex Court, hence not open to any exception.

LEGAL PRINCIPLES EXPOUNDED

Prompt registration of FIR, leaving no space for consultation or deliberate fabrication of the story of occurrence, lends credibility and reliability to the prosecution case.

Source: *F.I.R. was registered with remarkable promptitude, which does not space any consultation and deliberation for the fabrication of the story of occurrence, hence has given it credibility and reliability.*

Authority:

Witnesses practising as lawyers in the District Court premises where an occurrence takes place are naturally present at the scene and cannot be branded chance witnesses; minor variations of detail in their depositions after considerable time are between day and dawn — not day and night — and do not warrant disbelief.

Source: *They both were practicing as lawyers in the District Court premises Attock, where the incident took place. Their presence at the spot at relevant time was quite natural and established by surrounding circumstances. They cannot be termed as chance witnesses. … some small variations, which were naturally to occur when they appeared in the witness box after passing of considerable time. Above said small variations were between day and dawn and not between day and night.*

Authority:

Where the act of an on-duty security officer, weaponed with official issue and entrusted with the protection of advocates and litigants within the secured boundary of a court complex, results in the broad-daylight murder of two advocates and creates an atmosphere of fear, insecurity and panic — particularly among the legal community — the offence falls within Section 6(b) ATA and conviction under Section 7(1)(a) ATA is sustainable.

Source: *He committed the murder within the fool proof/secured boundary of court premises, where general litigants, members of the courts staff, advocates and members of the law enforcing agencies remain present whole of the day. Mode and manner adopted by appellant created atmosphere of the fear, insecurity and panic among all the above said communities, particularly the lawyer's community. Circumstances presented a dreadful picture. Therefore, the appellant has committed an offence as defined in Section 6(b) of the Anti-Terrorism Act, 1997, as such, his conviction for an offence under Section 7(1)(a) of ATA, 1997 was in accordance with law laid down by apex Court.*

Authority: *Sections 6(b) and 7(1)(a), Anti-Terrorism Act, 1997*

Where the murder of two innocent victims is committed in a cruel and callous manner without any justification, no mitigating circumstance can be found in favour of the convict for the purpose of altering the capital sentence.

Source: *Since, murder of two innocent advocates was committed in a cruel and callous manner without any justification, as such we have also not found any mitigating circumstance in favour of the appellant.*

Authority:

A bald assertion of false implication at the Section 342 Cr.P.C. stage, unsupported by any record or evidence — a talk in the vacuum — must be discarded outright.

Source: *Said plea of the appellant was only a bald assertion. It happened to be without any water and a talk in the vacuum, as such was discarded by us outrightly.*

Authority: *Section 342, Code of Criminal Procedure, 1898*

OPERATIVE ORDER

Criminal appeal No.339 of 2025, has no force, hence dismissed. Capital Sentence Reference No.01-T of 2025 is replied in positive. Death sentence on two counts awarded to appellant is hereby confirmed.

■ View Full Judgment

Sindh High Court

2 judgments

REVENUE RECORD — CANCELLATION OF MUTATION ENTRY ROOTED IN RECALLED CONSENT

Shahla Omer & another v. Province of Sindh; Mehboob Ellahi & others v. Province of Sindh

PETITIONS DISMISSED; NO ORDER AS TO COSTS

2026 SHC KHI 1336; Const. P. D-5974/2024 (consolidated with Const. P. D-1242/2026) · Bench: Justice Muhammad Saleem Jessar; Justice Nisar Ahmed Bhanbhro (author) · Decided: 18.06.2026 · Uploaded: 18-06-2026

FACTS

The petitioners in both petitions claimed ownership of 1 Acre and 20 Ghuntas in Survey Nos. 337 and 337/1, Deh Dih, Taluka Korangi, Karachi, deriving title through a chain of registered conveyances tracing back to one Abdul Rehman. Abdul Rehman had been allotted 27 acres including the subject land through an Allotment Order dated 10.10.1996 issued by the Secretary (RS&EP) under the Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975. The Secretary, Land Utilization Department, on 28.10.1996 directed the Deputy Commissioner East to implement the allotment orders; non-implementation led to Constitution Petition No. D-1315 of 1997 (Mirza Mehboob Baig v. Deputy Settlement Commissioner), which was disposed of by a Division Bench of the High Court by consent order dated 07.07.1997 recording the law officer's undertaking that the directions of 28.10.1996 would be implemented within 15 days. Pursuant thereto, Entry No. 277 dated 14.07.1997 was recorded in the record of rights in favour of the allottees, and Abdul Rehman transferred rights to others ultimately reaching the petitioners through registered sale deeds. The Government of Sindh and one Muhammad Nawaz separately filed applications under Section 12(2) CPC alleging fraud and misrepresentation; by order dated 20.10.1998 the Court restrained creation of third-party interest. By order dated 12.12.2001 (reported as Mirza Mehboob Baig v. Deputy Settlement Commissioner, 2002 MLD 1512) the Division Bench recalled the order dated 07.07.1997, holding that as no proceedings were pending under Section 2(2) of the 1975 Repeal Act the allotments were void ab initio. C.P.L.A. No. 1030-K of 2001 was filed before the Supreme Court; operation of the High Court's order was suspended on 01.01.2002 but the CPLA was eventually dismissed for want of instructions and the stay vacated by order dated 22.02.2011, whereupon the recall order attained finality. In September-October 2024, after a NAB inquiry into illegal allotments and a NAB letter dated 27.09.2024 to the Commissioner Karachi seeking implementation of the High Court's orders, the Assistant Commissioner Revenue Korangi made a Cancellation Note on Entry No. 277 and all subsequent revenue entries. The petitioners challenged the cancellation note on the grounds of lack of notice, alleged NAB pressure and that their rights flowed independently from the unchallenged Allotment Order, Supreme Court directions in C.P.L.A. No. 1841 of 2001, registered conveyances, judicial recognition in Suit No. 611 of 2006 (decreed 06.04.2012) and statutory regularisation under Section 5 of the Sindh Government Land (Cancellation of Allotments, Conversions and Exchanges) Ordinance, 2001.

LEGAL ISSUE

Whether a long-standing revenue entry recorded in compliance with a consent order which was subsequently recalled by the same court and whose recall attained finality on dismissal of the CPLA can be cancelled by the revenue authority without a fresh evidentiary hearing of the subsequent purchasers; and whether subsequent purchasers from allottees under allotment orders rendered void ab initio by reason of no proceedings being pending under Section 2(2) of the Evacuee Property and Displaced Persons Laws

(Repeal) Act, 1975 can press their rights in extraordinary writ jurisdiction under Article 199 of the Constitution.

HOLDING

The Division Bench held that Entry No. 277 was recorded in compliance with the consent order dated 07.07.1997 which stood reversed by the order dated 12.12.2001, and which attained finality on the dismissal of the CPLA by the Supreme Court on 22.02.2011; the entry was therefore rendered invalid and the cancellation note was rightly put on it by the Assistant Commissioner. Under Section 53 of the Sindh Land Revenue Act, 1967, an entry in the revenue record is presumed correct only until the contrary is proved — the contrary having been proved by the recall order. NAB's letter dated 27.09.2024 was a routine inter-departmental reminder of the Court's own orders and did not amount to extraneous pressure. The petitioners were not entitled to a fresh hearing by the revenue authority because they were heard by the Court on both occasions and the revenue authority was merely implementing the Court's orders. On merits, the original allotment orders of 1996 in favour of Mirza Abdul Sattar, Mirza Mehboob Baig, Mst. Faizunnisa Begum, Muneer Ahmed, Iqbal Ahmed, Abdul Rehman and Haji Moosa could not take effect because no proceedings were pending before the settlement authorities so as to attract protection of Section 2(2) of the 1975 Repeal Act; all evacuee properties (other than those attached to charitable, religious or educational trusts) stood transferred to the Provincial Government and were no longer available for allotment to displaced persons. The allotments were therefore void ab initio. A mutation entry is not a document of title and confers no right, title or interest by itself; the burden lay on the petitioners to establish the validity of the transfer. The petitioners — subsequent beneficiaries claiming under a recalled order — did not satisfy the threshold for relief under Article 199, which is an equitable, extraordinary remedy. Their proper recourse was to sue their transferors for compensation and damages. The petitions were dismissed.

LEGAL SIGNIFICANCE

The judgment is a significant Sindh High Court restatement of three settled but recurrently litigated propositions concerning evacuee allotments and revenue entries in Karachi: (i) where a revenue entry was recorded in compliance with a court order that has subsequently been recalled and the recall has attained finality, the revenue authority is bound — and indeed obliged — to cancel the entry, and the entry-holders are not entitled to a fresh evidentiary hearing because they have already been heard by the court that reversed itself; (ii) allotments made under the Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975 in the absence of proceedings actually pending under Section 2(2) thereof are void ab initio, and the void character infects all downstream registered conveyances; and (iii) subsequent purchasers of such tainted titles cannot press their claims in writ jurisdiction under Article 199 — their remedy lies in a suit for compensation against their transferors. The decision will be of considerable practical importance to revenue authorities, NAB and the Board of Revenue Sindh in regularising entries in respect of allotments declared void by the Mirza Mehboob Baig (2002 MLD 1512) line of authority, and will guide subsequent purchasers into the civil-suit route rather than constitutional litigation.

LEGAL PROPOSITIONS (VERBATIM)

— Since the entry No 277 was recorded in compliance to Order dated 07.07.1997 which stood reversed through order dated 12.12.2001 which attained finality on dismissal of CPLA by Supreme Court, therefore, the said entry was rendered invalid, and cancellation note was rightly put on it by the Assistant Commissioner.

— Petitioners were heard by the court on both occasions, therefore, Petitioners were not required to be heard by the Revenue Authority as it implemented the Court orders.

— In the case of petitioners the allotment was done in year 1996 and there being no pending proceedings as such allotments were void ab iniito.

— It is well settled proposition of law that the mutation entry is not a document of title, which by itself does not confer any right, title or interest, and the burden of proof lies upon the person, in whose favour it was mutated to establish the validity and genuineness of transfer in his/her favour.

— If the foundation is illegal and defective then entire structure built on such foundation, would fall on the ground.

— Since the petitioners are subsequent beneficiaries and they have acquired title in the property by way of transfer, therefore, instead of pressing the rights in property, they should sue the transferor for compensation and damages, if so advised.

LEGAL PRINCIPLES EXPOUNDED

An entry in the revenue record carries only a rebuttable presumption of correctness under Section 53 of the Sindh Land Revenue Act, 1967, and an entry recorded in compliance with a court order which is subsequently recalled and the recall attains finality is rendered invalid; the revenue authority may cancel such an entry without affording a fresh hearing where the affected parties have already been heard by the court.

Source: *an entry in the revenue record is presumed to be correct until the contrary is proved, as envisaged under section 53 of the Sindh Land Revenue Act, 1967.*

Authority: *Section 53, Sindh Land Revenue Act, 1967*

Allotments made under the Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975 in the absence of proceedings actually pending under Section 2(2) of the Act are void ab initio, since on enforcement of the Repeal Act all properties other than those attached to charitable, religious or educational trusts stood transferred to the Provincial Government and were no longer available for allotment to displaced persons.

Source: *Such orders cannot be given effect, as no proceedings were pending before the settlement authorities so as to seek protection of the Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975. In the said Act all properties other than those attached to charitable, religious or educational trusts stood transferred to the Provincial Governments and were no longer available for allotment to displaced persons, as such the allotments effected after the enforcement of the Act were void and ab initio.*

Authority: *Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975, sections 2(2) and 3; Mirza Mehboob Baig v. Deputy Settlement Commissioner (Land) (2002 MLD 1512)*

A mutation entry is not a document of title and confers no independent right, title or interest; the burden of proof rests upon the person in whose favour the mutation stands to establish the validity and genuineness of the transfer.

Source: *the mutation entry is not a document of title, which by itself does not confer any right, title or interest, and the burden of proof lies upon the person, in whose favour it was mutated to establish the validity and genuineness of transfer in his/her favour.*

Authority:

The extraordinary constitutional jurisdiction under Article 199 is intended to provide an expeditious remedy where the illegality is floating on the surface; it is discretionary, equitable and available only to a party with clean hands and a clear, undisputed legal right.

Source: *The exercise of extraordinary constitutional jurisdiction under Article 199 of the Constitution is intended primarily for providing an expeditious remedy in a case where the illegality of the impugned action of an executive or other authority is floating on the surface, which can be established without any elaborate enquiry into the questions involved in the matter; moreover, the writ jurisdiction is undoubtedly discretionary and extraordinary in nature which being equitable relief is available even otherwise to a party who he comes in Court with clean hands.*

Authority: *Article 199, Constitution of the Islamic Republic of Pakistan, 1973*

OPERATIVE ORDER

For the foregoing reasons, We find no illegality in the action taken by Assistant Commissioner Revenue for cancellation of the entry based upon an order which stood set aside and was no more in the field. These petitions therefore fail and are accordingly dismissed with no order as to the cost. Office is directed to send copy of this order to Respondents for information and keep signed copy of the order in the connected petition.

■ View Full Judgment

EVACUEE TRUST PROPERTY — DECLARATION, CUT-OFF DATE OF 01.01.1957, JURISDICTION

Karachi Metropolitan Corporation v. Federation of Pakistan & others (with connected petitions including Karachi Cotton Association v. Federation of Pakistan)

PETITIONS DISPOSED OF; IMPUGNED 1963 NOTIFICATION SUSPENDED; FIR QUASHED; MATTER REFERRED TO CHAIRMAN ETPB FOR FRESH DETERMINATION WITHIN 90 DAYS; POSSESSION OF KCA PROTECTED PENDING DETERMINATION

2026 SHC KHI 1337/1338/1342; CPD Nos. 66, 67, 1907 of 2026 (and connected matters) · Bench: Justice Muhammad Saleem Jessar; Justice Nisar Ahmed Bhanbhro (author) · Decided: 18.06.2026 · Uploaded: 18-06-2026

FACTS

The petitioners — Karachi Metropolitan Corporation (KMC) as owner of the land, Karachi Cotton Association (KCA) as lessee and operator, and various tenants of the Cotton Exchange Building (CEB) — challenged a Gazette notification dated 09.08.1963 issued by the Divisional Evacuee Trust Committee Karachi (notifying that the listed properties, including KCA at Entry No. 355, were on the Committee's Register as Evacuee Public Trusts and inviting objections), the sealing notice of the Cotton Exchange Building dated 12.12.2025, the eviction notice dated 02.01.2026, the consequent sealing of the building by the Evacuee Trust Property Board (ETPB) and Federal Investigation Agency (FIA), and FIR No. 37/2025 registered by FIA. KCA was incorporated as a company limited by guarantee under the Indian Companies Act 1913 on 20.04.1933, ratified under the Companies Ordinance 1984, and has continuously operated the cotton exchange business in Pakistan since incorporation. The land had been leased to Mohammed Saleh Memon & Family in 1932 for 99 years and the lease rights were transferred to KCA by registered deed dated 22.07.1936; the lease was extended for a further 99 years on expiry in 1982 until 2081. ETPB acted on a Supreme Court direction in S.M.C. No. 01 of 2014 (order dated 31.03.2021) and on the 1963 notification. The respondents (ETPB and FIA) contended that at partition 306 of KCA's 318 members were Hindus who migrated to India, so KCA fell within the definition of evacuee under Section 2(2)(e) of the Pakistan Administration of Evacuee Property Act, 1957; that the lease deed was a forged document; that Section 14 of the ETPMD Act, 1975 ousted the civil court's jurisdiction; that the petitions were barred by laches; and that the petitions raised disputed factual controversies unsuitable for Article 199 jurisdiction.

LEGAL ISSUE

(i) Whether the Karachi Cotton Association Limited can be treated as an Evacuee Trust Property by virtue of Gazette notification dated 09.08.1963; (ii) whether the notification dated 09.08.1963 was issued beyond the statutory cut-off date of 01.01.1957 prescribed by Section 3 of the Pakistan Administration of Evacuee Property Act, 1957; and (iii) whether the proceedings initiated by ETPB and FIA for eviction of the petitioners, sealing of the Cotton Exchange Building and registration of FIR No. 37/2025 were bad in law, tainted with malice and ulterior motives, and whether the FIR was liable to be quashed.

HOLDING

The Division Bench held that the writ petitions were maintainable. On laches, the petitioners challenged not only the 1963 notification but also the eviction notice of 12.12.2025 and sealing order of 02.01.2026; KCA had been in undisturbed possession for over six decades and was never taken over by any Custodian under any Evacuee Law, so the petitions were not barred. On the Section 14 ETPMD Act bar, no material was placed on record to show that KCA was ever made part of the Trust Pool under any earlier Evacuee Law or that any Section 8 proceedings had taken place after the 1963 notification; the Chairman ETPB had exclusive jurisdiction under Section 8 to decide the threshold question whether a property was attached to a charitable, religious or educational trust, and that question had never been decided. On the maintainability objection grounded in factual controversy, the Court applied the exception doctrine recognised in Dr. Sher Afgan Niazi v. Ali Habib (2011 SCMR 1813): the ETPB denied the petitioners' ownership without the statutorily-required determination, which posed an immediate threat of dispossession with no other forum available, so writ jurisdiction was properly invoked. On the merits, the Court held that an 'evacuee trust property' under Section 2(1)(d) of the ETPMD Act, 1975 must be a property attached to a charitable, religious or educational trust or part of the Trust Pool, and on careful examination of KCA's Memorandum and Articles of Association KCA

was a company limited by guarantee established for cotton trade — neither a charitable, religious nor educational institution — and could at most have been declared an 'evacuee property' (because more than 50% of its members were evacuees) but not an 'evacuee trust property'. Distinction was drawn with Karachi Panjrapore Association (PLD 1957 SC 83), which involved a religious-charitable organisation. The Custodian under the Evacuee Property regime never treated KCA's property as evacuee property or assumed control; the 1963 notification merely invited objections and was insufficient to establish trust status. On natural justice and FIR, the petitioners were never heard before placement on the register of evacuee trust properties, the eviction notices and sealing; due process under Article 4, fair-trial right under Article 10-A and the principles of natural justice required a hearing, and FIA's registration of FIR No. 37/2025 was a colourful exercise of power because ETPB was not within the FIA Act schedule and no element of fraud was established. The 1963 notification was suspended, the matter was referred to the Chairman ETPB Islamabad for fresh determination within 90 days, the FIR was quashed, KCA was to retain possession and continue business pending determination, and tenants were directed to deposit rent with the Nazir to be invested in a profit-bearing scheme.

LEGAL SIGNIFICANCE

The judgment is a landmark Sindh High Court ruling on the boundary between 'evacuee property' and 'evacuee trust property' under the Pakistan Administration of Evacuee Property Act, 1957 and the Evacuee Trust Properties (Management & Disposal) Act, 1975, and on the procedural prerequisites for ETPB action against a long-occupied commercial concern. It establishes that the statutory definition of 'evacuee trust property' in Section 2(1)(d) of the ETPMD Act is confined to properties attached to charitable, religious or educational trusts or otherwise placed in the Trust Pool, and that a commercial company limited by guarantee — even one whose pre-partition membership was overwhelmingly comprised of evacuees — cannot be treated as a trust property absent a determination by the Chairman ETPB under Section 8. The decision distinguishes Karachi Panjrapore Association (PLD 1957 SC 83) and confines its application to religious-charitable institutions. The judgment also tightens the procedural discipline of ETPB action by requiring observance of due process and natural justice (Articles 4 and 10-A), restates the limits of FIA's jurisdiction under its Act of 1974 (in particular that ETPB matters do not lie within the FIA schedule), and identifies the post-18th-amendment dispute between the Federation and Sindh over control of evacuee trust properties as a matter exclusively triable by the Federal Constitutional Court. It will materially constrain ETPB and FIA action against the Cotton Exchange Building and similarly situated properties and is likely to be invoked across Sindh in pending evacuee-trust litigation.

LEGAL PROPOSITIONS (VERBATIM)

— Laches per se were not in any way an absolute bar to non-suit party, in the present cases doctrine of laches would not be applicable as all along six decades KCA remained in possession of property and acted independently and was never ever taken over by the Custodian appointed under any of the Evacuee law.

— The evacuee trust properties included those properties that are attached to charitable, religious or educational trusts or institutions or any other properties which form part of the Trust Pool and are discernible from the evacuee properties.

— From the careful reading of the articles of Association of KCA, it can be safely held that KCA was a company limited by guarantee and it was neither a charitable or religious or educational institution, the governing factors to treat an evacuee property as an evacuee trust property, therefore, it could have been declared an evacuee property but not the evacuee trust property.

— No person or property before the first day of January, 1957 shall be treated as evacuee or, as the case may be, as evacuee property, on or after the said date.

— ETPB and FIA only rely upon the notification dated 9th August 1963, which is not a sufficient proof to treat KCA as an evacuee trust property.

— From perusal of FIR No 37 of 2025 recorded by FIA it transpires that no case of fraud was made out and registration of FIR was a colorful exercise of powers by FIA, besides ETPB did not fall within the schedule under FIA Act 1974, therefore the FIA should not have recorded the FIR and this mistake stands admitted by FIA itself

during proceedings of case.

LEGAL PRINCIPLES EXPOUNDED

'Evacuee trust property' under Section 2(1)(d) of the ETPMD Act, 1975 is confined to evacuee properties attached to charitable, religious or educational trusts or institutions or properties forming part of the Trust Pool; a commercial concern such as a company limited by guarantee is not an evacuee trust property even where it may otherwise meet the definition of 'evacuee' or 'evacuee property'.

Source: *From perusal of the above provisions of law, it is crystal clear that the evacuee trust properties included those properties that are attached to charitable, religious or educational trusts or institutions or any other properties which form part of the Trust Pool and are discernible from the evacuee properties.*

Authority: *Section 2(1)(d), Evacuee Trust Properties (Management & Disposal) Act, 1975; Section 2 of the Pakistan Administration of Evacuee Property Act, 1957*

Section 3 of the Pakistan Administration of Evacuee Property Act, 1957 imposes a strict cut-off: no person or property not treated as evacuee or evacuee property immediately before 01.01.1957 may be so treated on or after that date, save for the limited exceptions in Section 3(2).

Source: *no person or property before the first day of January, 1957 shall be treated as evacuee or, as the case may be, as evacuee property, on or after the said date.*

Authority: *Section 3, Pakistan Administration of Evacuee Property Act, 1957*

Where a Section 14 ETPMD Act bar exists on civil-court jurisdiction but the statutory authority has not undertaken the determination contemplated by the Act and the petitioner faces immediate threat of dispossession with no other forum available, the High Court may exercise its extraordinary writ jurisdiction under Article 199 on the exception doctrine.

Source: *If there is such other remedy, but there is something so special in the circumstances of a given case that the other remedy which generally adequate, to the relief required for that category of grievance, is not adequate to the relief that is essential in the very special category to which that case belongs, the Court should give the required relief under Article 199.*

Authority: *Dr. Sher Afgan Niazi v. Ali Habib (2011 SCMR 1813); Article 199, Constitution of the Islamic Republic of Pakistan, 1973; Section 14, Evacuee Trust Properties (Management & Disposal) Act, 1975*

The Chairman ETPB has exclusive jurisdiction under Section 8 of the ETPMD Act, 1975 to decide whether an evacuee property is attached to a charitable, religious or educational trust, and no declaration or cancellation order may be passed without affording the persons interested in the property a reasonable opportunity of being heard.

Source: *If a question arises whether an evacuee property is attached to a charitable, religious or educational trust or institution or not, it shall be decided by the Chairman whose decision shall be final and shall not be called in question in any Court... Provided that no declaration under sub-section (2) or order under sub-section (3) shall be made or passed in respect of any property without giving the persons having interest in that property a reasonable opportunity of being heard.*

Authority: *Section 8, Evacuee Trust Properties (Management & Disposal) Act, 1975; Mst. Tahira Begum v. Federation of Pakistan (2025 SCMR 1887)*

Due process under Article 4 and the fair-trial right under Article 10-A of the Constitution require that no person be penalised by an action affecting his right or legitimate expectations without being afforded a fair opportunity to present and defend his case; this obligation binds all judicial, quasi-judicial and administrative authorities.

Source: *The right to fair hearing and fair trial necessitates that no one should be penalized by the decision upsetting and afflicting his right or legitimate expectations unless he is given a fair chance to answer it and a fair opportunity to present and defend his case. To enjoy the protection of law and to be treated in accordance with the law is an inalienable right of every citizen.*

Authority: *Articles 4 and 10-A, Constitution of the Islamic Republic of Pakistan, 1973*

OPERATIVE ORDER

For the foregoing reasons this petition is disposed of in the following terms: (a) The notification dated 9th August 1963 is suspended and the matter is referred to the Chairman ETPB, Islamabad for fresh determination of status of KCA, whether it was an evacuee trust property or evacuee property. Since Cotton Exchange Building is owned by KCA, therefore, determination of status of KCA will automatically decide the fate of Cotton Exchange Building. The

Chairman ETP shall decide the fate of the KCA within 90 days time from the date of receipt of this order and shall provide a fair opportunity of hearing to all the interested parties and if the need be, shall summon and examine the witnesses and procure the record. The Federal Government, Securities and Exchange Commission of Pakistan and Government of Sindh shall assist the Chairman ETPB in procuring the record and attendance of any witness as and when required. (b) The FIR recorded by FIA as discussed supra appears to be a colorful exercise of powers, as ETPB was neither on the schedule of FIA nor any element of fraud was spelt out from the record produced and relied upon by the parties. Moreover, the FIR was recorded in violation of FIA Rules 1975, hence the same stands quashed. (c) Till the determination of the status of the property as Evacuee Trust Property or otherwise and due course of law follows pursuant to the outcome of proceedings by Chairman ETPB, the KCA shall enjoy the possession of property and continue its business activities without any disturbance. (d) The Tenants of Cotton Exchange Building who deposited rent with KCA shall deposit the same with Nazir of this Court until the determination of the status of KCA and Cotton Exchange Building. Nazir of this Court shall invest the rent amount in profitable scheme and same shall be refundable subject to the outcome of the proceedings by Chairman ETPB. (e) The office shall send copy of this order to Chairman ETPB Islamabad and on receipt of the copy of order the Chairman ETPB shall initiate proceedings in the matter immediately and shall communicate the date of hearing to the parties by all modes including publication. The petition stands disposed of in above terms.

■ View Full Judgment