

requested... of Diyat, but needful was not done. Applicant had also prayed that after determining amount of Diyat, he be allowed to pay the amount in installments because due to financial constraints he was not in a position to pay in lump sum. **2006 P.Cr.L.J. 80**

324. Attempt to commit qatl-i-amd.-- Whoever does any act with such intention or knowledge, and under such circumstances, that, if he by that act caused qatl, he would be guilty of qatl-i-amd, shall be punished with imprisonment of either description for a term which may extend to ten years ¹³⁰[but shall not be less than five years if the offence has been committed in the name or on the pretext of honour] and shall also be liable to fine, and, if hurt is caused to any person by such act, the offender shall ¹³¹[in addition to the imprisonment and fine as aforesaid] be liable to the punishment provided for the hurt caused:

Provided that, where the punishment for the hurt is qisas which is not executable, the offender shall be liable to arsh and may also be punished with imprisonment of either description for a term which may extend to seven years.

COMMENTS

Scope.-- Ingredients. 1973 SCMR 108. Sudden quarrel followed by sudden fight. PLD 1963 S.C. 152 (p. 156). Counter case. 1979 SCMR 193. Injury in the abdomen by knife. 1982 SCMR 1141. Injuries

130. Words inst. by the Criminal Law (Amdt.) Act, 2004, (I of 2005) dt. 10.1.2005.
131. Added by Crl. Law Third Amendment) Ord., 1994 w.e.f. 25.10.1994.

by lathis or by lethal weapons. 1982 SCMR 1113. Parties on inimical terms. 1987 SCMR 1243. Malicious Weakness/absence of--Noit helpful if unimpeachable ocular evidence available 1984 SCMR 541. Compromise. 1983 SCMR 519, 1976 SCMR 193. Affidavit--Importance. PLD 1987 Sh. C. (AJ&K) 39. Supreme Court cannot substitute its own appraisal. 1972 SCMR 401. Injury caused by lathi 1970 SCMR 525. Individuals SCMR 667. Omission to frame charge. 1970 SCMR 450. Common object. 1970 SCMR 525. Individuals act. PLD 1964 SC. 177 (p. 184). Mens rea--Existence or non-existence--Crucial. PLD 1992 Pesh. 125. Offences under S. 337A (i), 337A (ii) not covered by the prohibition contained in S. 497 (i), Cr.P.C. 1995 PSC 721. Recovery evidence is a corroborative piece of evidence and if direct evidence overwhelming and not discrepant and stems out of unimpeachable source, non-production of weapon offence would not be fatal to the prosecution case. PLD 1996 Lah. 126. Attempt--Two elements necessary--Mens rea followed by an actus reus--Criminal intent not an attempt. PLD 1996 Lah. 126. Provisions of Ss. 324, 337-F(ii) and 337-N(2), P.P.C. do not supplement each other, rather they are a variance from each other. 1999 P.Cr.L.J. 230. Even high probabilities in the absence of legal evidence cannot be substituted for a legal proof connecting nexus of the accused with the recovery of crime empties. When ocular evidence is disbelieved, then abscondence cannot play any role in the conviction of the accused. PLD 2004 Pesh. 20.

S. 324/34.-- Offence under S. 324/34 falls under prohibitory clause of S. 491(1) where the accused had taken active part in occurrence. NLR 1998 SD 32. Bail cannot be claimed on account that injury was caused on ankle being not a vital part. NLR 1999 Cr.Lah. 9. Number of accused persons being four each accused liable to payment of one fourth of half of diyat amount as arsh to victim/complainant. 2003 P.Cr.L.J. 1695.

Cancellation of bail. Launching murderous assault and causing fire-arm injuries on vital parts of bail. Bail cancelled. 2010 SLJ (Larkana) 230(b) Respondents--accused were not shown to be present at time of incident. Only abetment in absentia was attributed to said respondents. Respondents were rightly granted bail by Trial Court. Bail cancellation petition dismissed. 2010 SLJ (Larkana) 230(a)

Outraging modesty case and bail. Allegation of outraging modesty of wife at open place. Bail allowed. 2010 P.Cr.R. (Lah) 244

Empty handed accused & bail. Empty handed. Bail granted in murderous assault offence. 2010 P.Cr.R. (Lah) 294

Cross-version & anticipatory bail in murder case. Cross-version/absence of specific role/pre-arrest bail allowed in murder case. 2010 P.Cr.R. (Lah) 267

Reduction of sentence. Petitioner was 15/16 years old at time of occurrence of murderous assault. Impugned sentence reduced. KLR 2010 Cr.C. (Lah) 11

Revision against acquittal.-- Order passed by Special Court not amenable to revisional jurisdiction of High Court. Provision of S. 561-A can be invoked in the interest of justice. 2000 P.Cr.L.J. 216. Right of appeal given u/S. 417(2-A), Cr.P.C. cannot be extended to private person in cases decided by the Special Court regarding a scheduled offence. 2000 P.Cr.L.J. 216

Delay. Sessions Court had released the accused on bail only on the grounds that the Trial Court had not concluded the trial within the period specified by it. Record had revealed that both the parties had contributed in delay in disposal of the case. Bail under S. 497, Cr.P.C. could only be granted to accused by the Court after recording a definite finding that of reasonable grounds existed to believe his involvement in the case and that further inquiry was needed therein. Accused was nominated in the F.I.R. with a specific role of firing and causing eight fire-arm injuries to the victim. Offence under S. 324 P.P.C. was hit by the prohibitory clause of S.497(1), Cr.P.C. Order granting bail to accused, thus, was illegal and without jurisdiction the same was recalled accordingly. 2004 P.Cr.L.J. (Lah) 1166(b)

Fire-arm injury. Fire-arm injury caused on the right thigh of PW. Victim in serious shock and his blood-pressure was no record-able. Injury Ghair-Jaifah Munaqqillah punishable under S. 337-F(vii), PPC. 2005 YLR 1799

Hardship case and bail. Accused was behind bars for more than two years. Bail was allowed in injury case. 2008 SLJ (Larkana) 534 = 2008 P.Cr.R. (Larkana) 679

Acquittal appeal. Appeal was filed after delay of 20 days. Although appellant had taken grounds for his sickness but neither an affidavit in support of his plea had been filed nor any documentary proof was filed alongwith application. High Court did not find that delay in filing appeal had been properly explained.

by appellant. Condonation under Limitation Act was not available in acquittal appeal. Appeal dismissed as time-barred. **2009 SLJ (Sukkur) 311(b)**

Acquittal. (Appreciation of evidence). Author of F.I.R. was not known. Benefit of doubt impugned judgment of acquittal maintained. **2009 PLR (D.I.Khan) 495(b)**

Advance stage of case and bail. Prosecution evidence was closed. Bail refused. **2009 SLJ (Kar) 824**

Aerial firing/Lalkara. Petitioner had been attributed role of aerial firing as well as of raising lalkara. Whether petitioner shared common intention with his accused and was liable for Section 34, P.P.C. was a question of further inquiry. Said section provided alternate punishment of payment of "Daman" and sentence of imprisonment was only discretionary. Bail after arrest granted. **2008 P.Cr.R. (Lah) 928(a)**

Appreciation of evidence. Impugned conviction/sentence maintained in hurt case. **2009 PLR (Pesh) 396(b)**

Bail (Intention to kill). Bail in hurt case. Injury on leg. Bail allowed. **2009 SLJ (Sukkur) 885**

Bail (Solitary khunjar injury). Petitioner allegedly caused one khunjar blow to victim and did not repeat the same. Basic punishment for the offence was either payment of Daman and sentence of imprisonment was only discretionary. Bail after arrest granted. **2009 PLR (Lah) 190(a) = 2009 LN (Lah) 176(a)**

Bail and injuries. Fracture on right hand caused by firing. Bail refused. **2008 P.Cr.R. (Lah) 933**

Bail and nature of injury. Injury was declared as "Ghair Jaifah Hashimah". Bail refused. **2008 P.Cr.R. (Lah) 931**

Bail and vicarious liability. Allegation of ineffective firing/Bail was allowed. **2008 LN (Multan) 483**

Bail before arrest in injury case. Fire-arm injury hitting right upper arm of the injured PW. Pre-arrest bail cancelled. **2008 P.Cr.R. (Lah) 1239(b)**

Bail Before Arrest. (Accused not named in statement before M.O.). Bail before arrest in hurt case. Injured had not named petitioner in his statement before doctor. Pre-arrest bail granted. **2009 LN (Lah) 437**

Bail in hurt case. Contradiction between ocular account and medical evidence. Bail allowed in hurt case. **KLR 2009 Cr.C. (Lah) 169** Contradiction between ocular account and medical evidence. Bail allowed in hurt case: **2009 P.Cr.R. (Lah) 634**

Bail in injury case. Co-accused having been placed in column No. 2 of challan was allowed bail, petitioner was bailed out. **2009 SLJ (Larkana) 185**

Bail in robbery case. Bail was refused in robbery case. **2008 SLJ (Larkana) 1544**

Bail. (Cross-firing). Cross-firing between parties had taken place resulting into injuries on both the sides. Injuries attributed to petitioner on non-vital part of body of the injured whereas injury suffered by the injured from petitioners side was on vital part of body. Cross-version was also recorded and investigated. No empty was recovered from spot. Case of further inquiry. Bail after arrest granted. **2009 P.Cr.R. (Lah) 498(a)**

Bail. (Assault on Advocate). Murderous assault and bail. Murderous assault upon Advocate/Bail declined. **2009 P.Cr.R. (Lah) 980(b)**

Bail. (Delay in trial) Delay in trial and bail. Petitioner was in jail for about one year without trial. Bail allowed in hurt case. **2009 P.Cr.R. (R.Pindi) 949(b)**

Bail. (Indiscriminate firing). Cross-firing. Case of cross-firing and bail allowed. **KLR 2009 Cr.C. (Lah) 172(b)**

Compromise with co-accused. Only one injury was attributed to petitioner and there was no allegation of its repetition. Extent of period of sentence depended upon findings of Trial Court after recording of evidence. Petitioner could be extended the concession if victim compromised with co-accused. Bail allowed: **2008 KLR Cr.C. (Multan) 198(a)**

Conduct of accused and bail. Role of direct firing at injured PWs. Bail refused. **2009 P.Cr.R. (Lah) 641**

Constitutional petition. Both the accused (brothers) were alleged to have made firing at the police party, but admittedly none of the police officials had secured any injury during the occurrence. Sentence of both the accused was short i.e., maximum three years major portion of which had already been undergone by them. Hearing of appeals of the accused in near future was not possible. Sentences of accused were suspended in circumstances and they were allowed bail. Constitutional petition were accepted accordingly. **2008 PLD (e) Lah. 74**

Criminal Trial. (Appreciation of evidence). PW were consistent in their stand as to manner in which occurrence had taken place. No material contradiction or improvements could be pointed out in statements made by said PWs at trial. Occurrence took place in house of complainant/PW and PWs being residents of house were natural witnesses whose presence at place of occurrence at relevant time could not be doubted. Being so closely related to both sides, there was no possibility of said PWs to falsely implicating appellant. In any case evidence of recovery of weapon was only a supporting evidence and fate of case did not turn on it alone particularly when PWs/eye-witnesses account was found to be credible and confidence-inspiring. There was nothing in evidence to even remotely suggest that eye-witnesses were inimical towards appellant or there existed strong enmity between parties which could have prompted the PWs to falsely involve appellant in crime. Prosecution had proved its case beyond any reasonable doubt. Criminal appeal dismissed. **2009 P.Cr.R. (Lah) 412(a)**

Cross-firing. Case of cross-firing and bail allowed. **2009 P.Cr.R. (Lah) 498(b)**

Delay in trial and bail. Petitioner was in jail for about one year without trial. Bail allowed in hurt case. **2009 P.Cr.R. (R.Pindi) 949(b)**

Delayed supplementary statement. Grant of bail in hurt case on account of nomination through delayed supplementary statement. **2009 PLR (Pesh) 201**

Domestic violence and bail. Petitioner cut off tip of nose of his wife as a domestic violence. Bail refused. **2008 SLJ (Kar) 1435**

False counter-version bail. Stance of counter-version was found to be false during investigation. Bail refused in hurt case. **2009 LN (Lah) 406**

Fire-arm injuries. Despite exonerative affidavits of eye-witnesses bail refused in hurt case. **2009 P.Cr.R. (R.Pindi) 956**

Forfeiture of surety bond. In case of forfeiting surety bond, the entire amount of bail bond should be recovered as penalty. **2009 PSC Cri. (SC Pak) 236(b)**

Fresh material and cancellation of bail. Subsequently S. 337-F(v), P.P.C. was also added to S. 324, P.P.C. Bail cancelled. **2009 LN (Lah) 321(d)**

General allegation and bail. General allegations and bail allowed in hurt case. **2009 LN (Lah) 449**

Genesis of the fight was not clear. Impugned death sentence was converted into life imprisonment. **2008 PLR (Lah) 914**

Ghair jaifah Hashmiah injury and bail matter. Injury had been declared as Ghari Hafah Hashmiah bail refused. **2008 LN (Lah) 805**

Grievous hurt and bail. Injured lady had been defaced. Bail refused in hurt case. **2009 P.Cr.R. (Multan) 1080**

Hurt Case. (Reduction of sentence). Quantum of sentence. No PWs received injury. Impugned sentence reduced. **2009 P.Cr.R. (Lah) 331**

Injured witness, non-appearance. If injured witness himself does not appear to charge an accused for his injury and Court is not satisfied with his disability or incompetence or reasons for not appearing then conviction cannot be recorded on the basis of other evidence under Qisas. **2008 SCMR (b) 1221**

Injury on non-vital part and pre-arrest bail. Interim pre-arrest bail was confirmed in hurt case. **2009 SLJ (Kar) 655**

Injury on vital part and bail. Causing...

Multiple wounds and bail. Merely that alleged offence fell outside prohibitory clause could not be made basis for grant of bail. **2008 P.Cr.R. (Lah) 885**

Murder (Nature of offence Appreciation of evidence) Special Judge, A.T.C/Trial Court recorded conviction/sentence of imprisonment of life which was upheld by High Court qua appellants. Criminal appeal in Supreme Court. Appreciation of evidence. Validity. In instant case neither occurrence was denied or presence of both the PWs/eye-witnesses at place of occurrence was challenged nor the manner in which occurrence took place, was at trial, disputed rather it was impliedly admitted. Occurrence in the instance case had taken place as suggested by prosecution. Occurrence in instant case allegedly took place in the Bazaar, yet in absence of any stipulation in F.I.R. to effect that incident had struck terror or panic in the public and in the absence of any evidence to the effect that incident created sense of fear and insecurity in public or any section of public or community or any sect, it could not have been contended that Section 7, A.T.A. was attracted in instant case. Motive behind the incident was previously strained relations between parties. Impugned conviction/sentence to the extent of offence under Section 7, A.T.A. set aside. Criminal appeal partly allowed. **2009 PSC CrI. (SC Pak) 106(b)**

Murder. (Dying declaration). High Court while upsetting sentence/conviction recorded by Trial Court acquitted respondent. Criminal appeal in Supreme Court. Benefit of doubt. Appreciation of evidence. Validity. Case of the prosecution was duly supported by the dying declaration of said deceased lady in which she narrated the entire story about the incident. Fact of burning was duly supported by medical evidence. There was a specific motive in the instant case as the husband of the deceased lady, the said respondent had contracted second marriage as a consequence whereof she was not enjoying cordial relations with him. Respondent took the deceased deceitfully to his house and poured kerosene oil upon her and set her on fire due to which she died later on. Motive coupled with circumstantial evidence had been established. Deceased suffered severe burns on her body including arms having suffered severe burns, question of holding a pen would not arise, therefore, her inability to sign the statement could not be made a ground for acquittal. Impugned judgment set aside and the judgment of Trial Court restored. Criminal appeal allowed. **2009 PSC CrI. (SC Pak) 174(b)**

Murderous assault and bail. Murderous assault upon Advocate/Bail declined. **2009 LN (Lah) 822(b)**

Murderous assault case. Reduction of sentence. Convict was patient of Hepatitis C. Impugned sentence reduced. **2009 PLR (Multan) 986**

Plea of alibi. Plea of alibi and bail was granted in hurt case. **2009 SLJ (Sukkur) 898**

Police encounter and bail. Police encounter still no empty was recovered from spot. Bail before arrest allowed. **2009 LN (Lah) 174**

Police firing/encounter and bail. Allegation of firing towards police but no police official was injured. Bail granted. **2009 P.Cr.R. (Lah) 873**

Pre-arrest bail. Petitioner had approached High Court for relief after 2 $\frac{1}{2}$ months of dismissal of bail before arrest application by lower Court pre-arrest bail refused. **2009 P.Cr.R. (Lah) 126**

Prosecution Evidence. (Summary order of I.O.). Trial Court closed evidence of prosecution to extent of said I.O. against which revision petition was accepted. Trial Court once again closed evidence of prosecution as no efforts appeared to have been made by Trial Court to secure presence of said I.O. by adopting coercive measures. For second time in revision, the lower Court/A.S.J. proceeded to summon concerned S.H.O. as to see veracity of report of Process Server. Writ petition in High Court against impugned order. Aggrieved person. Validity. Impugned order could not be said to have bite petitioner in any manner whatsoever. Filing of instant writ petition smacked to be a mala fide attempt actuated at instance of police officials. Petitioner in any way could not be said to be genuinely aggrieved by said order. Writ petition was held to be sans grievance. Dismissed. **2009 P.Cr.R. (Lah) 803(a)**

Recovery of Illicit Arms. (Non-production of case property) Mere presence of appellant in motorcar was not sufficient to connect him with the offence unless the prosecution brought material that he had the knowledge of concealment of illicit arms and ammunitions in car. Possibility of the appellant having no hand in the affair and taken lift from driver of the motorcar could not be excluded in the circumstances of the case. Raiding party failed to apprehend the driver. No other conclusion except

holding that real culprit was let off by the police and the appellant was implicated in the instant case for reasons not far to seek. Investigating Officer/P.W. was required to find out whereabouts of owner of car which he had failed to do so. Case property had neither been exhibited nor produced in trial causing dent in prosecution case. Arms and ammunitions recovered were not sent to Fire-arms Expert to ascertain as to whether they were in serviceable condition or not. Despite prior information, independent and disinterested witnesses from locality had not been associated with recovery proceedings. No one had sustained injuries from either side and no empty had been recovered from spot. Prosecution had miserably failed to bring charges home to the appellant beyond any reasonable doubt. Benefit of slightest doubt must be extended to the appellant without any reservation. Criminal appeal allowed. **2009 PSC CrI. (SC Pak) 146(a)**

Report for cancellation of F.I.R. The Judicial Magistrate in disagreement to proposal of I.O., he was directed to submit challan/police report for sending the same to Court of Sessions. Impugned order Reasons. Validity. For the purpose of examination of 173, Cr.P.C. report, office of the Judicial Magistrate be seemed in two different categories, one as judicial and other as administrative. While functioning on administrative side, he discharged his duties as a persona designata and not as a Court. While discharging this duties as a persona designata, although he was required to examine material placed before him but was not bound to explain each and every aspect of law and give its reasons for acceptance and rejection. CrI. Misc. application dismissed. **2008 LN (Kar) 783(a)**

Solitary khanjar injury. Bail allowed in injuries case. **2009 PLR (Lah) 190(b)**

Solitary injury. Solitary khanjar injury. Bail allowed in injuries case. **2009 LN (Lah) 176(b)**

Vicarious liability. Allegation of ineffective firing/Bail allowed in injury case. **2009 LN (Lah) 241**
Mere recovery of gun. Appellant was acquitted of injuries case. **2009 P.Cr.R. (Lah) 76**

Violation of S. 103, Cr.P.C. Place of occurrence surrounded by habitations but no one from private persons was associated to witness the arrest of accused or the recovery of crime weapon. Neither any encounter proved nor there was any evidence to show that an attempt was made on the police party to commit murder. Conviction not sustainable merely on the basis of surmises. **2005 MLD 946**

Writ petition and aggrieved person. Writ petition was held to be sans grievance and dismissed by High Court. **2009 P.Cr.R. (Lah) 803(b)**

Further inquiry. In the cross-version case of accused, all accused persons had been granted pre arrest bail. Case of accused, in circumstances, had become that of further inquiry. Question as to which party was an aggressor and which party was aggressed upon, would be decided after recording evidence by the Trial Court. Accused was behind the bars since long and there was no progress on the trial of the case. Injury caused by accused was on the non-vital part of the injured. Prima facie the intention to kill, did not appear to be available, keeping, in view the seat of injury which was on the non-vital part of the body and was not repeated. Accused was admitted to bail, in circumstances. **2009 P.Cr.LJ [Lahore] 1254**

Ocular version given in the F.I.R. was contra to medical evidence and Trial Court was yet to determine after recording evidence as to whose fire shot was effective out of the two accused. Injury attributed to accused was on non-vital part of the body of the injured witness. Case of accused was par with that of his co-accused who had been allowed bail by High Court. Charge had been framed in the case, but not a single witness was examined so far. Accused were behind the bars for about nine months Bail was granted to accused in circumstances. **2009 P.Cr.L.J. [Lahore] 73**