PUBLICATION OF QUARTERLY CASE LAW REPORT

ONLINE EDITION

VOLUME-IV, ISSUE-III
(JULY TO SEPT 2023)

QUARTERLY CASE LAW REPORT INDEX

(01-07-2023 TO 30-09-2023)

A SUMMARY OF THE LATEST JUDGMENTS DELIVERED BY THE CONSTITUTIONAL COURTS ON CRUCIAL LEGAL ISSUES

JUDGMENTS OF INTEREST

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S. No	**Country**	**SELECTED ARTICLES**	**Published in**	**Page No.**
1	**Pakistan**	**Forced Marriages in Pakistan: An Unchecked Violation of Fundamental Rights in Pakistan** ***By: Zameer Ahmed Soomro*** ***Civil Judge (Research Officer)*** ***High Court of Sindh*** ***Zameersoomro1991@gmail.com***	**Academia** https://www.academia.edu/111705550/FORCED_MARRIAGES_IN_PAKISTAN_AN_UNCHECKED_VIOLATION_OF_FUNDAMENTAL_RIGHTS	**32**
2	**Pakistan**	**Strengthening Consumer Protections In Pakistan** ***By: Waseem Abbas (Civil Judge)*** ***waseemshaikh0005@gmail.com***	**Academia** https://www.academia.edu/111783264/STRENGTHENING_CONSUMER_PROTECTIONS_IN_PAKISTAN	**33**

The Supreme Court of Pakistan

1. **The Commissioner of Income Tax vs M/s. Inter Quest Informatics Services**

Civil Appeals No.94 to 106 of 2008 & Civil Appeal No.550 of 2011

***Present**:* *Mr. Justice Umar Atta Bandial, CJ*
Mr. Justice Qazi Faez Isa
Mrs. Justice Syed Mansoor Ali Shah

Source: https://www.supremeCourt.gov.pk/downloads_judgements/c.a._94_2008.pdf

Facts: The High Court of Sindh at Karachi decided fourteen income tax references filed by a company incorporated in the Netherlands. The company, with no business present in Pakistan, filed income tax returns seeking exemption for rental receipts from leasing FLIC Software computer programs under the Pakistan-Netherlands Double Taxation Avoidance Agreement.
The Income Tax Officer disagreed, asserting that the income should be treated as royalty under the tax treaty and subjected to a 15% tax rate. The company argued that software payments should not be classified as royalties but as business income or capital gains, referencing OECD guidelines. The company maintained that the rights granted to the user were limited and did not constitute royalty under the treaty.
Despite the company's explanations, the Income Tax Officer issued assessment orders, upheld by the Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal. The Tribunal considered the receipts as royalties under the tax treaty, leading to a 15% income tax liability. The company appealed to the High Court, which ultimately ruled in favor of the company, stating that the amounts received did not qualify as royalties under Article 12 of the treaty. The case was then brought to the higher Court through Article 185(3) of the Constitution, where leave was granted.

Issue: Whether the income derived by the respondent non-resident Dutch company for the lease of certain software in Pakistan constitutes "royalties" as defined in paragraph 3 of Article 12 of the Convention between the Kingdom of the Netherlands and the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income?

Rule: The rule in the order is that the interpretation of the Convention between the Kingdom of the Netherlands and the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income should be in favor of the State in which payment is made. Additionally, the judgment emphasizes the need for a broad purposive interpretation of international tax treaties and the specific details of the agreement between the parties..

Application: The High Court's jurisdiction, in terms of S.136 (1) of ITO (1979) and S.33(1) of ITO (2001), was limited to considering and deciding questions of law, not factual determinations made by qualified forums. The High Court erred in addressing factual determinations made by three qualified forums, which had already determined that the receipts were not royalties in terms of Article 12 of the Convention. The High Court did not appreciate that the 1995 Agreement did not mention FLIC tapes and presumed that the receipts were payment for the temporary use of FLIC tapes, which were only mentioned in the 1986 Agreement.

The respondent did not adequately present its case, and the competent authority of the Netherlands did not support the respondent's contention, which could have led to the two countries resolving the matter and making regulations in terms of the Convention.

The High Court failed to consider that if the respondent was taxed in Pakistan under paragraph 2 of Article 12 of the Convention, its tax liability to such extent would have been accordingly adjusted in the Netherlands, and the respondent would not have been double taxed. The High Court did not consider that the receipts that were taxed were the respondent's earnings in Pakistan and did not keep this under consideration when considering the applicability of Article 12 of the Convention.

The majority judgment narrowed down the dispute to whether the amounts received by the respondent constituted royalties as defined in paragraph 3 of Article 12 of the Convention. However, the dissenting judge disagreed with the reasoning and result arrived at by the majority, emphasizing the need to decide the question based on law, not extraneous and utilitarian considerations in disregard of the law. The dissenting judge also disagreed with the majority's interpretation of the full definition of royalties in paragraph 3(a) of Article 12 of the Convention, stating that the income derived by the respondent non-resident Dutch company does not fall into this category of payments.

Conclusion: The conclusion in this judgment was that the majority, with a vote of two to one, Justice Syed Mansoor Ali Shah dissenting, allowed the appeals and set aside the High Court's judgments, and restored the assessment orders.

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2. **M/s Pak Suzuki Motors Company Limited through its Manager vs Faisal Jameel Butt and another**

Civil Appeal No.797 of 2017

Present: ***Mr. Justice Syed Mansoor Ali Shah***
Mr. Justice Syed Hasan Azhar Rizvi

Source: https://www.supremeCourt.gov.pk/downloads_judgements/c.a._797_2017.pdf

Facts: Brief facts of the case are that respondent No.1 purchased a motor vehicle, a Suzuki Swift (model 2010), from the Appellant, through respondent No.2 who is a car dealer, for Rs. 1,049,000/-. The said vehicle was delivered to respondent No.1 on 15.05.2010. However, on discovering certain defects in the vehicle, respondent No. 1 issued legal notices to the Appellant and respondent No.2 on 10.08.2010 and thereafter filed a claim under Section 25 of the Punjab Consumer Protection Act, 2005 ("Act") before the District Consumer Protection Court, Lahore ("Consumer Court") on 22.09.2010. The claim was allowed on 19.02.2014 to the effect that CA No. 797/2017 respondent No.1 was granted refund of the price of the vehicle in the sum of Rs. 1,049,000/- along with compensation/litigation costs of Rs. 50,000/-, to be paid by the Appellant within 30 days, failing which an additional penalty of Rs. 1,000/- per day was imposed till the realization of the said amount. The Appellant filed an appeal under Section 33 of the Act before the High Court, which was subsequently dismissed through the impugned judgment dated 20.02.2017. Leave to appeal was granted by this Court vide order dated 25.05.2017.

Issue No. 01: Whether the respondent no: 01's claim under the Act regarding the purchase of a motor vehicle from the Appellant was sustainable?

Issue No. 02: Whether the question of limitation for filing a claim under the Act needed to be settled?

Rule: Section 28 of the Act outlines the process for settling claims. It requires consumers to issue a written notice to the manufacturer or service provider regarding defects or faults in the product or service before filing a claim with the Consumer Court. The notice must be responded to within 15 days, and the claim must be filed within 30 days of the cause of action. The limitation period is important due to potential product depreciation and difficulty in proving defects over time. The 30 days limitation period begins when the consumer becomes aware of the defect.

Application: The respondent no: 01 failed to prove any specific defect in the vehicle for the purposes of his claim under the Act, and the judgments of the Courts below were not sustainable based on the admission by the witness of the respondent no: 01. The Court addressed the contradictory judgments of the Lahore High Court on the issue of limitation for filing a claim under the Act and deemed it appropriate to settle this question of law. It emphasized that when defects alleged require expert inspection or probe, the onus to provide such expert evidence falls on the consumer. In this case, the respondent no: 01 failed to provide expert evidence to prove the alleged defects in the vehicle, and no expert evidence was invited by the Consumer Court to ascertain whether the alleged defects existed. The Court noted that the only reason the below Court

decided the matter in favor of the respondent was the supposed admission by the Appellant in its written reply to the claim and an admission by a witness of the respondent no: 01 regarding the vehicle being defective. However, the Court found that the respondent no: 01 failed to provide any proof regarding the alleged defects, and the judgments of the Courts below were not sustainable based on these admissions. The Court considered the claim of respondent no: 01 barred under the law. The Court held that the 30-days limitation period for filing a claim under the Act begins when the consumer becomes aware of the defect.

Conclusion: Consequently, the appeal was allowed and impugned judgment was set aside and the claim filed by respondent No.1 stood dismissed.

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3. **Jameel Qadir and Muhammad Asif Baloch vs Government of Balochistan, Local Government, Rural Development & Agrovilles Department, Quetta through its Secretary and others**

Civil Petitions No.2270 & 2272 of 2023

Present: *Mr. Justice Umar Ata Bandial, CJ*
Mr. Justice Muhammad Ali Mazhar
Ms. Justice Musarrat Hilali

Source: https://www.supremeCourt.gov.pk/downloads_judgements/c.p._2270_2023.pdf

Facts: The petitions are a result of election disputes arising from the Local Bodies elections for the Deputy Chairman and Chairman of the Municipal Corporation in Khuzdar, Balochistan, held on February 9, 2023. In the election for Deputy Chairman, the Returning Officer invalidated 24 out of 59 ballots due to improper marking. Despite this, the petitioner was declared the returned candidate, and the notification was issued on March 30, 2023.
Respondent No.6 (Inayatullah) and another respondent (Abdul Rahim Kurd) challenged the election results by filing applications with the Election Commission of Pakistan (ECP). The ECP, in its orders dated February 9, 2023, and March 1, 2023, dismissed the petitions, suggesting that the Election Tribunal should be approached for resolution as per the law.
Instead of approaching the Election Tribunal, the private respondents filed Constitution Petitions (C.Ps) in the High Court challenging the ECP's orders. The High Court, in its judgments dated May 31, 2023, set aside the ECP orders, declared the private respondents as returned candidates, and directed the ECP to issue notifications accordingly.

Issue: Whether the High Court rightly had jurisdiction U/A 199 of constitution to entertain and decide election disputes when Election Tribunals (u/s 37 of the Baluchistan Local Government Act, 2010) had already been appointed by the

Election Commission of Pakistan (ECP) to resolve the election disputes?

Rule: Section 37 of the Balochistan Local Government Act, 2010, specifies that election disputes should be resolved through Election Tribunals, and their decisions are final and not subject to challenge in any other Court. The doctrine of functus officio applies when a quasi-judicial authority, such as the ECP, has fulfilled its purpose and is no longer competent to entertain election disputes.

Application: The Court affirmed the principle that election disputes, as governed by Section 37 of the Balochistan Local Government Act, 2010, should be exclusively resolved by Election Tribunals. Any challenge to Election Commission of Pakistan (ECP) orders should follow the prescribed legal channels.

The Court reiterated the doctrine of ***functus officio***, emphasizing that once the ECP had appointed Election Tribunals, it had fulfilled its purpose and was no longer competent to entertain election disputes. This doctrine prevents further official authority or legal effect after the fulfillment of duties.

The Court emphasized the principle of exhaustion of remedies, stating that the extraordinary jurisdiction of the High Court under Article 199 of the Constitution should not be invoked to circumvent or bypass the remedies provided by specific statutes, such as the mechanism for resolving election disputes through Election Tribunals.

The Court underscored the duty of the Court to determine questions of jurisdiction at an early stage in legal proceedings. The importance of resolving issues related to the jurisdiction of the Court, especially when doubts are raised, was highlighted. The Court affirmed that disputed questions of fact, such as those related to the intent of voters, casting of votes, and other factual matters, should not be adjudicated in the writ jurisdiction. Such matters are more appropriately handled through the prescribed legal procedures, including Election Tribunals.

The Court referred to the doctrine of ***per incuriam***, indicating that a decision rendered in ignorance or forgetfulness of a statute or rule having statutory effect may be considered as such. This concept is relevant when a Court's decision overlooks applicable laws or rules.

Conclusion: Consequently, the civil petitions were converted into appeals and allowed. The impugned judgment was set aside, and the matter was remanded back to the learned High Court for deciding, in accordance with the law, the question of jurisdiction of the High Court in an election dispute after hearing the parties. The Court directed that this should be done preferably within a period of one month from the receipt of the certified copy of the order.

The High Court of Sindh

1. **Wikiyo vs Mst. Aami and others**

Revision Application No. 34 of 2017 (S.B)

Present: ***Mr. Justice Muhammad Shafi Siddiqui***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAxMDYwY2Ztcy1kYzgz

Facts: The Revision Application, filed under Section 115 CPC, impugning the concurrent findings of two lower Courts in a case where Respondents No.1 and 2 (Mst. Aami and Mst. Eisan) initiated a lawsuit against the applicant, Wikiyo, and other defendants. The suit, seeking declaration, possession, mesne profit, and permanent injunction, involved a substantial piece of land measuring 160 acres, claimed by both the applicant and private respondent as 3rd and 2nd tier descendants of Bacho s/o Mureed. The relief sought by Respondents No.1 and 2 included a declaration of lawful ownership, eviction of defendant No.4, mesne profit recovery, permanent prohibition on alienation, and other related injunctions. The revision application contested the legal standing and claims made in the lower Courts.

Issue: Whether the deceased Pariyo passed on any title to his son Lakhano and whether succession was opened to Pariyo (died in 1950) who died before his father Bachu (died in 1959)?

Rule: The rule is referred to Section 4 of the Muslim Family Laws Ordinance, 1961, which is invoked by the plaintiffs to claim a share in the property. It has been explained that Section 4 has ***prospective effect*** and does not apply retrospectively. Succession to the estate of a Muslim under Muhammadan Law is open only at the time of death, and legal heirs alive at that time are entitled to inherit the estate.

Application: The Court considered the evidence provided by the defendant, Wikiyo, who asserted that Bacho was the original owner of the land and died in 1959, leaving surviving legal heirs. The judge noted that Pariyo, the predeceased son, died before Bacho in 1950. The Court criticized the lower Courts for applying Section 4 without considering the temporal aspect, arguing that since Pariyo died before the promulgation of the law in 1961, his legal heirs could not claim inheritance under Section 4 by giving retrospective effect.

The Court further emphasized that the succession to the legal heirs of Bacho was opened in 1959, and Section 4 only came into effect later. Therefore, the plaintiffs, claiming through Lakhano, who was a son of the predeceased Pariyo, had no locus standi as nothing was inherited by them through the lineage

disclosed.

Conclusion: The Court concluded that the findings of the lower Courts on issues No.3 and 4 were based on a misreading of the evidence. The judgment set aside the findings and determined that after the death of Pariyo, no share could have devolved upon his son Lakhano and, consequently, not inherited by his legal heirs, including the plaintiffs. The Court declared the suit incompetent in terms of issue No.9, and dismissed it, and the revision application was allowed accordingly.

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2. **Muhammad Afzal Chandio vs The State**

Criminal Jail Appeal No. D-137 of 2022 (D.B)

Present: *Mr. Justice Naimatullah Phulpoto*
Mr. Justice Amjad Ali Bohio

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAwNDg4Y2Ztcy1kYzgz

Facts: In Criminal Jail Appeal the impugned judgment dated December 12, 2022, has been challenged passed by the Additional Sessions Judge I/Special Judge for (CNS) Khairpur in the case of Muhammad Afzal Chandio. Accused had been convicted under Section 9(c) of the Control of Narcotics Substance Act, 1997, and sentenced to twelve years of rigorous imprisonment, along with a fine of Rs. 50,000. In case of default, an additional four months of simple imprisonment was ordered.

According to the prosecution's case, on August 22, 2021, at 21:30 hours, Inspector Khalid Hussain Dahiri and his team arrested the Appellant on the link road from Mirwah Canal to Bhurgri bridge. This had led to the discovery of three pieces of charas, weighing 1250 grams, in a plastic shopper in the Appellant's possession. The charas was immediately sealed, and a memo of arrest and recovery was prepared in the presence of PCs Qurban Ali and Abdul Jabbar. Subsequently, the accused and the seized property were taken to PS Shaheed Murtaza Mirani, where the Inspector filed an FIR at 22:30 hours, charging the Appellant under Section 9(c) of the CNS Act.

Issue No. 01: Whether the prosecution failed to establish a clear and unbroken chain of custody for the seized substance, including issues related to safe custody, dispatch, and delivery to the Chemical Examiner?

Issue No. 02: Whether the submission of a Photostat copy of the Road Certificate (RC) without Court's permission and in the absence of the original RC, along with issues related to document authentication, affected the admissibility and reliability of crucial evidence in the case?

Rule: In cases involving offenses under Section 9(c) of the Control of Narcotics Substance Act, 1997, the prosecution has duty to establish a clear and unbroken chain of custody for the seized substance. This includes proving the steps from the stage of recovery, making of sample parcels, safe custody of sample parcels, and safe transmission of the sample parcels to the concerned laboratory. Failure to establish this chain of custody can result in the benefit of doubt being extended to the accused. Additionally, the admissibility of evidence, especially documents like Photostat copies, requires compliance with legal requirements, such as obtaining Court permission, and failure to do so may render the evidence illegal and inadmissible.

Application: The Court, upon careful consideration, found that the prosecution failed to establish a clear chain of custody for the alleged charas, including its recovery, safe custody, dispatch, and delivery to the chemical examiner. Material contradictions in the testimonies of the complainant and mashir PC Qurban Ali raised doubts about the complainant's presence at different locations simultaneously. Discrepancies in the preparation of the memo of arrest and recovery, coupled with uncertainties about the safe custody of the parcel, led the Court to conclude that the prosecution lacked credibility and consistency. Additionally, the prosecution failed to prove the safe custody of the parcel during the crucial period, rendering the positive chemical report unreliable. Consequently, the Court held that the prosecution failed to establish its case beyond a reasonable doubt, and the Appellant was acquitted. The Court emphasized the importance of proving each step in the chain of custody and highlighted the legal requirement for the admissibility of documents such as Photostat copies.

Conclusion: Consequently, the Court allowed the instant appeal whereby the impugned judgment was set aside and Appellant was acquitted of the charge.

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3. **Asadullah, Allah Bux and others vs Mr. Nisar Ahmed, Assistant Attorney General and Mr. Ashok Kumar Jamba Advocate SSGC**

C.P No. D-337 of 2016 (D.B)

Present: ***Mr. Justice Salahuddin Panhwar***
Mr. Justice Abdul Mobeen Lakho

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAxNTE3Y2Ztcy1kYzgz

Facts: Briefly the succinct facts of C.P.No. D-337 of 2016 are that the Petitioner was aggrieved by non-provision of natural gas facility to their village, situated at the distance of 2.0 kilometer from the main line. It was further stated that due to political influence and pressure the Respondents No.3 to 6 provided gas facilities at the village Khush Khair Muhammad Faqir, situated at a distance of

9.0 kilometers from the main line; that on 11.01.2013, the villagers submitted an application to the Respondent No.6, but no fruitful result could be achieved and till date no gas is provided to the petitioner's village, being fundamental right of the Petitioner as well as other villagers as enshrined under Articles 4 and 25 of the Constitution; that the funds which were sanctioned for the gas pipeline have been utilized by providing gas facility to one village only. The petition sought a declaration of discrimination by Sui Gas Respondents as illegal, an inquiry and audit of sanctioned funds, a directive to provide gas without discrimination, and any other equitable relief deemed fit by the Court.

Issue: Whether the failure of respondents to provide gas to the petitioners' villages, situated within 5 kilometers of the main gas pipeline, violates the fundamental rights of the petitioners as enshrined under Articles 9 and 25 of the Constitution?

Rule: The rule applied in these cases is derived from the directives issued by the Prime Minister on September 15, 2003, requiring the provision of gas to villages within a 5-kilometer radius of gas fields, particularly emphasizing priority basis. Under Article 199(1) (c) of the Constitution, the High Court may issue directions for the enforcement of fundamental rights to any person or authority, ***including private entities,*** within its jurisdiction. The Court's jurisdiction is not limited to public functionaries, and it extends to matters concerning the enforcement of fundamental rights. Additionally, the enforcement of such directives can be carried out under Article 187(2) of the Constitution.

Application The respondent side initially argued that the petitions were not maintainable, contending that no writ lay against a public company. However, the Court rejected this objection, emphasizing that the petitioners' main grievance was related to the violation of fundamental rights rather than targeting SSGC specifically. The Court held that Article 199(1) (c) of the Constitution, which allows for directions to any person or authority for the enforcement of fundamental rights, extends beyond public functionaries to private parties in such cases. In addressing the petitioners' claims, the Court referred to the case of ***Abdul Hakeem Khoso, Advocate,*** where the apex Court had issued directives for social welfare work, including providing gas to villages near oil and gas exploration sites. The Court highlighted a Prime Ministerial directive from 15-9-2003, stating that gas should be provided to villages within a 5-kilometer radius of gas sources on a priority basis. Despite this, the Ministry's response indicated a deviation from the directive's scope.

Acknowledging that the petitioners' villages were within 5 kilometers of the main gas pipeline, uncontested by SSGC, the Court noted the prior directive's non-implementation. It emphasized that the lethargic attitude of the respondent was incompatible with Articles 9 and 25 of the Constitution. Additionally, the Court asserted that the judgment of the apex Court could be enforced under

Article 187(2) of the Constitution.

Conclusion: Consequently, the Court allowed the constitutional petitions, directing the respondents to provide gas to the petitioners' villages on a priority basis. The judgment emphasized the enforcement of the Prime Minister's directives and mandated a compliance report through MIT-II of the Court to ensure the timely implementation of the Court's directive.

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4. Collector of Salex Tax & Federal Excise, LTU Karachi vs M/s. Hilton Pharma (Pvt) Limited

Special Salex Tax Reference Application No. 192 of 2006

Present: ***Mr. Justice Muhammad Junaid Ghaffar***
Justice Ms. Sana Akram Minhas

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAzMDgwY2Ztcy1kYzgz

Facts: Through this Reference Application, the Applicant Department has impugned order dated 19.05.2006 passed in Sales Tax Appeal No. K-142 of 2004 by the then Customs, Excise and Sales Tax Appellate Tribunal Karachi Bench-I, Karachi. On 23.11.2006, the Applicant's Counsel had pressed the following questions of law: -

i. Whether or not the input tax adjustment can be claimed on the stock of raw material consumed in the supply of exempt goods?

ii. Whether or not the right of input adjustment remains intact when the goods were purchased with the intention to use in taxable supply, but actually used in the supply of exempt goods?"

It appears that in the earlier round this Reference Application was dismissed by this Court vide order dated 27.02.2008 whereby the proposed questions were answered against the Applicant Department by placing reliance on judgment dated 29.11.2006 passed in Special Sales Tax Reference Application No.140 of 2005 (Collector of Sales Tax v Johnson & Johnson (Pak) Pvt. Ltd) and other connected matters. The Department being aggrieved preferred a Civil Appeal bearing No.1311 of 2008 and vide order dated 19.03.2015, the Supreme Court while remanding the matter had set aside the order passed by this Court on the ground that proper reasons were not assigned and a non-speaking judgment was passed.

Issue: The issue in the above order revolves around the entitlement of the Applicant Department to claim input tax adjustment on the stock of raw material consumed in the supply of exempt goods. Specifically, the order addresses two questions of law that were raised during the proceedings:

1. Whether the input tax adjustment can be claimed on the stock of raw material consumed in the supply of exempt goods?

2. Whether the right of input adjustment remains intact when the goods were purchased with the intention to use in taxable supply but actually used in the supply of exempt goods?

Rule: The relevant legal provisions discussed in the order are Sections 7 and 8 of the Sales Tax Act, 1990. Section 7 outlines the determination of tax liability, allowing a registered person to deduct input tax paid for taxable supplies from the output tax due in that tax period. Section 8 lays down the conditions where tax credit was not allowed, specifying situations where input tax cannot be reclaimed or deducted.

Application: In the given order, the application involved an analysis of the legal principles (Rules) in Sections 7 and 8 of the Sales Tax Act, 1990, in light of the specific circumstances presented in the case.

1. Application of Section 7:

The order applied Section 7 of the Sales Tax Act, which allowed a registered person to deduct input tax paid during the tax period for taxable supplies made or to be made. It noted that input tax adjustment had to be made in the tax period against the output tax, irrespective of whether the supplies had been made in that period or not.

2. Application of Section 8:

Section 8 outlined conditions where tax credit was not allowed. The order specifically referred to Section 8(1) (a), stating that a registered person shall not be entitled to reclaim or deduct input tax paid on goods used or to be used for any purpose other than taxable supplies made or to be made.

The order discussed the Department's argument that Section 81(a) of the Act makes the input tax inadmissible. However, it said that this contention was not in line with the law because the materials purchased and consumed were meant for taxable supplies during the period in dispute.

3. Analysis of Tribunal's Observation:

The order analyzed the Tribunal's observation that input tax paid on purchases made for taxable supplies but used later for such supplies was not being adjusted against output tax. It emphasized that the Tribunal's observation, which was not denied by the Applicant's counsel, was important in establishing that input tax was not adjusted when goods purchased for taxable supplies were later used for making taxable supplies.

4. Application of Amended Section 7:

The order refers to the amendment to Section 7 of the Sales Tax Act, highlighting that the amendment clarified that input tax adjustment was subject to the provisions of Section 8. It noted that this amendment applies prospectively and does not support the Applicant's case.

Conclusion: Taking into account the observations, reasoning, and following the judgment dated 29.11.2006 in Special Sales Tax Reference Application No.140 of 2005

(Collector of Sales Tax v Johnson & Johnson (Pak) Pvt. Ltd), both the questions were answered against the Applicant Department and in favour of the Respondent. Consequently, the Reference Application was dismissed.

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5. **Akbar Shah and others vs The State**

Criminal Appeal No. S-112 of 2018 (S.B)

Present: ***Mr. Justice Muhammad Iqbal Kalhoro***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAyNzY5Y2Ztcy1kYzgz

Facts: There was a dispute over the ownership of a shop and a plot in Ubauro Town between the complainant party and the accused. On September 4, 2011, around 11:00 a.m., the Appellants, along with 10 other accused, entered into the complainant's house. Appellant Safdar Hussain, armed with a pistol, instigated firing at the complainant's brother, Akhtar Shah, causing critical injuries. Appellant Inayat Shah's firing also injured the complainant's mother, Mst. Bani. The accused conducted aerial firing in jubilation, inadvertently hitting Safdar Shah and Kamran Shah. After the accused left, the complainant found his brother alive but critically injured. Both the injured were taken to Taluka Hospital, Ubauro, and Mst. Bani was later referred to Taluka Hospital, Ghotki. The complainant's brother succumbed to his injuries in a hospital in Rahim Yar Khan, Punjab, after being referred for better treatment. The complainant then registered an FIR.

In the investigation, Appellants Akbar Shah, Asghar Shah, Rizwan Shah, and Inayat Shah were arrested, and pistols and repeaters were recovered from them. The amended charge included co-accused Uffan Shah and Rooman Shah, who joined the trial. Appellant Safdar Shah was later brought into the trial, and another amended charge was framed.

After the trial, Appellants Akbar Shah, Asghar Shah, Rizwan Shah, and Safdar Shah were convicted and sentenced to life imprisonment. Appellant Inayat Shah received 14 years of rigorous imprisonment. All Appellants were sentenced to two years of imprisonment under Section 148, PPC, and were directed to pay Rs. 100,000 as compensation to the deceased's legal heirs or face six months' imprisonment, with the benefit of Section 382-B, CrPC. The Appellants, convicted in Sessions Case No. 24 of 2012, challenged their conviction and sentences through the current appeal against the judgment of the Additional Sessions Judge, Ubauro, dated September 8, 2018.

Issue: Whether the conviction and sentencing of Appellants / A in Sessions Case No. 24 of 2012, arising from FIR No. 330 of 2011 under Sections 302, 324, 337-H(2), 114, 147,148, 149, PPC, by the learned Additional Sessions Judge, Ubauro, is legally correct?

Rule: Primarily, the burden to prove a charge is solely upon the prosecution. However, when a special plea, contrary to the narration of the occurrence and blaming the complainant for it, is propounded by the accused to plead his innocence, the burden is shifted to the accused. The accused then has the liability to prove the special plea, and the failure to produce evidence in support of the plea may result in the plea being disregarded. *(In this case, the Appellants took a special plea that the complainant himself murdered his brother, injured his mother, and two men from their party).*

Application: The prosecution presented its case through witnesses, including the complainant Muhammad Athar Hussain, the injured eyewitness Mst. Bani, and another eyewitness Syed Sabir Hussain Shah. They identified the Appellants and described the incident, asserting that the Appellants caused firearm injuries to the deceased and Mst. Bani. The eyewitnesses remained consistent in their accounts during cross-examination. The controversy raised in defence regarding time of incident to be either 1330 hours or 11:00 a.m. has indeed been dispelled by Appellant Inayat Ali Shah himself in his 342 CrPC statement (Ex.38), when he, in a reply of a question, has expressed that it was about 11:00 a.m. when he saw dozens of people duly armed with deadly weapons: complainant Athar Shah, his brothers *et al* entering the disputed plot and occupying the same. And he in the wake of which conveying such information to the Appellants, their arrival at the place of incident, and the occurrence. This admission in regard to correct time is sufficient to cast out any misconception about it. Further, the complainant on the very day made a further statement, after realizing wrong time stated in FIR, quoting correct time of the incident. Subsequently, on his application, the correct time was noted down in the trial, which was never challenged by the Appellants in any proceedings.

The defense raised disputes about the time of the incident, but Appellant Inayat Ali Shah admitted in his statement that the incident occurred around 11:00 a.m. The defense also claimed that the complainant party initiated the attack, resulting in injuries to the deceased and others. However, the Appellants failed to provide evidence to support this special plea, and the burden of proof shifted to them.The defense further argued a contradiction in the weapons recovered from the Appellants compared to those mentioned in the FIR. The Court dismissed this, stating that the complainant party, not being experts in firearms, may have inaccurately identified the weapons in the heat of the moment. The Court emphasized that the recovery of weapons was not rendered ineffective, supported by a lab report matching the weapons to the empties found at the crime scene.

Additionally, the defense raised points about the Provisional Medico Legal

Certificate and a site plan prepared by the Tapedar. The Court clarified that the final medical certificate provided a full account of injuries, and the site plan, prepared nine days later, did not undermine the overwhelming direct and documentary evidence supporting the prosecution's version of the incident.

Conclusion: Finally, the Court concluded that the trial Court has not committed any error in convicting and sentencing the Appellants, and found no merits whatsoever, in the appeal, thereby dismissed it and upheld the impugned judgment.

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6. **Shahbaz vs The SHO P.S Aziz Bhatti and others**

Criminal Miscellaneous Application No. 404 of 2022 (S.B)

Present: ***Mr. Justice Zulfiqar Ahmad Khan***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAwOTAyY2Ztcy1kYzgz

Facts: The applicant through the present application sought indulgence of this Court for issuance of directions to S.H.O concerned for registration of case against the proposed accused as his application filed by him before the learned IVth Additional Sessions Judge Karachi, East was dismissed vide order dated 15.04.2022. It was contended by the counsel of applicant that the learned Justice of Peace/IVth Additional Session Judge Karachi, East failed to apply his judicial mind while deciding the application and passed the impugned order. He further contended that a cognizable offence was committed by the proposed accused and they be punished according to law, therefore, the impugned order be set aside and directions be issued to the SHO concerned for registration of FIR.

Issue: Whether the impugned order, dismissing the applicant's application for the registration of a criminal case against the proposed accused, is legally correct and sustainable?

Rule: The role of a Justice of Peace under Section 22-A Cr.P.C is administrative, not investigative or prosecutorial. The Justice of Peace is tasked with redressing grievances resulting from the refusal of a police officer to register a report. However, the Justice of Peace must apply judicial scrutiny to determine whether the facts presented in the application are cognizable. Section 22-A Cr.P.C does not permit a deep inquiry into the veracity of the pleadings but requires a prima facie view on the cognizability of the information.

Application: The essence of the impugned order is that it identifies a civil dispute between the parties, emphasizing that the applicant's narrative under Section 22-ACr.P.C appears self-made. The proposed accused were abroad as overseas Pakistanis when the alleged agreement took place, leading them to file an application against the applicant for harassment. The Justice of Peace, after

applying judicial scrutiny, concluded that the signatures on the alleged cheques differed, casting doubt on the genuineness of the applicant's story.

The legal perspective underscores that the duty of a Justice of Peace is administrative, aimed at redressing complainant grievances arising from police refusal to register reports. The Justice of Peace is not authorized to take on the role of an investigating agency or prosecution. While Section 22-A Cr.P.C does not allow delving deeply into the veracity of pleadings, the Justice of Peace must form a prima facie view on the cognizability of the information provided by the applicant. In this case, the applicant's version appears mysterious, and the impugned order reflects a lack of firm opinion.

The law clarifies that the Justice of Peace is not obligated to issue directions for FIR registration in every case, and misuse of Section 22-A Cr.P.C has been noted in previous judgments. The enabling legislation's purpose is to prevent misuse and abuse, with Courts having a duty to ensure it is used only in genuine cases. Citing legal precedents, the Court highlights that the Justice of Peace must apply discretion and avoid mechanical issuance of directions, ensuring protection under Section 22-A Cr.P.C extends to legitimate cases and not those tainted with malice.

Conclusion: In the end, the Court decided that the impugned order passed by the learned Ex-officio Justice of Peace/IVth Additional Sessions Judge Karachi East did not need any interference and based on sound reasons, therefore, the application in hand stood dismissed.

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7. **Mst. Shamim Akhtar vs Mst. Nazar Bhari and another**

Suit No. 1592 of 2010 (S.B)

Present: ***Mr. Justice Muhammad Faisal Kamal Alam***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAzMzA1Y2Ztcy1kYzgz

Facts: Plaintiff No.1 appears in person, highlighting the submission of Written Arguments. Defendant No.1's counsel relies on the Sarwar Case, asserting that the proceeding is not maintainable under Section 4 of the Muslim Family Law Ordinance, 1961. The dispute centers around a built-up property, 'Imam Bux Building' on Nabi Bux Road, Karachi, measuring 139 Square Yards (Suit Property). Defendants allegedly manipulated the Record of Rights, claiming to be legal heirs of Imam Bux, the property owner. Plaintiffs, children and grandchildren of Ayub Ali and Imam Bux, argue that even the widow (Grandmother) of Imam Bux was excluded from the mutation. Plaintiffs invoke Section 4 of the Ordinance 1961, asserting that the pre-deceased son is entitled to an equal share in inheritance.

Plaintiffs contend that they inherited a 50% share in the Suit Property and accuse Defendants of wrongfully appropriating rental income from the shops on the property, excluding Plaintiffs and their legal heirs.
In the pleadings, Defendants vehemently deny Plaintiffs' claims. They assert that the mutation in favor of Defendants occurred after the death of Imam Bux (the Propositus) on 04.08.1957, while the father of the Plaintiffs passed away on 02.03.1948 (pre-deceased son). According to the records, the mutation was in favor of the predecessors of the present Defendants, specifically Mst. Nazar Bhari and her sister Mst. Zubaida, the original Defendant No.2, on 29.08.1962.

Issue: Whether the lawsuit is maintainable, specifically in light of Section 4 of the Muslim Family Law Ordinance, 1961, and the related case laws, considering the dispute over the inheritance of a built-up property and the mutation of names in the Record of Rights?

Rule: The nature of Section 4 of the Muslim Family Law Ordinance, 1961 is prospective. This Section cannot be applied retrospectively, clarifying that if a pre-deceased child passed away before the Ordinance's enforcement in 1961, the legal heirs of the pre-deceased cannot benefit from Section 4.

Application: Twice, the matter underwent appellate scrutiny. Initially, High Court Appeal No.147 of 2017 found resolution on 08.12.2017, deeming it infructuous due to the preliminary decree issuance. Subsequently, High Court Appeal No.80 of 2021 was resolved, emphasizing the necessity to determine the suit's maintainability based on relevant case law, with an instruction to maintain the status quo concerning the Preliminary Decree.

Earlier, an application under Order VII Rule 11 of CPC, filed by the Defendants and dated 05.12.2016, faced dismissal. The pivotal question framed on 06.04.2021 was whether the legal heirs of a son, who predeceases his father, possess the right to inherit the property left by the grandfather. Upon hearing arguments and reviewing the record, the Plaintiffs, supporting their stance with a Death Certificate for their father Ayub Ali (dated 10.03.1948), introduced the Judgment in Mahmood Shah versus Syed Khalid Hussain Shah and others (2015 SCMR 869). In prior legal episode, the present Plaintiffs initiated Suit No.516 of 1997 before the VIIth Senior Civil Judge, Karachi South. The Defendants contested with a detailed Written Statement, leading to the suit's withdrawal due to pecuniary jurisdiction concerns, followed by the initiation of the current litigation. The indisputable facts indicate the demise of Ayub Ali, the Plaintiffs' father, preceding that of his father (Imam Bux-Propositus), the grandfather of Plaintiffs and father of the current Defendants, now represented by their legal heirs.

Delving into relevant judgments, the Court considered the similarities between the present case and the Sarwar Case. The Plaintiffs, as legal heirs of the

predeceased son (Ayub Ali), lay claim to the inheritance under the Ordinance 1961. The subsequent Khan Muhammad Case upheld the prospective applicability of Section 4 of the Ordinance, citing various decisions, including the Sardar case and the Sarwar case. The Mahmood Case, relied upon by the Plaintiffs, was distinguished. It primarily addressed the absence of limitations in challenging mutation entries and the effect of a Federal Shariat Court judgment in the Allah Rakha Case, declaring Section 4 of the Ordinance 1961 against the Injunction of Islam.

The Court clarified that the Mahmood Case did not discuss the Sarwar Case and emphasized that the effect of the Allah Rakha Case had been thoroughly deliberated in the Khan Muhammad Decision. The Court underscored the non-retrospective application of Section 4 of the Ordinance 1961, asserting that its benefits are not extended to predeceased children who passed away before its enforcement.

In the current case, involving a direct claim by Plaintiffs as legal heirs of the predeceased son (Ayub Ali), the Court concluded that Section 4 of the Ordinance 1961, pertaining to legal heirs of predeceased children, does not apply. Given that Ayub Ali passed away on 10.03.1948, predating the Ordinance's promulgation, and considering the substantial time lapse between the Propositus's death and the suit's filing, the Court held the Lis as not maintainable.

Conclusion: In conclusion, the Court held that, as per the answer to the question framed on 06.04.2021, the Ordinance 1961 was not applicable in the present case. Consequently, the Plaintiffs were deemed ineligible to inherit anything, leading to the recall of the earlier preliminary decree. On this basis, the Lis was declared not maintainable. However, the Court suggested the Defendants to acknowledge that the Plaintiffs are undeniably the direct legal heirs of their pre-deceased brother, Ayub Ali, and shared the same lineage [Propositus]. The Court suggested that, in line with Islamic teachings, the Defendants should treat the Plaintiffs with affection. Moreover, the Court pointed out that Islamic Law encourages bequeathing and gifting of both movable and immovable property. As a resolution suggestion, the Court proposed that the Defendants may consider gifting or transferring a portion of the Suit Property to the Plaintiffs or initiating the sharing of rental income derived from the Suit Property. Accordingly, the suit was disposed of.

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8. Samina Nooruddin & others v. Mst. Jameela Begum & others

Revision Application No. 65 of 2022 (S.B)

Present: ***Mr. Justice Arshad Hussain Khan***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjA1MjA2Y2Ztcy1kYzgz

Facts: The facts giving rise to instant Revision Application are that the father of applicants and respondent Nos. 2 and 3, namely Jan Muhammad Keerio during his lifetime purchased a property bearing plot No.B-6, admeasuring 1559.00 Sq. Fts., Ali Nagar Housing Scheme, Hyderabad through a registered instrument (Sub-Leased Deed dated 12.07.1989) in the name of her wife-Jameela Begum (respondent No.1), the real mother of applicants and respondent Nos. 2 and 3. Upon purchase of the property, the same was mutated in the name of respondent No.1. On 10.11.1999 said Jan Muhammad expired. Respondent No.1 in the year 2015, by keeping the entry in the Revenue Record, transferred 50 paisa share in the property in favour of respondent Nos. 2 and 3. Upon coming to know about the said transfer, the applicants filed F.C. Suit No. Nil of 2021 before the Court of IVth Senior Civil Judge Hyderabad for declaration, cancellation, possession, recovery of death claim benefits, mesne profits and permanent injunctionagainst the present private respondents. Upon presentation of the said suit, the office raised objection with regard to the maintainability on the point oflimitation, which was subsequently decided by the trial Court vide order 07.07.2021 whereby the suit of the applicants was dismissed. The said order was subsequently challenged by the applicants in Civil Appeal No. 159 of 2021 before 8th Additional District Judge, Hyderabad. On 08.01.2022 the said appeal was also dismissed against which the applicants have preferred the present revision application.

Issue No. 01. Whether erroneous conclusion of law or fact can be corrected by way of revision?

Issue No. 02: Is the question of limitation merely a technicality, or does it delve into the fundamental aspects of litigation?

Rule: 1. The provisions of Section 115, C.P.C. envisage interference by the HighCourt only on account of jurisdiction alone, i.e. if a Court subordinate to the High Court has exercised a jurisdiction not vested in it, or has irregularly exercised a jurisdiction vested in it or has not exercised such jurisdiction so vested in it.
2. Per Article 120 of the Limitation Act time for seeking declaration of anyright as to any property is six years which is to be computed from the date whenthe right to sue accrued.

Application: Court held that when the Court has jurisdiction to decide a question it has jurisdiction to decide it rightly or wrongly both in fact and law. Mere fact that its decision is erroneous in law does not amount to illegal or irregular exercise of jurisdiction. For the applicant to succeed under Section 115, C.P.C., he has

to show that there is some material defect in procedure or disregard of some rule of law in the manner of reaching that wrong decision. In other words, there must be some distinction between jurisdiction to try and determine the matter and erroneous action of a Court in exercise of such jurisdiction. It is settled principle of law that erroneous conclusion of law or fact can be corrected in appeal and not by way of revision, which primarily deals with the question of jurisdiction of a Court i.e. whether a Court has exercised the jurisdiction not vested in it or has not exercised the jurisdiction vested in it or has exercised the jurisdiction vested in it illegally or with material irregularity.

Court observed that the question of limitation rests on the circumstances explained in the pleadings, inasmuch as it has two- fold implications; and being a pure question of law, at times, it becomes mixed question of fact and law particularly when disputed facts in regard to reckoning of limitation from the acquisition of knowledge or origin of the cause of action from a specific date, need probe by recording evidence. Recording of evidence is not mandatory when the averments of the pleadings are silent regarding the factum of case being barred by limitation and recording of evidence cannot be permitted when the pleadings did not disclose any disputed question of fact for application of mixed question of fact and law nor was there any factual controversy as to the limitation period, to be set at rest in the suit.

Court further observed that an incompetent suit should be laid at rest at the earliest moment so that no further time is wasted over what is bound to collapse not being permitted by law. It may be observed that in the trial of judicial issues i.e. suit which is on the face of it incompetent not because of any formal, technical or curable defect but because of any express or implied embargo imposed upon it by or under the law should not be allowed to further encumber legal proceedings.

Conclusion: Based on the given analysis, the Court held that it is well settled that if no errorof law or defect in procedure had been committed in coming to a finding of fact,the High Court cannot substitute such findings merely because a different findings could be given. It is also well settled law that concurrent findings of the two Courts below are not to be interfered in revisional jurisdiction, unless extra ordinary circumstances are demonstrated by the applicants. It is also tritelaw that a revisional Court does not sit in reappraisal of evidence and is distinguishable from the Court of appellate jurisdiction.

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9. **Muhammad Imran vs The State**

Criminal Revision Application No. 34 of 2020 (S.B)

Present: ***Mr. Justice Muhammad Saleem Jessar***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAzMDY4Y2Ztcy1kYzgz

Facts: Brief facts of the case are that the complainant filed a complaint under Sections 3 / 4 of the Illegal Dispossession Act. 2005 against Tariq Zawari and Nasir Patel, respondents No.1 and 2 respectively herein, stating therein that the disputed land situated in Survey No.21, being 01 acre of agricultural land, out of total area measuring 03 acres and 25 Ghuntas, situated in Deh Gangiato, Tappo Landhi, Taluka and District Malir, Karachi was purchased by him from one Hamzo Khan for the total sale consideration of Rs.5,80,000/- through his attorney namely, Wahid Akhtar vide sale deed dated: 10.01.2017, which was duly registered by the orders of Additional District Judge-II, Malir, Karachi and execution application No.16/2008 filed before 1st Senior Civil Judge Malir, Karachi vide order dated: 03.09.2016 through Nazir of District & Sessions Court Criminal Revision Application No.34 of 2020 Malir, Karachi. The complainant further stated that he was handed over peaceful vacant possession of the property in question by the Nazir of the Court. He also claimed to affix lock on the gates of the property in question in presence of Nazir. The complainant also added that when on 27.10.2017 at about 0430 hours he visited the said plot alongwith his companion Noor Muhammad, he found a watchman there and also found the broken locks whereupon he inquired from the person available there who pointed out that he was appointed by the respondent/accused. The complaint was dismissed on account of disputed facts and matter is related to civil nature. Hence impugned through instant revision before honorable high Court of Sindh.

Issue: Whether the trial Court rightly declined to take cognizance on mere basis that complaint, under illegal dispossession act 2005, contains disputed facts pertaining to possession?

Rule: The Honorable high Court ruled that where the possession is in dispute amongst the parties, in purview of illegal dispossession act , then Court ought to have afforded proper opportunity to the parties to lead their respective evidence in order to arrive at just and proper conclusion as to whether under the law, which of the parties would be said to be in the physical possession of the property in question and as to whether the accused persons had illegally got the other party dispossessed therefrom. Unless and until evidence is recorded, it would not be possible for the Court to adjudicate upon such point in a just and proper manner.

Application: In instant case the Honourable High Court observed that , the learned trial Court, although has elaborately discussed the versions of both the parties as depicted from the report of the Inquiry Officer / SHO concerned; however, without getting such facts adjudicated by means of recording of evidence, it has given findings against the complainant and dismissed his complaint in a hasty and mechanical manner which has not been appreciated by the Superior Courts.

It was further observed that the trial Court, while declining to take cognizance and dismissing the complaint under the Illegal Dispossession Act, 2005 has also laid much stress on the point that the matter is of civil nature. However, again while giving such findings, the trial Court has miserably failed to take into consideration the well settled principle of law enunciated by Superior Courts that even the pendency of a civil litigation does not bar a person to approach the Court by invoking the provisions of Illegal Dispossession Act if he has been illegally dispossessed from the property which was owned and / or occupied by him. There is also no bar on the running of civil proceedings side by side along with the criminal proceedings under the Illegal Dispossession Act

Conclusion: The Revision Application was allowed and consequently the impugned order dated 29.01.2020 was set aside. The Honorable high Court, while remanding the matter to trial Court, it was directed to take cognizance in the matter and proceed with the trial and afford opportunity to both the parties to lead their respective evidence and after appreciation of such evidence, dispose of the matter strictly in accordance with law within a period of six months' time under intimation to Honorable High Court.

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10. **Attaullah son of Wali Muhammad Sehto vs The State & others**

Criminal Jail Appeal No.S-66 of 2013 (S.B)

Present: ***Mr. Justice Khadim Hussain Tunio***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAwMzY4Y2Ztcy1kYzgz

Facts: It is the case of the prosecution that one Ghulam Mustafa, an alleged associate of the current Appellant, had sought the hand of Mst. Sadori in marriage, a proposal that was declined by Master Tooh, the brother of the complainant. This rejection engendered significant displeasure among the proposers and consequently, on the 24.05.2000, while the complainant, along with his brother Master Tooh, Rasool Buksh, and Muhammad Buksh was available at theKhyber bus stop, Master Tooh was attacked by a group of individuals identifiedby the complainant as Ghulam Mustafa, Attaullah (the present Appellant), Shaukat, Mahar, Suleman, and Wali Muhammad, all 2 armed with hatchets. After inflicting multiple injuries, the assailants absconded from the scene, leaving the complainant to discover his brother lifeless, bearing injuries on the left side of his head, the right side of his neck and other injuries over his arms. After the incident, the complainant proceeded to the police station to get the FIRlodged. After full-fledged trail appellant was convicted for the offence punishable u/s 302(b) PPC and sentenced to suffer rigorous imprisonment for life and to pay compensation u/s 544-A Cr.PC of Rs.100,000/-, defaulting in payment of which he was to suffer rigorous imprisonment for six months more.Thereafter this jail appeal.

IssueNo.1: Whether conviction could be secured on sole direct evidence of chance witnesses especially when they are also interested witnesses?

Issue No.2: What is legal status of the confession of juvenile when no guardian or services of legal counsel were afforded to him during recording of his confession u/s 164 Cr.P.C?

Rule: It was held that reliance on the testimony of chance witnesses requires the exercise of extreme caution and the same cannot be accepted unless believable reasons are shown to establish such a witness' presence at the crime scene at the relevant time. Similarly it was also ruled that Juveniles are recognized by law as individuals who might not completely apprehend the legal consequencesof their conduct, frequently lacking the requisite experience, maturity and judgment to fully comprehend the severity and aftermath of their actions and decisions, especially within legal frameworks. Even when a minor is informed about the potential consequences of a confession of guilt, they might not wholly understand the legal subtleties and long-term effects it might bear on their life. A guardian or legal counsel can explain these complexities in a language and demeanor minors can comprehend. The Court relied upon the case law of Farman &others which emphasizes that confession of minor should be treated on the same wavelength as testimonies of child witnesses; utmost care and caution needing to be exercised in both cases.

Application: The Court analyzed that both the eye-witnesses have given stereotypical statements while deposing with regard to the incident, merely stating theidentity of the assailants and collectively assigning them the role of causing injuries. The evidence of both witnesses made them as chance witnesses.Moreover, the complainant and both the alleged eye-witnesses have failed to disclose the reason for their presence at the placeof incident.

The Court further observed certain contradictions surfaced on the record between the depositions of the witnesses and their 161 Cr.PC statements recorded before the concerned magistrate regarding the geographical location of the crime scene where in 161 Cr.PC statements, the witnesses are admittedly seen stating that the school at which Master Tooh was workingwas close to the crime scene, but then this statement is changed to state that the same wasat a distance. Such deliberate improvements can only be seen from the spectacle of dishonesty and cast serious doubts on the veracity ofthe prosecution case.

The Court also scanned last piece of evidence i.e. confession of accused before magistrate. The Court observed that accused was around 13 years of age at the time of recording his confession. The Court noted that confession was obtained after 10 days of arrest and no plausible explanation was available with prosecution. The judicial Magistrate being witness admitted that accused was

minor while recording his confession. The Court observed that it would have been judicious and suitable that the appellant, given his juvenile status,should have been granted access to the advice of a guardian or an attorney ofhis preference. Regrettably, no such opportunity was extended to him by the Judicial Magistrate preceding the recording of his confessional statement. The Court did not rely on such piece of evidence and lastly observed that ifcases were to be decided merely on high probabilities regarding the existenceor non-existence of a fact to prove the guilt of a person, the golden rule ofgiving "benefit of doubt" to an accused person would be reduced to a naught. Prosecution is under an obligation to prove its case against the accused person at the standard of proof required in criminal cases, that being beyond reasonable doubt.

Conclusion: The Court concluded that the guilt of the Appellant has not been proven to the hilt and is not free from doubt. Therefore, captioned criminal jail appeal was allowed, the judgment impugned was set aside along with the conviction and sentences awarded to the Appellant.

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11. **Sikandar Ali Kolachi & others vs The State & others**

Criminal Appeal No.S-10 of 2023 (S.B)

Present: ***Mr. Justice Omer Siyal***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAzMDU0Y2Ztcy1kYzgz

Facts: The Mirpurkhas District Bar Association, being extremely disgruntled with the learned 1st Additional District and Session Judge, Mirpurkhas (the Judge), in a meeting held on 18.08.2023, resolved, inter alia, that the members of the Bar would not appear in his Court. The resolution passed by the Bar highlighted the grievances which the Bar had in connection with the conduct and actions of the Judge. It was in the backdrop of the resolution that the learned advocates representing a set of accused in a criminal case did not appear in Court on 21.08.2023. The Judge averred that the members of the Bar, which included the Appellants, disrupted Court proceedings on that particular date and that a group of lawyers also chanted slogans against him. The actions of the lawyers prompted the Judge to issue the Appellants a Show Cause Notice on 28.08.2023 (the Notice) to explain their disorderly behavior of 21.08.2023, failing which contempt proceedings would be initiated against them. A reply was sought by 31.08.2023 but appellant did not reply and sought further time. On 31.08.2023 learned Judge passed a judgment in terms of which the appellants were found guilty of having committed an offence under section 228 P.P.C. and sentenced them to a 6-month imprisonment as well as directed them to pay a fine of Rs.3, 000 each. If they failed to pay the fine, they would have to remain in prison for

a further period of 2 weeks. Hence this criminal appeal.

Issue: Whether a judge on his transfer (pursuant to issuance of notification), from one place of posting to another loses his territorial jurisdiction and becomes ***functus officio***?

Rule: The Court ruled that plethora of precedents are available a judge becomes functus officio when he has signed and delivered a judgment. He can only re-visit it to correct a typographical error. Similarly, there is much precedent also of cases where a judge who retired before pronouncing a judgment was held to be functus officio .The instant case is somewhat different to the extent that in this case, the Judge did not retire or cease to be a judge but was transferred to handle the affairs of another jurisdiction. He ceased to be a judgeperforming his duties in the Mirpurkhas District and transferred to Hala, a Taluka of Matiari District, to perform his duties there. Lastly Court ruled that the Judge remained a judge but lost territorial jurisdiction.

Application: The Court analyzed that a resolution to boycott all proceedings before the Judge was passed on 18.08.2023. The disorderly conduct of lawyers happened on 21.08.2023. The Notice was issued by the Judge on 28.08.2023. Entire proceedings in the matter were held on 31.08.2023 and the judgment passed on the same date. An important development impacting the case however occurred on 28.08.2023 i.e. the date when the Notice was issued. On this date, the Chief Justice of Sindh ordered the transfer of certain judges from one jurisdiction to another. These transfers also included that of the Judge, who on 28.08.2023 was transferred from his assignment as 1st Additional District and Session Judge, Mirpurkhas to take up an assignment as 1st Additional District and Session Judge, Hala. The order for transfer was with "*immediate effect*". In essence, the Judge stood relieved of his duties in the Mirpurkhas District upon issuance of the notification on 28.08.2023.The Court analyzed the principle of Coram non judice and reached at this conclusion that learned judge perhaps lost his territorial jurisdiction upon his transfer and became functus officio.

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Conclusion: It was concluded that the Judge for want of authority could not have exercised judicial power. As his mandate had ceased with an immediate act on 28.08.2023 when he was transferred to another district, all further actions were barred by well-entrenched concepts of ***functus officio*** and coram non judice. Accordingly, the impugned judgment was declared as null and void.

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12. Mst. Gul-e-Rana vs The State and others

Criminal Miscellaneous Applications No. 515 & 516 of 2023 (S.B)

Present: ***Mr. Justice Amjad Ali Sahito***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAyNTA1Y2Ztcy1kYzgz

Facts: It was asserted that Section 354-A PPC is very much applicable in this case as the photographs were made viral on social media; that lady accused induced/coerced male Page 3 of 9 accused Osja of engaging sexual abuse with victim Komal, therefore, Section 377-A PPC was also applicable in this case. In Crl. Misc. Application No.516/2023 that had been filed an application under Section 227 Cr.P.C. for amendment of the charge on the ground that Section 354-A PPC was also applicable in this case; however, the same was dismissed. It was asserted that this case also fell within the definition of the Anti-Rape (Investigation and Trial) Act, 2021 [hereinafter referred to as "Act"] as such investigation conducted by the I.O. might be set aside in view of the above said Act and special sexual units (SSOIUs) might be directed to investigate the matter. It was prayed in both the criminal miscellaneous applications for setting aside the impugned orders dated 15.05.2023 & 25.07.2023 passed by thelearned Civil Judge and Judicial Magistrate III South Karachi & learned Addl. Sessions JudgeIII, Karachi South respectively.

Issue: Whether the facts as narrated in the case attracted section 354-A PPC instead of section 354 PPC and whether the investigation conducted by I.O was inviolation of Anti-Rape Act, 2021?

Rule: The Court considered the rule pertaining to the application of Section 354-A of the Pakistan Penal Code (PPC). This rule necessitates two conditions for the section to apply: the stripping of a woman's clothes and her exposure to public view. The Court, examining the case details, concluded that these conditions were not met as the alleged incident occurred within a house, during the night, with no public exposure. Thus, the Court ruled that Section 354-A PPC was not applicable in the case, outlining a specific guideline for the section's invocation.

Application: The main contention raised by the applicant's counsel was that Section 354-A of the PPC was attracted in the case as the victim`s pictures were made viral andit came in the public exposure, however, analysis of the facts did not support the application`s stance. Secondly, the applicant insisted that the investigation should adhere to the procedures outlined in the Anti-Rape (Investigation and Trial) Act, 2021. This Act primarily focused on expeditiously addressingmatters related to rape, sexual violence, and abuse against women and children, providing special procedures for such cases.

In the presented case, the complainant alleged that two women and one boy had assaulted them, with the boy, Osja, dishonoring her daughter. Following the FIR registration, Investigating Officer (I.O) SIP Rana Muhammad Ilyas initiated the investigation, recorded statements, and fulfilled other formalities. Pursuant to a notification from the Inspector General of Police regarding the Anti-Rape Act,

2021, the Superintendent of Police Investigation South transferred the case to DSP Amjad Khalyar for investigation, given that the offense fell within Schedule-I of the Act. DSP Khalyar completed the investigation, submitting a report (challan) under sections 452, 354, 337/A (i), and 427 of the PPC. The Act was designed to address cases involving rape and sexual offenses againstwomen and children, aligning with previous instances where victims were raped and murdered. The Act prescribes the offences given in Schedule in two parts as Schedule-I & II, whereas, section 27 of the Act clarified that its provisions were supplementary and not derogatory to any other law in force and having applicability of the Code of Criminal Procedure, per section 29, the investigation remained valid. While section 28, on the other hand, asserted the Act's overriding effect specifically for offenses mentioned in Schedule-II, regardless of any inconsistency with other existing laws. It was crucial to maintain the distinction between Sections 27 and 28 of the Act illustrating the characteristics of offences mentioned in the Schedules. As the offence of 354 PPC fell within schedule-I and having applicability of the Code of Criminal Procedure *mutatis muntadis*, per section 29, the investigation remained valid.

Conclusion: The Court concluded that in the instant case, if any offence is committed by the present accused and if the same falls within schedule-I of the Act even then Court do not find any violation on the part of the investigating officer. However, it cannot be said that the offence allegedly committed by the accused persons falls within the ambit of schedule-II of this Act as the Ordinance and Act of Anti-Rape (Investigation & Trial), 2021 promulgated only to provide speedy justice to the victims of sexual violence or rape/gang rap. In the present case, there is no allegation against the accused persons that they have committed rape or sexual violence with the complaint and her daughter. Lastly Court dismissed both applications being devoid of merits.

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13. Maxco (Pvt) Ltd. vs Securities & Exchange Commission of Pakistan

Suit No. 319 of 2023 (S.B)

Present: ***Mr. Justice Jawad Akbar Sarwana***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAxNDY5Y2Ztcy1kYzgz

Facts: The brief facts of the case/suit were that essentially, SECP initially declined to issue both manual and electronic certified copies of Plaintiff's statutory forms filed by the Plaintiff Company with SECP; and to grant access to the Plaintiff Company to its company page on SECP's web-portal. Further, SECP had posted on its web portal, qualifications/remarks in relation to Plaintiff Company, namely that ***"Currently Company is under DISPUTE CASES***". Aggrieved by SECP's commissions and omissions, the Plaintiff Company filed this suit for

Declaration and Injunction and prayed (besides other prayers) that permanently restrain the Defendant from interfering with or causing any hindrance in the business of the plaintiff (including jeopardizing the settlement of the Plaintiff with the banks and/or revival of operations by the Plaintiff) during the pendency of the proceedings in the instant suit and/or any other pending litigation between the parties.

Issue: Whether SECP is empowered under the Companies Act and its Rules and Regulations had the authority to publish qualifications/remarks on its webpage regarding the plaintiff's company, stating that "***Currently Company under Dispute Cases",*** and whether such action is in accordance with the relevant law, rules and, regulations?

Rule: Regulation 20 of the Companies (Registration Offices) Regulations, 2018, which sets out the procedure for assigning qualifications or remarks by the Registrar of Companies, SECP. The Court emphasized that when a specific method is prescribed by a regulation, it must be followed in letter and spirit. The Court stated that SECP cannot assign any qualification or remark on a company's profile on its webpage other than what is provided under Regulation 20. The Court highlighted the application of Art.25 and Art.4 (of constitution) and ruled further that Justice demands that rights in the physical world and the digital/virtual world should be the same and at par with each other. Yet currently, SECP appears to be maintaining two different sets of standards for qualifications/remarks. One scheme of qualifications/remarks is meant for manual filers who obtain statutory forms in hardcopy format and may have any of the four qualifications/remarks mentioned by SECP on such certified copy of the Company. In contrast, banks that access the same company information through SECP's portal may have a different qualification/remark. To this end, a Company should have some assurance that the information of the Company which SECP will share with anyone about their company will not vary depending on the platform used to obtain such information. Those accessing information manually or through the digital/virtual world pertaining to the same company should have exactly the same result/information/consequences of such request made from SECP irrespective of whether such request is made manually or electronically by banks through either SECP's dashboard or digital portal. SECP's dissemination of company information needs to be the same across both platforms: manual and digital/online.

Application: The Court examined Regulation 20 of the Companies (Registration Offices) Regulations, 2018, which provides for the qualifications or remarks that can be assigned to a company's profile on SECP's dashboard or digital portal. The Court noted that Regulation 20 allows for the inclusion of qualifications or remarks beyond those specifically mentioned in items (a) to (d) of the regulation. However, the Court emphasized that any qualifications or remarks

assigned by SECP must be consistent in description, purpose, and intention with Regulation 20. The Court stated that SECP cannot generate two different qualifications or remarks for the same situation and that the wording of the qualification or remark must be the same across all platforms.
The Court also highlighted that SECP's power to assign qualifications orremarks is not unlimited and must be exercised within the framework ofRegulation 20. The Court noted that SECP had created its own category of qualifications/remarks, specifically "*Currently Company is under DISPUTE CASES,"* which was not mentioned in the regulations. The Court deciphered the double standards of SECP pertaining to grant its access virtually and manually. The Court held that SECP cannot assign any qualification/remark on Plaintiff's Company on either SECP's dashboard or digital portal other than what is provided under Regulation 20 of the Companies (Registration Offices) Regulations, 2018.

Conclusion: The Court concluded that the Registrar of Companies, SECP, is not empowered to publish qualifications/remarks on its intranet webpage for a company under dispute cases. The Court directed SECP to immediately remove the remarks "***Currently Company is under DISPUTE CASES***" from its dashboard/digital portal accessed by banks or other entities. SECP was instructed to replace such qualifications/remarks with any of the qualifications/remarks that may be assigned to the company under the Companies (Registration Offices) Regulations, 2018.

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14. M/s. National Tiles Ceramics Ltd vs M/s. Sui Southern Gas Company Limited

Miscellaneous Application No. 54 of 2021 (S.B)

Present: ***Mr. Justice Mohammad Abdul Rehman***

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjA1ODkxY2Ztcy1kYzgzz

Facts: This appeal is maintained under Section 13 of the Gas Theft Control & Recovery Act, 2016, impugning the order issued on 29 May 2021 by the District Judge Karachi (South) in Summary Suit No. 16 of 2022. The said order dismissed the Appellant's application seeking Leave to Defend in the mentioned suit. The facts giving rise to the instant case are as the Respondent initiated a suit under Sub-Section (1) of Section 6 of the Gas Theft Control & Recovery Act, 2016, seeking to recover a sum of Rs. 80,122,000 from the Appellant in Summary Suit No. 16 of 2022 before the District Judge Karachi (South). The suit was officially launched on 7 February 2020, and notices were dispatched to the Appellant for 15 February 2020. The Appellant initially declined service, prompting the Court to order notice through pasting and publication in a newspaper. On 24 March 2020, the Appellant received a copy of the notices, and the Court rescheduled the matter for filing a written statement on 11 April

2020. The proceedings experienced adjournments from that date until 28 September 2020, primarily due to a notification suspending Court activities amid the Covid-19 pandemic. On the final date, the Appellant chose not to submit a Written Statement but instead filed an Application for Leave to Defend Summary Suit No. 16 of 2022 on 17 September 2020.

The District Judge Karachi (South) in Summary Suit No. 16 of 2022 was pleased to hold that even with such time (pandemic period, suspension of work) being discounted the Leave to Defend application hadbeen filed after 44 days and was therefore barred by a period of 21 days under Sub-Section (2)of Section 7 of the Gas Theft Control & Recovery Act, 2016 and proceeded to decree the suit as prayed with mark up at the prevailing rate set by the State Bank of Pakistan.

Issue: Whether the impugned order passed by the District Judge Karachi, South in Summary Suit No. 16 of 2022 with regard to *leave to defend* was legally correct?

Rule: Under Section 3 of the Gas Theft Control & Recovery Act, 2016, the Federal Government has the authority to establish Gas Utility Courts by issuing a notification in the official Gazette, and these Courts have exclusive jurisdiction over matters covered by the Act, both civil and criminal, as laid down in Section 4. The jurisdiction of the Gas Utility Court, once established, becomes inherently empowered with both civil and criminal matters.

The Court also reiterated that, according to Sub-Section (2) of Section 7 of the Gas Theft Control & Recovery Act, 2016, the defendant must file an application for Leave to Defend within 21 days of the date of first service, unless extended by the Gas Utility Court under specific circumstances.

Application: The Appellant contended that the District Judge Karachi (South) had generateda misimpression through its orders, observing adjournments for the filing of a Written Statement, while the summary nature of the suit mandated the submission of an application for Leave to Defend within 21 days, in accordance with Sub-Section (2) of Section 7 of the Gas Theft Control & Recovery Act, 2016.

The counsel for Appellant initiated arguments by stating that the Court's directive to file a Written Statement caused the delay, emphasizing that no individual should be prejudiced by an erroneous action on the part of the Court. In response, the respondent counsel contended that ignorance of the law is not a valid excuse. The appellant counsel took a further jurisdictional argument stating that the constitution of the Court under the provisions of section 3 of the Gas Theft Control & Recovery Act, 2016 had been impugned in a Constitutional Petition before this Court in another case. He relied on reported case as SuiSouthern Gas Company Limited vs. Messrs Data CNG Filling Station Larkana 1 and in which it was held that a notification dated 2 May 2017 had been issued by the Federal Government and which had notified the constitution of the Gas Utility Court under Section 3 of the Gas Theft Control & Recovery

Act, 2016 and has stated that the Gas Utility Court had the jurisdiction to act in both civil and criminal matters under that statute.

The Court observed that the Gas Utility Court, established under Section 3 of the Gas Theft Control & Recovery Act, 2016, possessed exclusive jurisdiction over matters encompassed by the Act. A notification issued on 2 May 2017 appointed Gas Utility Courts in several districts. Despite ambiguity in the wording concerning criminal jurisdiction, the Court clarified that once constituted, the Gas Utility Court inherently possessed both civil and criminal jurisdiction, as outlined in Sections 4 and 6 of the Act. The Appellant's argument asserting the Court's lack of jurisdiction due to the language of the notification was rejected. The Court maintained that, as per Section 3, once established, the Gas Utility Court inherently possessed jurisdiction conferred by the Act, covering both civil and criminal matters. The Court upheld the validity of the notification, underscoring that the intention was not to restrict the Gas Utility Court's jurisdiction.

Lastly, the Court, applying the legal maxim ***"Ignorantia legis neminem excusat"*** (ignorance of the law excuses no one), held that the Appellant should have been aware of the nature of the suit from its title, "Summary Suit No. 16 of 2022," and should have filed the appropriate application within the mandated time frame.

Conclusion: The Court found no illegality or infirmity in the District Judge Karachi (South)'s order dated 29 May 2021, dismissing the Appellant's application for Leave to Defend Summary Suit No. 16 of 2022. The appeal was deemed misconceived and was therefore dismissed, with no order as to costs.

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15. Ali Hassan Bugti and others vs P.O Sindh and others

Const. P. 404/2023 (D.B); attached cases: 424, 431, 440, 441, 446, 447, 452, 454, 457, 458, 462, 485, 492, 497, 498, 500, 504, 515, 526, 527, 532, 535, 537, 542, 549, 555, 556, 557, 571, 579, 589, 607, 620, 626, 631, 659, 680, 682, 708, 717, 728, 731, 736, 755, 783, 806, 828, 869, 872, 912, 921 & 964 of 2023

Present: *Mr. Justice Muhammad Iqbal Kalhoro*
Mr. Justice Arbab Ali Hakro

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjAyMDc3Y2Ztcy1kYzgz

Facts: The matters were related to the appointment of Prison Constables in the Sindh Prison & Corrections Service Department, Government of Sindh. Similar facts were narrated in the memo of the captioned petitions. Precisely, the Respondents had invited applications for the appointment of Prison Constables (BPS-05) in Sindh Prison & Corrections Service Department, Government of

Sindh, through a consolidated advertisement published in the daily newspaper "Kawish" with a cut-off date of 22.08.2022 for the submission of applications. In pursuance of the publication, the petitioners had applied for the post of Prison Constable and had submitted their testimonial documents accordingly. Thereafter, the petitioners were called for a physical test scheduled to be held on 23.10.2022 at Sukkur, where the petitioners appeared and were declared successful. The results were also announced online. Subsequently, a date for the written test was announced, and the petitioners appeared, being declared successful candidates and obtaining the highest marks against the passing ratio expressed for successful candidates. After being declared successful, the petitioners were called for an interview, i.e., viva-voce, at the office of Inspectorate General of Sindh, Prison and Correctional Services, Pir Illahi Buksh Road, Muslimabad, Karachi on 02.02.2023, where they appeared. However, despite securing the highest marks in the former stages, i.e., physical as well as written tests, their names were not flashed in the merit list issued by the Respondents. Consequently, such acts were challenged by the Petitioners, claimed to be illegal, unlawful, and unconstitutional. Hence, these petitions.

Issue: Whether the honorable High Court, under its constitutional jurisdiction, has powers to review the decision/recommendation of selection committee/panel for the selection of Prison Constables in the Sindh Prison & Corrections Service and substitute its own wisdom without having proof of nepotism and malfide?

Rule: The rule considered in the order of the Court regarding the assessment of candidates' fitness for a particular post is that the assessment of candidates is best done by the functionaries entrusted with the responsibility, such as the Public Service Commission or Interview Board or Selection Committee. The Court should not intrude in the matters of candidates' fitness for a particular post as it is subjective and best assessed by the relevant authorities.

The Court further rule that it is the exclusive domain of the Interview Committee/ Penal to judge a candidate and grant him marks as per its assessment, and this Court in constitutional jurisdiction cannot substitute its opinion for that of the Interview Committee/ Penal. The authority and wisdom of the Selection Committee cannot be challenged, unless gross negligence tainted with malafide is discernible on a mere glance on the record. The Selection Committee is the best Judge at the given time to form an opinion and decide the abilities and capabilities of candidates, their academic knowledge, attitude, aptitude and personal information. This Court will not interfere and thrust its opinion, subsequently, changing the verdict of the Selection Committee, except when it smells of malfide.

Application: The petitioners in those cases asserted that they had obtained higher marks in the written test compared to the successful candidates. They claimed that the

Respondents/Selection Committee, with alleged favoritism and nepotism, unjustly declared them as failed in the interview/viva-voce. Additionally, the petitioners argued that, according to the Sindh Police Recruitment Policy 2022, they should be deemed to have passed the interview/viva-voce.

Addressing the first ground raised by the petitioners, the Court emphasized that securing better marks in the written test did not automatically confer a vested right unless the candidates also met the required marks in the interview. The Court highlighted the exclusive authority of the Interview Committee to assess candidates, stating that the Court could not substitute its opinion for that of the committee unless there was evident gross negligence or malafide actions.

Regarding the petitioners' allegations of favoritism and nepotism, the Court noted that these were unsubstantiated accusations without supporting evidence. The Court also rejected the application of the Sindh Police Recruitment Policy 2022 to the Sindh Prison and Corrections Service Department, as the policy specifically pertained to the Sindh Police. Consequently, the Court concluded that the petitioners failed on this point.

Conclusion: The Court reiterated that it should not interfere in matters of candidates' fitness for a particular post, as this assessment was best left to the relevant authorities. Petitions stood dismissed.

SELECTED ARTICLES

01. Forced Marriages In Pakistan: An Unchecked Violation Of Fundamental Rights

Mr. Zameer Ahmed Soomro (Civil Judge & Research Officer)

This research paper examines the prevalent issue of forced marriages in Pakistan, emphasizing its violation of fundamental rights, particularly the right to choose a life partner. The paper explores the legal framework in Pakistan, highlighting constitutional provisions and international laws that protect women's rights and condemn forced marriages. It delves into the cultural and traditional roots of forced marriages, identifying various types of such unions, including forced arranged marriages, exchange marriages, compensation marriages, and marriages with the Holy Quran.

The detrimental effects of forced marriages on individuals and society are discussed, encompassing domestic disharmony, psychological trauma, and the potential dissolution of marriages. The study also assesses the Islamic perspective on forced marriages, emphasizing that Islam does not endorse such practices and upholds the principles of consensual marriage. The inadequacies of existing legal measures, specifically the 2011 amendment aimed at preventing anti-women practices, are critically analyzed, revealing shortcomings in implementation and enforcement.

Court decisions on forced marriages are presented, showcasing the judiciary's

recognition of women's right to choose their life partners. The paper concludes with recommendations, urging a revamping of existing laws, enhanced implementation mechanisms, and widespread awareness campaigns to educate the public on women's rights, both within the framework of Islam and the Constitution of Pakistan. Ultimately, the study calls for concerted efforts to eradicate forced marriages and safeguard the fundamental rights of women in Pakistani society.

02. Strengthening Consumer Protections In Pakistan

Mr. Waseem Abbass (Civil Judge)

In Pakistan, consumers are among the most vulnerable groups, largely due to a lack of awareness about their rights and the ineffective implementation of existing consumer protection laws. Addressing the plight of consumers who fall victim to unscrupulous sellers, manufacturers, and dealers selling faulty goods and providing substandard services is of utmost importance. The consumer protection laws are designed to promote fair competition, transparency in information dissemination, access to quality goods and services, and establish regulations for swift and fair justice.

LATEST LEGISLATION

01. Workers Welfare Fund (Amendment) Act, 2023[1]

02. Shaheed Recognition And Compensation (Amendment) Act, 2023[2]

03. Prohibition of Interest On Private Loans Act, 2023[3]

04. Senior Citizen Welfare (Amendment) Act, 2023[4]

05. Stamp (Sindh Amendment) Act, 2023[5]

06. Prohibition of Preparation, Manufacturing, Storage Sale And Use of Gutka And Manpuri (Amendment) Act, 2021[6]

07. Explosive Act, 2019[7]

08. Consumer Protection (Amendment) Act, 2019[8]

09. Habitual Offenders Monitoring Act, 2022[9]

10. Sindh Arms (Amendment) Act, 2023[10]

1 http://sindhlaws.gov.pk/setup/publications/PUB-23-000106.pdf
2 http://sindhlaws.gov.pk/setup/publications/PUB-23-000107.pdf
3 http://sindhlaws.gov.pk/setup/publications/PUB-23-000104.pdf
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