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**1. CONSTITUTION LAW**

**(1) 2017 S C M R 571**

**[Supreme Court of Pakistan]**

**Present: Mian Saqib Nisar, Mushir Alam and  
Maqbool Baqar, JJ**

**MUHAMMAD ZAMAN and others---**

**Appellants**

**Versus**

**GOVERNMENT OF PAKISTAN through  
Secretary, Finance Division (Regulation  
Wing), Islamabad and others---Respondents**

[T]he test of whether rules/regulations are statutory or otherwise is not solely whether their framing requires the approval of the Federal Government or not, rather it is the nature and efficacy of such rules/regulations. It has to be seen whether the rules/regulations in question deal with instructions for internal control or management, or they are broader than and are complementary to the parent statute in matters of crucial importance. The former are non-statutory whereas the latter are statutory.

**(2) 2017 S C M R 580**

***[Supreme Court of Pakistan]***

***Present: Amir Hani Muslim, Mushir***

***Alam and Mazhar Alam Khan***

***Miankhel, JJ***

***Ex-Lance Naik MUKARRAM***

***HUSSAIN and others---Petitioners***

***Versus***

***FEDERAL GOVERNMENT, M/O***

***DEFENCE through Chief of the Army***

***Staff and others---Respondents***

- i. Since provisions of the Pakistan Army Act, 1952 were special law, the Supreme Court could not assume jurisdiction in the matter of compromise between the accused persons and legal heirs of the deceased---Review petition along with application was dismissed accordingly.
- ii. Where the orders or actions of the Armed Forces suffered from mala fide, jurisdictional error or were coram non iudice, jurisdiction of the Supreme Court was not ousted.

**(3) PLD 2017 Sindh 169**

***Before Syed Hasan Azhar Rizvi and Syed Saeeduddin Nasir, JJ***

***MUTTAHIDA QUAMI MOVEMENT***

***(MQM) through the Leader of the***

***Opposition and others---Petitioners***

***Versus***

***PROVINCE OF SINDH through Chief***

***Secretary, Karachi and others---***

***Respondents***

[T]he special or reserved seats can only be maintained in respect of class of a person belonging to a down trodden and discriminate segment of society or minority community who has been specifically mentioned in the constitution as aforesaid, like non-Muslim, women, peasants and workers. The “youth” cannot be categorized as such inasmuch it is neither down trodden nor discriminated nor specifically stipulated in the aforesaid Articles of the constitution. We further hold that by taking away the reserved seats of workers and peasants and giving it to the category of “youth” is discriminatory, illegal and in violation of Article 25 read with Article 32 of the Constitution which guarantees the protection and special status to the peasants and workers.

## **CRIMINAL LAW**

**2017 S C M R 538**

***[Supreme Court of Pakistan]***

***Present: Mushir Alam and Dost***

***Muhammad Khan, JJ***

***AWAL KHAN and 7 others---***

***Petitioners***

***Versus***

***The STATE through AG-KPK and another---Respondents***

When the medical evidence was in conflict with the ocular account then, benefit of doubt at bail stage must go to the accused.

## CUSTOMS LAW

**2017 S C M R 585**

**[Supreme Court of Pakistan]**

**Present: Mian Saqib Nisar, C.J.,  
Umar Ata Bandial and Maqbool  
Baqar, JJ**

**COLLECTOR OF CUSTOMS,  
PESHAWAR---Appellant**

**Versus**

**WALI KHAN and others---  
Respondents**

"Smuggled goods" (Cl. 89 of table provided under S. 156(1) of the Customs Act, 1969.

Clause 89(i) dealt with smuggled goods as well as those goods regarding which there was reasonable suspicion that they were smuggled. Person was permitted to acquire possession etc. of such goods only with lawful excuse, the burden of proof of which laid on such person, and in case he failed to do so, it would be presumed that the goods were smuggled entailing the consequences provided in Column 2 of Cl. 89(i).

## EVACUEE PROPERTY LAW

**2017 S C M R 468**

**[Supreme Court of Pakistan]**

**Present: Mian Saqib Nisar and  
Sarmad Jalal Osmany, JJ**

**NASIR FAHIMUDDIN and others---  
Appellants**

**Versus**

**CHARLES PHILIPS MILLS and  
others---Respondents**

**b) Pakistan (Administration of  
Evacuee Property) Act (XII of 1957)  
[since repealed]---**

Once a property was treated to be an evacuee property even erroneously, the same could not be held to be otherwise and the civil court in such behalf would have no jurisdiction.

## LAW OF EVIDENCE

**2017 S C M R 486**

**[Supreme Court of Pakistan]**

**Present: Dost Muhammad Khan,  
Qazi Faez Isa and Faisal Arab, JJ**

**MUHAMMAD ASIF---Appellant**

**Versus**

**The STATE---Respondent**

- i. Once prosecution witnesses were disbelieved with respect to a co-accused then, they could not be relied upon with regard to the other accused unless they were corroborated by corroboratory evidence which came from an independent source and was also unimpeachable in nature.
- ii. Eyes and mouth of deceased were found open, thus, if parents and close friends of deceased had witnessed the incident they would have followed the common practice of closing the eyes and mouth of deceased on his death---Such fact indicated that neither the parents nor the friends of deceased were

present to witness the occurrence---  
Conviction and sentence of accused  
for murder was set aside in  
circumstances.

- iii. Even one or two days unexplained delay in recording the statement of eye-witnesses (under Section 161 Cr.PC) would be fatal and testimony of such witnesses could not be safely relied upon.
- iv. Mere sending of blood stained crime weapons to the Chemical Examiner and Serologist would not serve the purpose of the prosecution nor would it provide any evidence to inter link different articles. Unless the blood-stained earth or cotton and blood-stained clothes of the victim were sent with the crime weapon for opinion of Serologist it could not be conclusively opined that it was human blood on the crime weapon, and that it was of the same group which was available on the clothes of the victim and the blood-stained earth/cotton. Failure to follow such practice would make the opinion of Chemical Examiner inconclusive, which could not be used as piece of corroboratory evidence.

## **MEDIA LAWS**

***PLD 2017 Sindh 209***

***Before Zulfiqar Ahmad Khan, J***

***INDEPENDENT MEDIA CORPORATION  
(PVT) LTD. Through Authorized Attorney-  
--Appellant***

***Versus***

***PAKISTAN ELECTRONIC MEDIA  
REGULATORY AUTHORITY through  
Chairman---Respondent***

Courts are best suited for the job of upholding the rule of law and to provide a forum to resolve disputes and to test and enforce laws in a fair and rational manner. Therefore, the questions that whether the contents as aired by the Appellant contained “obscenity”, “indecentcy” or “vulgarity” are best suited to be answered by the appropriate forum, which in the instant case is if the Council of Complaints, which gave its findings in affirmative, whereupon PEMRA issued Show Cause Notice and imposed fine.

## **PRE-EMPTION LAW**

***2017 S C M R 404***

***[Supreme Court of Pakistan]***

***Present: Sh. Azmat Saeed and  
Ijaz ul Ahsan, JJ***

***MUHAMMAD ANWAR---Petitioner***

***Versus***

***SAFEER AHMED and 5 others---  
Respondents***

'Tal-e-Muwathibat' Source of information of the sale pre-empted must necessarily be pleaded in the plaint— absence of that would be fatal to the fate of the suit.