1. Investigation------Defined.

As defined in section 4(I) 'investigation' includes all the proceedings under Cr.P.C. for the collection of evidence conducted by a police officer or by any person, other than a Magistrate, who is authorized by Magistrate in this behalf. It would be seen from above that investigation consists of steps taken by a police officer other than a Magistrate to ascertain whether any offence has been committed at all and, if so, by whom and what is the evidence on which the prosecution can be based. Investigation can also be made by a person specially authorized by a Magistrate to do so.

An inquiry and investigation are not synonymous but are different. (1999 Cr.L.J. 1846) Investigation usually starts on the information relating to the commission of the offence given to the officer in charge of the police station and duly recorded under section 154 of the Code. Taking out warrant of arrest, arresting the accused, seizure, search etc. form some part of an investigation. An inquiry is a proceeding conducted by a Magistrate or a Court in order to determine the truth or falsity of a certain fact before an accused is charged with an offence. The object of an inquiry is to determine the truth or falsity of certain facts in order to take further action thereon while the object of an investigation is to collect evidence. While an inquiry may starts with shadowy beginnings, investigation starts when a police officer forms a definite opinion that there are grounds for investigating a crime. (AIR 1968 Mad 117) Inquiry stops when the trial begins. (1975 Ker LJ 703).

2. Investigation by CIA.

Power to investigate a cognizable offence has been conferred u/s 156(1) Cr.P.C. on any officer incharge of the police station having jurisdiction over the local area within the limits of such police station. CIA personnel is not officer incharge of police station having jurisdiction over local areas within limits of police station who could investigate a

cognizable offence nor they are covered by the definition of officer incharge of police station as given in section 4(1) Cl. (p) Cr.P.C. (1998 P.Cr.L.J. 1656). CIA personnel's have no power to investigate a cognizable offence. (PLD 1997 SC 408).

3. The principle purpose of criminal investigation.

The principle purpose of criminal investigation is to provide answers to certain questions relating to crime. These include: the identity of the victim; the exact place at which the offence occurred; how the crime was committed and means employed in its commission; the time of attack; the motive or object of attack; and the identity of the offender or offenders. Criminal investigation is employed also in the search for an interrogation of material witnesses who are able and willing to give competent and relevant testimony against the suspect or offender, and in the reconstruction of all facts connected with the crime in order that, at the trial of a defendant, a true picture of what occurred may be presented so as to leave no doubt in the minds of the jurors or Judge regarding the guilt or innocent of the accused. "Encyclopaedia Britannica". 1768, Edition 1970 (Vol. 12). The other object of investigation is to collect evidence. (1994 P.Cr.L.J. 744).

4. Challan------Defined.

The word "challan" does not figure anywhere in the Code, whereas, the same finds mention in the Police Rules. Investigation of criminal case and resultant arrival by the police at conclusions regarding guilt or innocence of an accused person lie within the domain and prerogative of the police over which no other authority has any control. What a Magistrate can insist I.O. should be to submit his report u/s 173 incorporating his final opinion. A challan is not a substitute for a report u/s 173. A challan is to be submitted by the police only when some accused is recommended to be tried. (PLJ 2001 Cr. (Lah) 182).

Courts should not be hampered with the technicalities of a challan or a final report of investigation u/s 173 Cr.P.C. both are one and the same thing according to the scheme of things in

Cr.P.C. Generally the final report of investigation is known or referred to as challan. (2003 P.Cr.L.J. 244).

5. Relevant provisions of law.

The relevant sections of Cr.P.C. dealing with the investigation and challan are as follows. 4(L), 156 to 173 Cr.P.C. and Police Rules 25.1 to 25.57.

6. Investigation into cognizable cases section 156 Cr.P.C.

a comparative study of sections 154 and 155 leads one to the conclusion that u/s 154 a statutory duty has been cast upon the officer incharge of police station to enter the information regarding commission of any cognizable offence in register the form of which is prescribed by the Provincial Government. This form is known as FIR in common parlance. As regards recording of information relating to commission of a non-cognizable offence an other book is prescribed and it is in that book that substance of such information is recorded. This book is known as "Roznamcha" or "Station Diary". It is in this "Roznamacha" that such information is recorded and generally the informant or complainant is sent away without action by the police after being given a copy of report so entered. However, in subsection (2) of section 155 of the police officer wants to investigate such information, he has to obtain order from the Magistrate. Section 156(1) of the Code empowers the officer incharge of a police station to investigate any cognizable case without order of a Magistrate. (1954 P.Cr.L.J. 2381). When law requires a thing to be done in a particular manner it ought to be done in that matter or not at all. (1993 P.Cr.L.J. 205).

7. Preparation of site plan.

Preparation of site plan by the expert is necessary only if the Investigating Officer considers it proper to have the assistance of a technical man, otherwise there is no bar to the making of map by the Police Officer who investigates the case.(1995 P.Cr.L.J. 313).

Police u/s 156 Cr.P.C. has a statutory right to investigate the circumstances of an alleged cognizable crime without requiring any permission from the Judicial authorities and such statutory right cannot be interfered with by Judiciary. (2000 P.Cr.L.J. 43). The Supreme Court in Ghulam Qasim's case, PLD 1994 SC 281; set aside the order of High Court whereby periodical reports about the progress of investigation was called, terming the same as interference by Courts in matter of public investigation before submission of challan. (1993 P.Cr.L.J. 223).

8. Who can Investigate.

Section 156 Cr.P.C. does not lay down in any mandatory terms that the investigation cannot be carried out by an Officer other than the SHO in fact, the section expressly authorizes the SHO to depute one of his Officers not below the rank of ASI to proceed, to the spot and investigate the facts and circumstances of the case. FIR recorded by Sub-Inspector of Police, who also conducted raid, arrested the accused and initiated proceedings against him, held, in absence of penal consequences provisions of section 21(2) of control of Narcotic Substances Act, 1997 cannot be said to be mandatory in nature. High court, in view of directory nature of provisions, refused to quash FIR (1998 P.Cr.L.J. 828, PLD 1971 SC 671, 197 P.Cr.L.J. 124, PLD 1993 SC 399, PLD 1994 SC 281 Rel.).

9. SHO himself complainant.

Police Officer is not prohibited under law to be a complainant if he is a witness to the commission of an offence and also to be an Investigating Officer, so long as it does not, in any way, prejudice the accused person. (PLD 1997 SC 408, (1995 MLD 1237 not approved)).

10. Procedure where cognizable offence suspected section 157 Cr.P.C.

Section 157 provides that if commission of cognizable offence is suspected from "information received" i.e. 154 or from other source, arousing in the officer incharge of a police station reason to suspect about the commission of (cognizable) offence

he shall forthwith send report of the matter to Magistrate having jurisdiction and shall himself proceed, in person or depute his subordinate officer, as prescribed by the Government to proceed to the spot who shall investigate the facts and circumstances of the case and if necessary take measure for the discovery and arrest of the offender. Sending of report to the Magistrate is significant, it is intended to keep the Magistrate informed and to enable him to take action u/s 159, if necessary.

The report contemplated under sections 158 and 159 is the report which the police officer is required to send u/s 157 of the Code and has reference to a preliminary report at a stage when either the investigation is not completed or the police officer has acted under subsection (2) of section 157 of the Code. (1972 SCMR 516).

11. Where SHO sees no sufficient ground for investigation.

It is not incumbent upon the police officer to have investigated the offences if in view of section 157(1)(b) it appears to him that there is no sufficient ground for entering on an investigation but even in that case a police office in obedience to the provisions of section 157(2) Cr.P.C. has to state in his report his reasons for not fully complying with the requirements of subsection (1)(b) of section 157 and must have forthwith notified the informant the fact that he will not investigate the case from cause it to be investigated. (PLD 1969 Pesh. 109) Where incharge of the police station finds that there is not sufficient reasons for investigation, such officer is empowered u/s 157 Cr.P.C. not to investigate such case and had only to send reasons to the concerned Magistrate and notify the same to the informant. (2001 P.Cr.L.J. 199).

12. Report u/s 157 how submitted.

Section 158 Cr.P.C. relates to submission of report u/s 157 Cr.P.C. It provides that report sent to Magistrate u/s 157 shall, if the Provincial Government so directs be submitted through such superior officer of police as the government may point in this respect. The superior officer may give instruction to

the in charge of police station as he thinks fit, and transmit the same to the Magistrate, without delay.

13. Power to hold investigation or preliminary inquiry.

Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this code. (Section 159 Cr.P.C.).

A Magistrate having before him a police report submitted to him under the provisions of section 157 may determine, as he thinks fit either to take no further steps, or to take cognizance of the offence u/s 190(1)(b) or proceed u/s 203. ((78) 2 Weir 119) This section however, does not empower a Magistrate to restrain police investigation. (AIR 1949 Lah. 204).

14. Police officers, power to require attendance-------- section 160 Cr.P.C.

Section 160 Cr.P.C. empowers the police officer to require attendance of witnesses before himself of any person within the limits of his police station who appears to be acquainted with the circumstances of the case. The order must be in writing. The police officer under this section has not been authorized to require the attendance of an accused person with a view to his answering the charge. (7 Mad 274 (FB)) A person who fails to comply with order of the police may be prosecuted for disobedience under section 174 PPC. (24 Cal. 320).

15. Examination of witnesses by police Scope of section 161 Cr.P.C.

the statement of the witnesses examined by the police officers during the course of investigation and recorded in the Ziminis in detail or in gist form are considered to be the statement recorded u/s 161. These statements may be in verbatim form or in the shape of questions and answers. Even statements in the boiled form recorded in the body of the diary may be treated as statement u/s 161(3) Cr.P.C., the accused has

right to demand the copies of these statements subject to exception provided u/s 162. (PLD 1996 Lah. 277) Minor details not required to be added. (PLD 1979 SC 53).

Under section 161 Cr.P.C. any police officer making the investigation has been authorized to examine orally any person supposed to be acquainted with the facts and circumstances of the case. The person so examined is bound to answer all questions related to the case put to him by the investigation officer except such questions, answers to which would tend him to expose himself to a criminal charge or to penalty or forfeiture. The police officer may reduce it in writing any statement made to him in the course of an examination in which case, as provided in sub-clause (3) of section 161 Cr.P.C. the police officer is duty bound to make a separate record of such statements and include them in the police diaries prepared u/s 172 Cr.P.C. (1995 P.Cr.L.J. 1124).

Statement recorded under section 161 Cr.P.C. are not privileged even if recorded in the body of the case diaries. Such statements are public documents within meaning of Art. 49, Qanun-e-Shahadat, 1984 and are per se relevant under the said Article. Privilege stated in section 172 Cr.P.c. is not of absolute nature and provisions of Qanun-e-Shahadat, 1984 are independent of the criminal Procedure Code, 1898. (PLD 2003 Lah. 290).

16. Purpose of recording the statement of witnesses by police under section 161 Cr.P.C.

Purpose of recording the statement of witnesses by police under section 161 Cr.P.C. is to enable the accused to prepare his defence. Before commencement of the trial accused must know precisely what would be deposed by a witness against him. (PLD 1996 Lah. 286).

Supplementary statements of witnesses incorporated in case diaries, are in essence and substance statements u/s 161 Cr.P.C. (1987 P.Cr.L.J. 455) Under section 161 read with section 265(c) Cr.P.C. I.O. can examine witnesses, who are to be

produced subsequently in support of prosecution and copies of their statements are supplied to the accused before 7 days from commencement of trial. (PLJ 1996 Crl. Cases 1527(DB)).

17. Confrontation of statement.

Statement of witnesses recorded u/s 161 Cr.P.C. even through a previous statement, can be used by the accused for the purposes of establishing a contradiction or impeaching the credit of the witness in the manner provided in section 162. (AIR 1999 SC 2161) when they give evidence during the trial, but the prosecution cannot rely upon such statements for convicting as the same are not legal evidence against the accused. (1995 MLD 1635(FSC)).

18. Evidentiary value.

Statements u/s 161 are not evidence, legal or substantive. (1971 P.Cr.L.J. 275, 1997 MLD 1745) it is not even admissible against its maker, (1997 MLD 1257 + 1987 MLD 825) nor can furnish a base for trial, 1997 MLD 745 or conviction. (1995 P.Cr.L.J. 248 = PLJ 1994 Cr.C. 473). But it can be used for a limited purposes of contradicting the statement of a witness, to prevent dis-honest improvement. (2003 YLR 2700) and to test the degree of his authenticity and for no other purpose. Such statement cannot be used to corroborate or explain any part of prosecution evidence. (1990 P.Cr.L.J. 1765).

19. Statement of witness recorded after delay.

Statement of prosecution witnesses recorded after some delay cannot be brushed aside merely on the ground of delay, but however, the prosecution bound to explain the delay by satisfactory and cogent reasons, otherwise their credibility becomes doubtful, late recording of statement u/s 161 reduced its value to nil unless there is plausible explanation. (2003 YLR 761, 1996 SCMR 1553).

20. Statement to police.

Section 162 Cr.P.C. provides that no statement made by any person to a police officer in the course of an investigation

under this Chapter shall, if reduced into writing, be signed by the person making it, nor shall any statement or any record thereof whether in a police diary or otherwise or any part of such statement or record, be used for any purpose except

(1) by the accused, and

(2) for the purpose of contradicting the witness as provided by section 140 of the Qanun-e-Shahadat Order 1984.

Under Articles 140 and 151(3) of Qanun-e-Shahadat Order, 1984 the previous

statement of witness can be used.

(1) Under Art. 140 to contradict the witness.

(2) Under Art. 151 to impeach his credit; and

(3) Under Section 157, to corroborate his testimony.

21. Power to record statements and confession.

Methodology of recording judicial confession is laid under section 164, Cr.P.C. read with section 364 Cr.P.C. The latter contains the instructions and the procedure to be followed by the Magistrate who records the confessional statement. Important features of section 164, Cr.P.C. mentioned in clause 4 of Chapter 13 of Volume III of Lahore High Court Rules and Orders, reads as follows:-

Some important features of section 164 as it stands, are:-

(a) Statements or confessions made in the course of an investigation can be recorded only by a Magistrate of the Ist class or a Magistrate of the second class who has been specially empowered by the Provincial Government.

(b) Confession must be recorded and signed in the manner provided in section 364 Cr.P.C.

(c) Before recording any such confession the Magistrate shall explain to the person making it that he is not bound to make a confession, and if he does so it may be used in evidence against him. Fear of the accused must be removed. (1996 P.Cr.L.J. 358).

(d) The memorandum set forth in section 164(3) must be appended at the foot of the record of the confession.

(e) No Magistrate shall record any such confession unless upon questioning the person making it he has reason to believe that it was made voluntarily, failure to question has been held to vitiate the confession. (ILR 2 Lah. 325).

(f) It is not necessary that the Magistrate receiving or recording a confessional statement should be a Magistrate having jurisdiction in the case. (PLD 1993 Lah. 345).

(g) It should not be exculpatory, should be voluntary and true. (2002 P.Cr.L.J. 1072).

22. FIR amounting to confession.

It is settled law that FIR which amounts to a confession is not admissible as being a confession made to a police officer. (AIR 1948 Lah. 19).

23. Self-exculpatory statement.

In case of Haq Nawaz Vs. State (2000 SCMR 785) the Hon'ble Supreme Court has laid certain principle for the confessional statement to be admitted in evidence some of which are

(i) that it should not be exculpatory;

(ii) the same should be voluntary; and

(iii) it should be true if not the confessional statement is to be kept out of

consideration.

Self- exculpatory statement of the accused cannot be treated as confession. (PLD

1965 Dacca 108).

24. Inculpatory confession.

An inculpatory confessional statement can lawfully and validly be used not only against its maker but also against other accused persons. (1992 P.Cr.L.J. 1304).

The statement u/s 164 Cr.P.C. are almost the copy of those recorded u/s 161 Cr.P.C. In Nisar Muhammad V. Khan Zali PLD 1959 Pesh. 115, it has been observed that a statement u/s 164 Cr.P.C. is no evidence against the accused. Yaroo Alias Yar Muhammad V. The State (1969 P.Cr.L.J. 1580) is a case where it is reiterated that the appraisal of evidence of a witness making confessions before the Court cannot be made in context of their statement recorded u/s 164, Cr.P.C. In Bhushan Singh V. Emperor AIR 1946 PC 38, whose statements were relied upon but it was depreciated by the Privy council calling it to be an improper use of such statement. No doubt a statement u/s 164, Cr.P.C. can be used for cross-examining the witness who made it and a result can be achieved accordingly but the mere recording thereof does not establish that whatever the witness stated was true. (1995 MLD 515).

25. Search by Police Officer.

Before obtaining search warrant the Magistrate is under a bounden duty to apply his mind to allow permission or to refuse it. He should at least examine the Police Officer making the request and if possible put him questions to satisfy his mind. There should be some semblance of an inquiry to be made by the Magistrate before permission is accorded to search the house of an individual, whether it be to search the house to find out if the premises are being used as a brothel house or to recover stolen properly or Narcotics or illegal arms. Whatever the purpose of search is, the Magistrate should always keep in mind the search conducted should be strictly in accordance with the provisions of Code of Criminal Procedure specially when

womenfolk reside in the premises. Search always is visitation on the rights of privacy of the owner or possessor of the house and, therefore, he should be reticent in granting permission to search the house in a mechanical manner without application of mind. (2001 P.Cr.L.J. 685).

Section 165, Cr.P.C. empowers the police officer specified therein to make a search without warrant subject to certain safeguards. The prerequisites for a search as per this section are that:

(i) Search must be necessary for investigation.

(ii) The offence must be such as the police officer is authorized to investigate, i.e. a cognizable offence

(iii) Reasonable grounds must exist for believing that the thing required will be found in a place.

(iv) There would be undue delay in getting the thing in any other way.

(v) Grounds of belief as to necessity of search must be previously recorded by the police officer.

(vi) The articles for search must be specified as far as possible in the record.

These conditions must be fulfilled and there should be no misuse of the powere

nor there should be any harassment. To prevent misuse of power and as a safeguard against needless harassment, the section casts an obligation on the police officer to place on record the reasons for making a search without taking a warrant. Ordinarily, the police must apply to a Magistrate for a search warrant as provided in sections 96 and 98 Cr.P.C. Section 165 is meant to be used only when"lack of time renders it impossible. (AIR 1946 PC 16; 1986 P.Cr.L.J. 167).

26. Sub-section (5)---copies of record to be sent to Magistrate.

Police officer conducting a search under section 165, Cr.P.C. or section 166, Cr.P.C. must send forthwith to the nearest Magistrate copies of the record prepared by him before understanding the search, non-compliance whereof would amount to disregard of a mandatory provision and no conviction can be based on such defective investigation. (1996 P.Cr.L.J. 510, 181).

27. Search of place outside territorial jurisdiction of police station.

A plain reading of subsections (3) to (5) of section 166 as added u/s 37 of Act XVIII of 1923, would show that it is mandatory for officer-in-charge of a police station who desired to make a search in any place outside his territorial jurisdiction to make a request to the officer incharge of the police station having territorial jurisdiction to make such search. However it further provides that in case the first Police Officer is of the view that there may be a delay caused in following the said procedure which may result in evidence being concealed or destroyed then he may cause the said search to be made by himself but he has to issue forthwith a notice for search to the officer-in-charge of the police station having the territorial jurisdiction. He has also to send with such notice copy of the list (if any) prepared u/s 103 and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, subsections (1) and (3). (AIR 1926 Cal. 663).

28. Release of accused when evidence deficient.

Section 169 postulates that during the course of investigation if it transpires to the incharge of police station that the evidence collected was deficient, the incharge officer could release the accused. The words "sufficient proof" in the section connotes that the investigating officer is competent to weight, assess and valuate the material collected by him during the course of investigation and if, he finds that accused was falsely

involved or there was no sufficient evidence against him, he could release him. However, section 173 empowers the investigating officer to send up the accused to stand trial. (2001 P.Cr.L.J. 199 (Kar)).

Section 169, Cr.P.C. empowers the officer incharge police station or the Investigating Officer to release an accused in his custody on executing bond with or without sureties if he finds no sufficient evidence or reasonable ground or suspicion to justly forwarding challan. (1971 P.Cr.L.J. 1164 + PLJ 1995 Lah. 479).

29. Discharge of accused by Magistrate.

Taking of security from the accused person and his release is possible even in a case where there is sufficient evidence available against him on the basis of investigation. However, release of an accused person during the investigation on the basis of a bond or security is only confined to the matter of his custody during such investigation and the same has no bearing on the question whether he would or would not be ultimately tried for the offence involved. (PLD 2001 Lah. 271).

30. Discharge of accused u/s 169, Cr.P.C.

Order of discharge of accused u./s 169, Cr.P.C. on police report is an administrative order and cannot debar the Investigating Officer to reinvestigate the matter without getting the same set aside and without seeking fresh permission from the Magistrate. (1995 P.Cr.L.J. 440).

31. Procedure when investigation cannot be completed within 24 hours.

The section provides that in such a case where there are grounds for believing that the accusation or information is well-founded the officer incharge of the Police Station or the Police Officer making investigation not below the rank of Sub-Inspector shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary relating to the case alongwith the

accused. The Magistrate to whom such accused persons is forwarded whether he has or has not jurisdiction to try the case, may authorized the Police Officer to detain the accused in his custody as the Magistrate may think fit, for a term not exceeding fifteen days in the whole. (NLR 2000 Cr. 281).

32. Case to be sent to Magistrate when evidence is sufficient.

Section 170, Cr.P.C. deals with cases to be sent to Magistrate when the evidence is sufficient. Section 171, Cr.P.C. provides that the complainant and witness are not required to accompany the Police Officer on way to the court of the Magistrate. Section 173, Cr.P.C. speaks about submission of final report to the Magistrate without unnecessary delay. All these sections contemplate a simultaneous action and are to be read together. (1993 P.Cr.L.J. 223).

33. Investigation under Magistrate's order.

Magistrate's order u/s 202 does not debar the police from investigating an offence u/s 156. (PLD 1965 AJ & K 40) Magistrate is empowered to send the complaint for further investigation to the police but for report alone. (PLD 1950 BJ 75).

When a complaint is sent to the police for investigation and report they are to investigate in precisely the same manner and to arrest in precisely the same way as they would have done if their powers had been first invoked by a first report under section 154, there being only this difference, that in the one case the police embody the result of their investigation to the Magistrate in a report which the Magistrate proceeds to consider under section 203, while in the other case the police embody the result of their investigation in what is called a challan or charge-sheet, but which is really a police report u/s 190(b). (PLD 1951 BJ 53).

Where complainant had approached the Court with a private compaint being dissatisfied with the conduct of the police, it is inexpedient and improper to entrust the matter to any police officer for investigation. (PLD 1998 Lah. 539).

34. Complainant and witnesses not to be required to accompany Police Officer.

Section 171, Cr.P.C. declares that no complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police officer or shall be subjected to unnecessary restraint or inconvenience or required to given any security for his opinion other than his own bond. If a police officer detains any witness against his will, his act is illegal and may become liable to punishment under the Pakistan Penal Code. Obviously if a statement of a witness is obtained under restraint it is not voluntary as such not beyond reasonable doubt. (PLD 1978 Pesh 38).

35. Report of Police Officer----Challan.

The final report under section 173 Cr.P.C. is to be sent in the form prescribed by the State Government. Where the accused is sent up for trial, the form of the report some times is called the charge sheet. The report sent when the accused is not sent up is called the "final report" or "referred charge sheet" (AIR 1932 Pat 72). After the final submission of the charge sheet under this section, and the posting of the case for further cross-examination, there can be no further investigation into the case by the police and therefore, any persons examined by them cannot be put forward before the Court as witnesses for the prosecution in support of their case. If , however, the evidence of such persons appears to the Court to be essential to the just decision of the case, the Court has certainly got power u/s 540 to examine them as witnesses. (AIR 1956 Mad 552).

The word "challan" does not figure anywhere in the Code, whereas, the same finds mention in the Police Rules. Investigation of criminal case and resultant arrival by the police at conclusions regarding guilt or innocence of an accused person lie within the domain and prerogative of the police over which no other authority has any control. What a Magistrate can insist I.O. should be to submit his report u/s 173 incorporating his final opinion. A challan is not a substitute for a report u/s 173. A

challan is to be submitted by the police only when some accused is recommended to be tried. (PLJ 2001 Cr. (Lah) 182).

Courts should not be hampered with the technicalities of a challan or a final report of investigation u/s 173 Cr.P.C. both are one and the same thing according to the scheme of things in Cr.P.C. Generally the final report of investigation is known or referred to as challan. (2003 P.Cr.L.J. 244).

36. Investigation not completed within 14 days.

In case investigation is not completed within 14 days from the date of recording of FIR Officer incharge of Police Station is mandatory required to submit an interim challan within 3 days of expiration of such period of 14 days. (PLJ 1995 Crl.C. Kar. 420 = 1996 P.Cr.L.J. 361).

37. Trial of accused put in column No.2 of challan.

It is held in Abdul Sattar Maula Vs. Crown, PLD 1953 FC 145 that in a case where an accused person is not challaned by the police although his name is mentioned in the FIR the Magistrate would be deemed to be acting u/s 190(1)(c) of the Cr.P.C. if he decides to summon that person as an accused, it would be incumbent upon him to warn the accused concerned u/s 191 that he could have the case transferred from his Court Where a police report exonerates the accused person and there is not complaint before the trial Magistrate, the Magistrate if opts to summon the accused, the case would fall under clause (c) of subsection (1) of section 190 entitling the accused person' choice as envisaged in section 151. (PLD 1967 Lah. 1045).

38. Preliminary inquiry in certain cases.

In the case of any offence in respect of which the provisions of section 196 or section 196-A apply, (officer incharge of the investigation in the district) may notwithstanding anything contained in those sections or in any part of this Code, order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such

police officer shall have the powers referred to in section 155, subsection (3). (Section 196-B Cr.P.C.).

39. **Re-Investigation.**

The system of re-investigation in criminal cases is a recent innovation which is always taken up at the instance of influential people and favourable reports obtained. This in no way assists the Court in coming to a correct conclusion, it rather creates more complications to the Court administering justice. (1986 SCMR 1934) Police has not only the authority to re-investigate the case any many time as it chooses but has also the power to withdraw the challan and submit fresh challan. (2001 P.Cr.L.J. 660).

Investigation in cognizable offence never stops even after the submission of the report u/s 173 before the court and fresh investigation in the case is not barred. Permission of the court in such contest is not necessary. (2001 MLD 255) Court cannot stop re-investigation and cannot strike down order of re-investigation merely on the ground that previously a police officer has finalized the investigation. (2001 YLR 186). As reported in 1999 P.Cr.L.C.310. "It is no doubt true that the order or discharged passed by the Court notwithstanding the case against the accused remain alive and the FIR forming the basis of the case against the accused is not cancelled.

Investigation after submission of charge sheet under section 173, Cr.P.C. in the trial Court is no bar. The police even after submission of charge sheet can investigate. (2001 P.Cr.L.J. 199) The Powers of police to reinvestigate case are unlimited and there is no law precluding the police from reinvestigating the same. However, when a report is submitted to a magistrate or Court under section 173, Cr.P.C. on the basis of any investigation or reinvestigation into a case, the Magistrate or Court is not expected to blindly follow the investigation or reinvestigation undertaken by the police as the ipsi dixit of police is never binding on Magistrate or a Court of law. (2003 YLR 701).