

and the witness is bound to answer. An answer so given is an answer which the witness is "compelled to give".<sup>10</sup>

*Voluntary answers given by witness.* Where evidence is given voluntarily by a witness in proceedings in a Court, it is not given in consequence of any compulsion and the witness is not protected under proviso to Art. 15 of the Order.<sup>11</sup>

*Witness must have objected to question.* The compulsion contemplated by the proviso must arise out of the refusal of his prayer to be excused.<sup>12</sup> In other words the protection given by Art. 15 must be claimed directly or indirectly in some way or another. If the witnesses object to answering any particular question and they are told by the Court to answer, their protection under Art. 15 is complete. There can be no further protection given outside Art. 15.<sup>13</sup> Before a witness can be said to have been compelled to answer a question he must object to give answer to such question, or at any rate to the very first question on the same point so as to invite the attention of the Court to apply its mind to the question and decide whether he is to be compelled to answer the same or not.<sup>14</sup>

7. **Court witness.** Whatever may be the position of a witness who is called by a party, it seems that when a person is called as a Court witness in a case and he is questioned by the Court there would be an inference of implied compulsion within the meaning of the proviso.<sup>15</sup>

16. **Accomplice.** An accomplice shall be a competent witness against an accused person, except in the case of an offence punishable with *hadd*; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

Evidence Act, 1872. Corresponding section 133 of the Evidence Act reads as follows:

133. *Accomplice.* An accomplice shall be competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

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10. AIR 1943 Pat. 117 (DB)+11 Cr.L.J. 403+37 Cal. 878.

11. PLD 1979 Kar. 125 (DB)+AIR 1965 All. 597+AIR 1953 SC 293.

12. AIR 1960 All. 606 (DB).

13. AIR 1939 Rang. 371=41 Cr.L.J. 48.

14. AIR 1934 Sind 114+AIR 1926 Bom. 141 (FB)+AIR 1920 Bom. 270 (FB) (Unless person objects to any question, the answer to which is likely to incriminate him, he cannot be deemed to have been compelled to give such answer)+13 Cr.L.J. 173.

15. PLD 1962 Lah. 271.

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16. Witness no better than accomplice.
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**1. Scope.** Ordinarily the testimony of one accomplice is not considered sufficient corroboration of another accomplice.<sup>16</sup> An accomplice in the commission of an offence, is a co-accused, an associate or partner who has such a relation to the criminal act that he can be jointly implicated with the other accused. The term 'accomplice' implies that the offenders are more than one who are *participes criminis* in respect of commission of the crime charged as principals or associates.<sup>17</sup> An accomplice is a suspect witness, whose evidence must be received with great caution and should be materially corroborated before it is accepted. The scales must be held even; for, while it is essential that accused persons should be protected from conviction on the mere evidence of an untrustworthy accomplice, it is important that the requirements of the Legislature in this respect should not be so exaggerated by the Courts to offer a practical guarantee of immunity to persons guilty of grave offence which are, in their very nature, difficult of detection.<sup>18</sup>

**Admissibility of accomplice evidence.** There is no doubt that the uncorroborated evidence of an accomplice is admissible in evidence.<sup>19</sup> It is admitted out of necessity because without having recourse to his evidence it is impossible to bring the principal offenders to justice.<sup>20</sup>

**Haddod cases.** Accomplice evidence is not admissible in cases in which Islamic punishment of *hadd* can be imposed.<sup>1</sup> The evidence of an accomplice is not admissible in case of an offence punishable with *Hadd* and *Qisas*, but in case of an offence entailing punishment of *Tazir* his testimony is admissible furnishing basis for conviction, provided the same is corroborated in material particulars,<sup>2</sup> and in exceptional circumstances the conviction can be founded on the evidence of an accomplice without corroboration if Court is satisfied with truthfulness of his evidence.<sup>3</sup>

16. 1995 MLD 1663 (DB).
17. PLD 1991 FSC 139=PLJ 1991 FSC 139=NLR 1992 SD 221.
18. AIR 1916 Bom. 299=17 Cr.L.J. 256 (DB).
19. AIR 1951 Mad. 746+AIR 1927 All. 90.
20. PLD 1984 Lah. 441 (DB).
1. 1983 SCMR 1119.
2. PLD 2002 Kar. 152=PLJ 2002 Cr.C. 275=NLR 2002 Cr. 449 (FB)+2000 YLR 94.
3. PLD 2002 Kar. 152=PLJ 2002 Cr.C. 275=NLR 2002 Cr. 449 (FB).

value of a direction to all Judges and Magistrates that a statement of an approved witness.<sup>4</sup> The court should keep in view the principle that the probative value of evidence of an accomplice is practically the same as confession of a co-accused.<sup>5</sup> Therefore generally accepted judicial view is that a conviction based on corroborated testimony of an approved is illegal.<sup>6</sup>

The question of value to be attached to statements of accomplice or approver must be decided in every case upon particular circumstances of that case.<sup>7</sup> All accomplices are not wholly unworthy of credit.<sup>8</sup> Therefore though it is generally unsafe to convict a person on the evidence of accomplices unless corroborated in material particulars. In considering whether this maxim applies to a particular case it must be remembered that all persons coming technically within the category of accomplices cannot be treated precisely on the same footing.<sup>9</sup>

The corroborative evidence standing by itself might not be incriminating at all but considered with the story of approver it should produce on the mind of the Court a profound conviction that the accused must have acted in the manner alleged by the approver.<sup>10</sup>

**Uncorroborated evidence of accomplice.** Although Qanun-e-Shahadat says in Art. 129 Illus. (b) that the Court may presume that an accomplice is unworthy of credit, unless he is corroborated in material particulars, it makes it clear in Art. 16 that an accomplice shall be a competent witness against the accused person and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.<sup>11</sup> In exceptional cases and special circumstances the uncorroborated testimony can be relied upon for basing a conviction and such a conviction is not illegal.<sup>12</sup> Where a witness is not an accomplice on account of absence of *mens rea*. Real question is not of requiring corroboration of his evidence but of degree of credit to be attached to his testimony depending upon all the facts and circumstances of case.<sup>13</sup> Thus where an accomplice is closely related to the

4. 14 Cr.L.J. 262=6 Sind L.R. 195 (DB).
5. AIR 1914 Magd. 323=15 Cr.L.J. 417 (DB).
6. PLD 1961 Kar. 342+AIR 1918 Lah. 358+AIR 1933 Lah. 838.
7. AIR 1916 Lah. 380=17 Cr.L.J. 97 (DB).
8. 14 Cr.L.J. 262=6 Sind L.R. 195 (DB).
9. AIR 1929 Nag. 215=30 Cr.L.J. 311.
10. PLD 2002 Kar. 152=PLJ 2002 Cr.C. 275=NLR 2002 Cr. 449 (FB).
11. 1995 MLD 1663 (DB)+NLR 1979 Cr. 209=PLD 1979 SC 53+PLJ 1979 Cr.C. 129=1979 P Cr.L.J. 294 (DB)+PLD 1970 SC 166=22 DLR SC 106=1970 SCMR 307=1970 P Cr.L.J. 553+1968 P Cr.L.J. 1625+PLD 1959 Pesh. 12 (DB)+AIR 1950 P.C. 10+AIR 1922 Lah. 1-13 Cr.L.J. 767=6 Sind L.R. 106 (DB). (Exception is here made in cases when the act of accomplice imposes no great moral delinquency)+AIR 1915 Lah. 16 (DB)+12 Cr.L.J. 150 (SB) (Mad) (M/s see AIR 1962 SC 1573).
12. AIR 1931 Pat. 105 (DB)+AIR 1938 Rang. 177 (FB)+AIR 1937 Rang. 209 (DB)+AIR 1933 Nag. 352 (DB) (A case of accomplice above suspicion)+AIR 1929 Bom. 296 (DB)+35 Mad. 397=13 Cr.L.J. 352 (FB) (Court can act if it believes the accomplice).
13. PLD 1979 SC 53=NLR 1979 Cr. 209.

accused, it is inconceivable that he should try to implicate the accused falsely. In such circumstance the maxim contained in Illustration (b) to Art. 129 does not apply and the conviction of the accused would, not be illegal merely because it proceeded upon his uncorroborated testimony.<sup>14</sup> Where the accused is convicted on the uncorroborated testimony of an accomplice it is necessary that the Judge should give some indication in his judgment that he had this rule of caution in his mind, and should proceed to give reasons for considering it unnecessary to require corroboration on the facts of the particular case before him and show why he considers it safe to convict without corroboration in that particular case. It is wrong for a Judge to think that he could not, as a matter of law, convict without corroboration.<sup>15</sup>

*Evidence of accomplice false on its face.* Corroboration by itself cannot make the story of the accomplice acceptable when on the face of it, it is unreliable.<sup>16</sup>

*Evidence given by accomplice to save his own skin.* Evidence of an accomplice must always be received with greatest caution and if there is any fear in a witness's mind that failure to establish a case for prosecution will result in his own prosecution, it is not likely to lead to truthful evidence being given by such witness.<sup>17</sup> The circumstances that an accomplice is testifying under a promise of immunity given by the police detracts very materially from the credibility of the accomplice.<sup>18</sup> The withdrawal of prosecution against an accomplice relegates him from the position of a co-accused to his original position of an accomplice who had for all practical purposes earned complete immunity for his participation in the crime. His evidence under such circumstances could not be a piece of independent evidence.<sup>19</sup> But the position is different where the accomplice knows for certain that he is going to be tried as an accused and yet gives evidence but subsequently alleges that his confessional statement was made on a promise of immunity by the police. The hopes of an accomplice who alleges that he made his confession on the promise of his being made an approver stand completely shattered when instead of being pardoned and made an approver he is arraigned along with the other accused before the committing Magistrate and in spite of being so arraigned he supports the prosecution version in all its material particulars in the statement he makes before the Sessions Court. The initial suspicion attaching to his evidence is thus totally removed, and, therefore, his evidence is entitled to be treated on the same footing as that of any other witness. The gain or lose deserves greater weight than that of an approver.<sup>20</sup>

14. AIR 1957 Him. Pra. 75=1952 Cr.L.J. 15.
15. AIR 1956 Pat. 404=43 Pat. 781=1956 Cr.L.J. 1220 (DB).
16. AIR 1938 Orissa 228 (DB).
17. AIR 1935 Cal. 473 (DB)+AIR 1945 Nag. 1 (DB)+AIR 1935 All. 477 (DB). (Statement of accomplice is subject to suspicion, but in certain cases it is of great value)+AIR 1911 All. 406-32 Cr.L.J. 1049. (His evidence must be corroborated in material particulars)+AIR 1911 Lah. 408 (Value of approver's evidence stated).
18. AIR 1947 Lah. 220=48 Cr.L.J. 708.
19. AIR 1929 Nag. 215=30 Cr.L.J. 311.
20. AIR 1951 Him. Pra. 75=1952 Cr.L.J. 15.

*Retracted statement of accomplice.* The statement of an accomplice though retracted can be treated as substantive evidence. But this evidence must be treated with caution.<sup>1</sup>

*Examination of accomplice necessary.* The statement of a co-accused may be admissible in certain circumstances, though not examined, but not that of an accomplice, who is available to be examined.<sup>2</sup>

*Accused may take benefit of accomplice nature of evidence.* It is mainly the duty of the prosecution to bring accomplice character of evidence to notice of the Court, and then invite it to believe it by reference to the corroborative evidence on record. An accused is under no legal obligation to do so. He can keep quiet and take advantage of the flaw in the evidence brought by the prosecution against him, or in short, of the weakness of the prosecution case.<sup>3</sup>

2. *Accomplice is competent witness.* The law does not make an accomplice as such an incompetent witness at the trial of another person in respect of the offence in the commission of which he was an accomplice.<sup>4</sup> Where an accomplice is not a co-accused in the same case on trial before the Magistrate, he is a competent witness and may be examined on oath.<sup>5</sup> But there is a presumption that an accomplice is unworthy of credit unless his evidence is corroborated in material particulars.<sup>6</sup>

There is nothing improper in tendering an accomplice as a witness apart from any question of pardon; such a person is a competent witness and there is no irregularity in not sending up for trial every person whom any suspicion appears to exist.<sup>7</sup> Therefore if the charge against a co-accused who aided materially in disclosing operations of the accused gang is withdrawn instead of his being tendered pardon and than examined as witness, he is a competent witness.<sup>8</sup> Where the offence for which the trial is held is not one in which an accomplice could be made an approver and the prosecution therefore produced an accomplice as a witness, his evidence was held admissible.<sup>9</sup> But in such cases the evidence of the accomplice must be treated with even greater caution than that of an established approver.<sup>10</sup>

*Injunctions of Islam.* Article 16, Qanun-e-Shahadat, 1984 is repugnant to Injunctions of Islam in so far as it provides that an accomplice is competent witness

1. AIR 1914 Sind 117=16 Cr.L.J. 233 (DB)+AIR 1955 A J & K 13 (DB).
2. AIR 1951 Orissa 53=LR 1950 Cut. 509 (DB).
3. AIR 1929 Nag. 215=30 Cr.L.J. 311.
4. 1983 DLR 373 (DB)+PLD 1984 Lah. 48=NLR 1984 Cr. 98=KLR 1984 Cr.C. 141+AIR 1923 All. 91 (DB).
5. AIR 1944 Mad. 117 (FB)+AIR 1942 Pat. 271 (DB). (An accomplice is a competent witness).
6. 1983 DLR 373 (DB)+1968 P Cr.L.J. 1625+AIR 1952 Orissa 164 (Fact of conviction does not detract from his competence).
7. 1968 P Cr.L.J. 1625+AIR 1939 Rang. 361=41 Cr.J. 44 (DB).
8. AIR 1926 Nag. 426=27 Cr.L.J. 807.
9. 1968 P Cr.L.J. 1625.
10. PLD 1967 SC 545+20 DLR (SC) 49+AIR 1939 Rang. 361 (DB).

against an accused person in all matters other than Hadd, even if his evidence is uncorroborated.<sup>11</sup>

**Accomplice not implicating himself:** Before a co-accused can be considered to be a competent witness, it must be established that he has obtained knowledge of the crime in a direct or indirect manner. His direct or indirect share in the crime is a circumstance which ensures that he is capable of giving evidence in the reception Without such caution, the door would be opened too wide for perjury in the reception of tainted evidence.<sup>12</sup> Therefore where the alleged accomplice does not implicate himself in the crime, his evidence cannot be admitted as that of an accomplice.<sup>13</sup>

**Evidential value of statement of accomplice.** An approver is a competent witness but his evidence must show that he is a reliable witness. The very fact that he has participated in the commission of an offence introduces a serious stain in his evidence and the Courts are naturally reluctant to act on such tainted evidence unless it is corroborated in material particulars by some other independent evidence. It follows that an approver's evidence has to satisfy a double test: first his evidence must show that he is a reliable witness; secondly it must receive sufficient corroboration.<sup>14</sup> Unless the case is a very exceptional one an accomplice's evidence should not be accepted as being sufficient without corroboration.<sup>15</sup> But a conviction based upon the evidence of an accomplice is not bad, if the Court has affirmatively concluded that his witness is worthy of credit.<sup>16</sup> The mere fact that an approver had at an earlier stage made wrong statement, will not be sufficient to rob his evidence of all its probative force.<sup>17</sup>

**Corroborative value of accomplice evidence.** There is no miscarriage of justice when the Court has taken an approver's evidence into consideration in convicting the accused, when in fact there is also other sufficient evidence to support the conviction.<sup>18</sup> The Court may also call in aid the statement of an accomplice and use it to lend assurance to the other evidence and thus fortify itself into believing what without the aid of the statement it would not be prepared to accept.<sup>19</sup>

**Hadd and Qisas cases.** In case of an offence, which entails punishment of Ta'zir, testimony of accomplice is admissible and furnishes the basis for conviction provided it is corroborated in material particulars. In exceptional cases, the reasons so recorded by the Court, testimony of accomplice may be acted upon as sufficient for warranting recording of conviction. Supreme Court ordered that Art. 16, Qanun-

11. PLD 1991 FSC 139=PLJ 1991 FSC 139=NLR 1992 SD 221.
12. PLD 1964 Dacca 600=16 DLR 23=PLR 1964 Dacca 299 (DB).
13. PLD 1967 SC 545=20 DLR (SC) 49.
14. AIR 1959 Andh Pra. 387 (DB)+(1916) 2 K.B. 658+AIR 1952 SC 54+AIR 1957 SC 637+1957 SC R 953.
15. PLD 1961 Lah. 880+AIR 1965 Cal. 508 (DB)+AIR 1934 Pesh. 11 (DB).
16. AIR 1952 All 962+AIR 1950 SC 1199+1959 Cr.L.J. 1492.
17. 1984 P.C.L.J. 2119 (DB).
18. AIR 1946 P.C. 12-ILR 1947 Kar. (PC) 24=47 Cr.L.J. 174.
19. AIR 1957 All. 53=1957 Cr.L.J. 32 (DB).

e-Shahadat may be amended accordingly by 31.8.1993, failing which Art. 16 will become void and shall be of no effect to the extent stated in the judgment.<sup>20</sup>

**Ta'zir cases.** Federal Shariat Court has held that conviction based solely on uncorroborated testimony of an accomplice liable to ta'zir would be illegal unless there is corroborative evidence to support the conviction.<sup>1</sup>

**Reasons for requiring corroboration.** Though under Art. 16, it is not illegal to convict a person on uncorroborated testimony of an accomplice. Illus. (b) to Art. 129, lays down as a rule of prudence based on experience that an accomplice is unworthy of credit unless his evidence is corroborated in material particulars.<sup>2</sup> It is a rule of practice, which has acquired the sanctity of a rule of law, that no conviction should be based on the testimony of an approver unless it is corroborated in material particulars by independent evidence connecting each of culprits with the commission of crime.<sup>3</sup> The reason for the rule is obvious. There is always danger of substitution of the guilty by the innocent in such cases and it is realised that it would be extremely risky to act upon the statement of a self-confessed criminal who while trying to save his own skin, might be unscrupulous enough to accept suggestions of others to inculpate a person unconnected with the crime in place of his real accomplice for whom he may have a soft corner.<sup>4</sup>

An accomplice is a moral wretch who not only publicly boasts of his own part in the crime which is often committed in his interest and on his instigation but who, prompted by a mean desire to save his own skin, shamelessly betrays his companions in the dock.<sup>5</sup> His evidence has been held untrustworthy for three reasons: (a) because an accomplice is likely to swear falsely in order to shift the guilt from himself; (b) because an accomplice as a participant in crime and consequently an immoral person is likely to disregard the sanctity of an oath; and (c) because he gives his evidence under promise of a pardon or in expectation of an implied pardon, and this hope

20. 1994 SCMR 932=PLJ 1994 SC 206=NLR 1994 SD 362+1993 SCMR 785.
1. PLD 1991 FSC 139=PLJ 1991 FSC 139=NLR 1992 SD 221+1992 P. Cr. L.J. 171 (DB).
2. 1995 MLD 1663 (DB)+PLD 1991 FSC 139=PLJ 1991 FSC 139+1983 DLR 373 (DB)+NLR 1984 Cr. 98=PLD 1984 Lah. 48=KLR 1984 Cr.C. 141+PLD 1983 Pesh. 161+1979 P.C.L.J. 294=PLJ 1979 Cr.C. 129+PLD 1970 SC 166=22 DLR SC 106=1970 SCMR 307=1970 P.C.L.J. 553+PLD 1967 SC 545=20 DLR SC 49+AIR 1925 Sind 295=19 Sind L.R. 111 (DB)+AIR 1925 Sind 105=19 Sind L.R. 183 (DB)+AIR 1934 Lah. 21 (DB)+AIR 1934 Lah. 23 (DB)+AIR 1958 SC 22+AIR 1958 SC 66+AIR 1950 Lah. 199=PLR 1950 Lah. 417 (FB)+AIR 1949 P.C. 257+AIR 1938 Lah. 339+AIR 1937 Sind 162 (DB)+AIR 1936 P.C. 242+AIR 1934 Sind 78 (2) (DB)+35 Cr.L.J. 452 (Lah)+AIR 1933 Lah. 294 (DB)+34 Cr.L.J. 450 (Lah)+AIR 1929 P.C. 15+AIR 1929 Lah. 850 (DB)+27 Cr.L.J. 918 (DB) (Lah)+AIR 1916 Lah. 32 (DB). (Art. 16 contains rule of law and Art. 129, Illus. (b) a rule of guidance for assistance of Courts)+13 Cr.L.J. 182 (Lah.)+12 Cr.L.J. 35 (Lah.). (Even in the most favourable circumstances the evidence of an accomplice would require material corroboration).
3. PLD 1984 Lah. 48=NLR 1984 Cr. 98=KLR 1984 Cr.C. 141+PLD 1970 SC 166=22 DLR (SC) 106=1970 P.C.L.J. 553=1970 SCMR 307+AIR 1934 Lah. 346 (DB)+AIR 1934 Lah. 873+AIR 1934 Lah. 583+AIR 1932 Lah. 73 (DB).
4. PLD 1970 SC 166=22 DLR (SC) 106=1970 SCMR 307=1970 P.C.L.J. 553+PLD 1956 SC 407=8 DLR (SC) 165.
5. PLD 1954 Federal Court 335=1954 PCR 35=7 DLR (FC) 37.

would lead him to favour the prosecution.<sup>4</sup> Yet another reason for the rule under which corroboration for the testimony of an accomplice is required is that an accomplice is fully posted with all the facts and it would be easy for him to implicate an innocent person without much fear of detection,<sup>7</sup> and he may, with his lack of moral fibre, accept suggestions of others to inculpate a person unconnected with the crime in place of his real accomplice for whom he may have a soft corner.<sup>8</sup>

4. **Nature and extent of corroboration.** As regards the nature and extent of corroboration, there is no difference between English and Pakistan law.<sup>9</sup> In case of an accomplice it is necessary (i) that there must be corroboration both as to the commission of the crime (i.e. of some one or more, but not of all, the material circumstances, otherwise the evidence of the accomplice would be superfluous) and the connection of the accused therewith; (ii) that where there are several accused there must be corroboration as to each one, and the Court should acquit those against whom there is none; (iii) that the corroboration must be by some evidence other than that of another accomplice.<sup>10</sup>

Evidence of accomplice, in view of doctrine of double test has to be scrutinized if his evidence is inherently worth reliance and he is also corroborated through independent evidence in material particulars. If on the whole for the purpose of corroboration the evidence of other witnesses is reliable and enough it may be concluded that the testimony of approver has stood the double test and the facts stated by the accomplice have been established.<sup>11</sup>

*Nature of corroboration depends on circumstances of case.* As regards the extent and level of corroboration, no hard and fast rule can be laid down in that behalf and the evidence is to be assessed keeping in view the facts and circumstances of each case.<sup>12</sup> It would be impossible, indeed it would be dangerous, to formulate the kind of evidence which should or would be regarded as corroboration of evidence of an accomplice. Its nature and extent must necessarily vary with the circumstances of each case and also according to the particular circumstances corroborated by ocular testimony and Where statement of accomplice/approver corroborated by weapons of offence at instance confessional statement of co-accused and recovery of weapons of offence at instance

6. 12 Cr.L.J. 150 (SB) (Mad.)+AIR 1958 SC 66 (Nature of corroboration required in case of confession and retracted confession contrasted).
7. PLD 1955 FC 335=7 DLR (FC) 37+AIR 1955 NUC (Sau) 5053.
8. PLD 1970 SC 166=22 DLR (SC) 106=1970 SCMR 307=1970 P.Cr.L.J. 553+PLD 1959 SC 377+PLD 1954 FC 335=1954 FCR 35+7 DLR (FC) 37=PLR 1955 Lah. 872.
9. AIR 1953 Hyd. 145=1LR 1951 Hyd. 895=1953 Cr.L.J. 785.
10. PLD 1967 SC 545=2 DLR SC 49+PLD 1961 Dacca 798=13 DLR 197.
11. PLD 2002 Kar. 152=PLJ 2002 Cr.C. 275=NLR 2002 Cr. 449 (FB).
12. PLD 2002 Kar. 152=PLJ 2002 Cr.C. 275=NLR 2002 Cr. 449 (FB).
13. PLD 1970 SC 166=22 DLR (SC) 106=1970 SCMR 307=1970 P.Cr.L.J. 553+PLD 1967 SC 545=20 DLR SC 49+PLD 1954 FC 335=DLR (FC) 37+PLD 1959 SC 377+AIR 1952 SC 54+29 Cr.L.J. 209 (DB) (Lah.)+AIR 1922 Lah. 1 (DB)+AIR 1916 Lah. 32=18 Cr.L.J. 29 (DB)+AIR 1965 Cal. 598 (DB)+AIR 1960 Punj. 364 (DB).

Art.16] of accused provided further corroboration of such evidence. Conviction and sentences of accused were maintained.<sup>14</sup>

*Corroboration need not prove offence.* Independent corroborative evidence need not come up to the standard of being sufficient by itself to sustain conviction. What is needed is the existence of some additional evidence showing that the version given by the accomplice is probably true and that it is reasonably safe to base a conviction thereon.<sup>15</sup> It is not necessary that each piece of evidence shall independently establish a particular fact and only then it may be accepted as corroborative piece of evidence.<sup>16</sup>

*Character and position of accomplice.* Whether or not the corroborative evidence is sufficient to convince the Court that the statement of the accomplice that the accused took part in the crime is correct must depend on the circumstances of each case. If, for example the accomplice who gives evidence is a hardened criminal or an enemy of the accused persons, or a person who is pliable in the hands of those who want to have the accused punished, the Court will require very strong corroboration before convicting the accused person. If, however, the accomplice is a man of blameless part who for some reason has committed a crime, and he had no motive to falsely involve the accused person, the corroboration of a very high order may not be necessary provided it tends to connect the accused person with the crime.<sup>17</sup>

Sometimes the accomplice is not a willing participant in the offence but a victim of it. When accomplices act under a form of pressure which it would require some firmness to resist, reliance can be placed on their uncorroborated evidence.<sup>18</sup>

*Independent corroboration.* Accomplice is a person supposed to be directly or indirectly concerned in or privy to the offence.<sup>19</sup> For conviction of the accused on the evidence of an accomplice there must be independent corroboration in material particulars both with regard to the offence and the offender.<sup>20</sup> The corroborative evidence should be independent testimony emanating from source independent of approver because an approver has always been dubbed as a person of low character who lets down his friends and accomplices with an intention to secure his own liberty or perhaps to save his own life.<sup>1</sup> It is not required that there should be direct evidence

14. 1984 SCMR 479.
15. PLD 1967 SC 545=20 DLR SC 49+AIR 1960 Punj. 364 (DB)+PLD 1954 FC 335=1954 FCR 35=PLR 1955 Lah. 872=7 DLR (FC) 37+PLD 1956 Lah. 100=PLR 1956 Lah. 757 (DB). (Every statement of the accomplice need not be corroborated)+PLD 1954 Lah. 93 (DB)+AIR 1952 SC 54+AIR 1933 Lah. 294+AIR 1952 SC 159.
16. PLD 2002 Kar. 152=PLJ 2002 Cr.C. 275=NLR 2002 Cr. 449 (FB).
17. PLD 1956 Lah. 100=PLR 1956 Lah. 757 (DB).
18. AIR 1947 PC 135+AIR 1935 Bom. 230.
19. 1995 MLD 1663 (DB).
20. 1991 MLD 1540+1995 MLD 1663 (DB)+1984 P.Cr.L.J. 2119 (DB)+PLD 1981 Pesh. 161+1968 P.Cr.L.J. 1287=1968 SCMR 685+PLD 1954 F.C. 335=1954 FCR 35=PLR 1955 Lah. 872=7 DLR (F.C.) 37+PLD 1956 Lah. 100=PLR 1956 Lah. 757 (DB)+PLD 1957 Dacca 454=9 DLR 416 (DB).
1. 1984 P.Cr.L.J. 2119 (DB).

corroborate the evidence regarding commission of crime by the accused because it may not be right to accept that the independent corroboration should cover the whole of the prosecution story because accomplice evidence is sought for and used only when no direct evidence is otherwise available.<sup>2</sup> Independent corroboration need not cover the whole of the prosecution story or event all the material particulars. But at the same time it would not be safe to act upon such evidence merely because it is corroborated in minor particulars or incidental details.<sup>3</sup> While considering whether or not there is corroboration of the statement of an accomplice, what the Court has to see is not whether there is other evidence sufficient to connect the accused with the crime but only whether the statement of the accomplice while directly connects the accused with the crime is corroborated in such material particulars as to satisfy the Court that there was no risk in convicting the accused on the statement of the accomplice coupled with corroborative evidence, bearing in mind the maxim that it was better that hundred guilty persons should escape than one innocent person should suffer punishment which he did not merit.<sup>4</sup>

Corroboration by witnesses of doubtful veracity is not sufficient. Where the evidence of the prosecution witnesses who attempted to support the testimony of the approver, was found to be not convincing and in some respects interested, they being inimical to some of the accused, the testimony of the approver was not held to be corroborated by any reliable evidence.<sup>5</sup> The corroboration offered by the statement of two men who apparently knew something about the matter from the very beginning but refused to make any statement until the third day of the police investigation, must be regarded with suspicion.<sup>6</sup> Where material discrepancies occur between statements corroborating witnesses before Police and their depositions in Court, there is no independent corroboration.<sup>7</sup> Similarly evidence that a witness identified several accused when they committed an offence, but he never mentioned their names in the First Information Report is not sufficient corroboration.<sup>8</sup>

*Corroboration in material particulars.* The general rule is that the evidence of an accomplice should not be accepted unless there is adequate corroboration in material particulars not only in respect of the commission of the crime but also in respect of the participation of each of the accused in the commission of that crime.<sup>9</sup> The material circumstance needed to corroborate the accomplice evidence should suffice to make it probable that testimony of the accomplice was true and was safe to be relied upon. But it is not necessary that there should be independent confirmation of accomplice evidence in every material circumstance in the sense that the independent evidence in case, apart from the testimony of the accomplice, should in

2. 1993 MLD 1663 (DB).
3. AIR 1957 SC 637+ILR (1953) 9 All. 250 (DB).
4. PLD 1956 Lah. 100=PLR 1956 Lah. 757 (DB)+AIR 1952 SC 54.
5. 35 Cr.L.J. 583 (DB) (Lah).
6. AIR 1920 Lah. 487=23 Cr.L.J. 476 (DB).
7. 11 Cr.L.J. 580 (DB) (Lah).
8. AIR 1929 Nag. 222=30 Cr.L.J. 331.
9. PLD 1970 SC 166=22 DLR SC 106=1970 SCMR 307=1970 P.Cr.L.J. 553+PLD 1967 SC 345=20 DLR SC 49+PLD 1954 FC 335=7 DLR (FC) 37+AIR 1963 SC 599+AIR 1949 P.C. 257+AIR 1965 Cal. 598 (DB).

itself be sufficient to sustain conviction.<sup>10</sup> Material particulars must implicate the accused in order that corroboration may be such as is intended by Art.129.<sup>11</sup> There should be some evidence which would convince the Court that the statement of the approver against the accused was not false. Where looted property was recovered from the accused. It was held to be enough corroboration of the statement of the accomplice.<sup>12</sup>

Where rape was committed by several accused and the evidence of the revised woman is unreliable with reference to some of the accused, it is inadvisable to act on her evidence with respect to other accused unless it is corroborated by independent testimony either direct or circumstantial.<sup>13</sup>

If independent evidence produced in corroboration tends to show that the persons named by him were parties to the commission of the offence charged, the Court is entitled to accept his evidence even though there be no corroboration against the accomplice himself.<sup>14</sup>

Where the story told by an accomplice is not corroborated by other witnesses who tell a story of their own, the mere fact that the story of the other witnesses also suggests that the accused may be guilty would not be sufficient corroboration. Where the approver testified that the deceased was put to death by the accused and himself for the sake of ornaments, and a witness deposed that the accused was talking to the deceased on the evening on which he disappeared. It was held that deposition of witness did not amount to material corroboration of approver's statement.<sup>15</sup> Similarly where evidence against the accused person charged with murder consisted of only the testimony of an accomplice, the accused cannot be convicted merely on the ground that medical certificate was consistent with the accomplice's statement and that marks of blood were found on the spot pointed out by him as the place where the deceased fell.<sup>16</sup>

*Participation in crime, corroboration as to.* Independent evidence must not only make it safe to believe that the crime was committed but must in some way reasonably connect or tend to connect the accused with it by confirming in some material particular the testimony of the accomplice or complainant that the accused committed the crime.<sup>17</sup> Corroboration need not be by direct evidence that the accused committed the crime; it is sufficient if it is merely circumstantial evidence of his connection with the crime.<sup>18</sup>

The prosecution must prove that the approver had an accomplice and that accomplice was as a matter of fact, the accused person and no other. Approver's

10. 1993 MLD 1663 (DB).
11. AIR 1929 Lah. 680=30 Cr.L.J. 292 (DB).
12. PLD 1954 Lah. 201 (DB)+AIR 1924 Lah. 727+AIR 1923 Lah. 335.
13. AIR 1951 Trav-Co. 167=ILR 1951 Trav-Co. 164=52 Cr.L.J. 874 (DB).
14. PLD 1957 Dacca 454=9 DLR 416 (DB).
15. AIR 1925 Lah. 600=26 Cr.L.J. 1141 (DB).
16. 10 Cr.L.J. 567 (DB) (Mad).
17. AIR 1952 SC 54=1952 SCR 377+1947 Jaipur L.R. 259.
18. AIR 1965 Cal. 598 (DB).

evidence must be corroborated in material particulars so as to establish the accused's identity.<sup>19</sup> Only in exceptional cases proof on this point can be dispensed with.<sup>20</sup>

*Silence of accused does not corroborate evidence of accomplice.* Silence on the part of an accused person which is tantamount to an admission by 'conduct may amount to corroboration. But an accused admits nothing by exercising at his trial the right which the law gives him of electing not to deny the charge on oath. Silence of that kind affords no corroboration nor does an accused corroborate an accomplice merely by giving evidence which is not accepted and must therefore be regarded as false.<sup>1</sup>

*Confession of co-accused.* Confession by a co-accused alone does not justify conviction. It must be corroborated by important independent evidence particularly about identity of the accused.<sup>2</sup>

*Conspiracy.* Where the accused were charged with conspiracy to cheat, if a specific instance of cheating was proved beyond doubt against any of the accused, that would furnish the best corroboration of the offence of conspiracy because that conspiracy was the root and the specific instances were the fruit.<sup>3</sup>

**5. Corroboration of accomplice by accomplice.** The testimony of an accomplice, can in law be used to corroborate another accomplice though it ought not to be so used save in exceptional circumstances and for reasons disclosed. The tendency to include the innocent with the guilty is peculiarly prevalent in Pakistan and it is very difficult for the Court to guard against the danger. The only real safeguard against the risk of condemning the innocent with the guilty lies in insisting on independent evidence which in some measure implicates such accused.<sup>4</sup> Therefore for conviction of an accused on the statement of an accomplice, its corroboration must come from independent sources, and ordinarily the evidence of one accomplice who is himself unworthy of credit cannot be corroborated or confirmed or strengthened by the evidence of another accomplice who is equally unworthy of credit.<sup>5</sup> The corroboration of one piece of tainted evidence by another piece of tainted evidence can in no sense be called independent corroboration. Independent corroboration in its true sense means reliable evidence of another kind, that is, from a fresh source.<sup>6</sup>

19. 42 Pun. L.R. 67 (DB).
20. AIR 1925 Oudh 715=26 Cr.L.J. 1317 (DB).
1. AIR 1949 P.C. 172+AIR 1951 Pat. 84.
2. AIR 1919 Bom. 164 (DB)+AIR 1915 Lah. 116 (DB)+1911 Pun Re (Cr.) No. 15 (DB).
3. AIR 1957 SC 340=1957 Cr.L.J. 422+AIR 1944 Pat. 67 (DB).
4. PLD 1984 Lah. 48=NLR 1984 Cr. 98=KLR 1984 Cr. 141+AIR 1952 SC 159.
5. AIR 1919 Lah. 168 (DB)+AIR 1952 SC 54+AIR 1949 P.C. 257. (Court should be slow to depart from this rule of prudence)+AIR 1949 P.C. 172+AIR 1936 P.C. 242+AIR 1922 Nag. 17 (SB) (Mad) (The previous statements made by an accomplice are not such corroboration of evidence in Court as to satisfy the requirement of the law. The corroboration must be by means of untainted evidence).
6. AIR 1935 NUC (All.) 3520.

One view is that if one accomplice cannot corroborate another, neither can twenty accomplices corroborate one another.<sup>7</sup> In the case of evidence of several accomplices the Court must take evidence of each of the accomplices separately, and decide whether or not that evidence is satisfactory and should be acted upon without further corroboration. If evidence of each of the accomplices is unworthy of credit, the Court before convicting any of the accused must be satisfied that as against that accused person there is evidence independent of that of the accomplices which connects or tends to connect him with the crime.<sup>8</sup> The other view is that although the main evidence is that of accomplices yet their evidence can be used for the purpose of corroborating the evidence of the approver. When there is a large body of evidence against an accused even if that evidence is tainted evidence, it is sufficient to support the conviction of the accused.<sup>9</sup> Where it is established by extraneous evidence or matters appearing on the record that the accomplices are not acting in collusion with one another, the cumulative effect of the evidence of two or more of them may be sufficient to remove the prima facie presumption of the individual unworthiness of credit of their statements and a conviction may legitimately be recorded upon their statement alone, if the Court is convinced of their truth.<sup>10</sup>

*Corroboration by confession of accomplice.* Before there can be a conviction on the retracted confession of a co-accused, there must be corroboration in material particular. This corroboration comes from evidence which in itself is tainted, being not do, if corroboration comes from evidence which in itself is tainted, being evidence of an accomplice.<sup>11</sup> The degree of corroboration in respect of a retracted confession will depend on the circumstances of each case and no hard and fast rules can be laid down about it.<sup>12</sup> Where evidence on charge of murder consists of confession by one accused against another accused excepting himself, and evidence of approver is to the effect that he saw the deceased alive with the accused just before murder, neither the confession nor its corroboration should be acted upon.<sup>13</sup> Where there is a confession by several of the arrested persons. The fact that the name of a particular person is mentioned in more than one such confessions is not sufficient corroboration of the statement of the approver.<sup>14</sup>

7. I.L.R. (1950) 1 Cal. 462 (DB) (If the evidence of these witnesses requires corroboration then such evidence cannot corroborate the evidence of like witnesses which also requires corroboration by independent testimony).
8. AIR 1943 Pat. 146=22 Pat. 27=45 Cr.L.J. 494 (DB).
9. AIR 1935 Rang. 491=37 Cr.L.J. 280.
10. AIR 1923 Lah. 666. (If they had opportunities to consult, corroborative value would be much diminished, though one approver can corroborate another)+AIR 1943 Pat. 146 (DB)+AIR 1938 Rang. 177 (FB) (AIR 1931 Rang. 235 (SB) and AIR 1937 Rang. 209 (DB) *Overruled*).
11. PLD 1949 Bal. 6+PLD 1950 Dacca 50+PLD 1957 Lah. 956+12 Cr.L.J. 276=1911 Pun. Re. Cr. No. 5 (DB)+12 Cr.L.J. 597=1911 Pun. Re. Cr. No. 14 (DB)+AIR 1938 Lah. 252+AIR 1930 Lah. 667+AIR 1915 Lah. 116 (DB)+AIR 1944 Lah. 472 (DB). (Confession of co-accused is insufficient in itself to corroborate the evidence of the approver).
12. PLD 1957 Lah. 956.
13. 12 Cr.L.J. 562 (Mad).
14. AIR 1921 Lah. 215=23 Cr.L.J. 158.

6. **Corroboration by previous statement of accomplice.** Previous statement of an accomplice may amount to corroboration of his statement in trial Court.<sup>15</sup> But it is not independent corroboration required by the rule of practice,<sup>16</sup> or requirement of law.<sup>17</sup>

**Corroboration by confession of same accomplice.** Corroboration of an accomplice's statement in the Court must be found elsewhere and not in his confession for an accomplice like an approver does not corroborate himself. But his confession can certainly be referred to in order to show that the story related by him in the Court has in its material particulars been throughout consistent.<sup>18</sup>

7. **Corroboration regarding 'corpus delicti' and identity of accused.** The rule that testimony of an approver must be corroborated not only as to the crime, but also as to the identity of each accused person, and that the corroboration must proceed from an untainted source is not a technical rule, but is founded on long judicial experience.<sup>19</sup> Therefore a conviction ought not to be based on the testimony of the approver unless it is corroborated in material details not only with regard to the general story narrated by him, but also with regard to the corpus delicti and the identity of the accused. It is so even though his testimony does not suffer from inherent defects or improbabilities.<sup>20</sup> The accused was charged with abetting the prosecution witnesses for working a mine belonging to the government without licence. The witnesses themselves were in the position of accomplices and there was corroboration to prove the fact that the mine was in fact worked, it was held that the corroboration was not sufficient to convict the accused in the absence of such evidence as to implicate the accused.<sup>1</sup>

**Identity of accused.** Corroboration of approver's story requires careful investigation with regard to identity of the accused.<sup>2</sup> Evidence to corroborate the accomplice must be independent testimony which affects the accused by connecting or tending to connect him with the crime. It must be evidence which implicates him, that is, which confirms in some material particular not only the evidence that the crime has been committed but also that the accused committed it.<sup>3</sup> In other words an

15. AIR 1916 Lah. 32=1917 Pun. Re. (Cr.) No. 2=18 Cr.L.J. 29 (DB).
16. ILR 1958 Kcr. 420 (DB).
17. AIR 1936 Lah. 400 (DB)+AIR 1932 Lah. 73 (DB)+AIR 1928 Lah. 30 (DB)+AIR 1927 Lah. 10 (DB)+AIR 1937 Sind 221 (DB).
18. AIR 1951 Him Pra. 75=1952 Cr.L.J. 15.
19. PLD 1961 Dacca 798=13 DLR 197+12 Cr.L.J. 286 (SB)+AIR 1941 Lah. 82 (DB)+AIR 1937 Cal. 433 (SB)+AIR 1937 Sind 221 (DB)+AIR 1937 Sind 162 (DB)+AIR 1933 Lah. 294 (DB)+AIR 1932 Lah. 204 (DB)+AIR 1932 Lah. 73 (DB)+AIR 1932 Sind 100 (DB)+AIR 1928 Lah. 30 (DB). (Following AIR 1922 Lah. 1=23 Cr.L.J. 513)+AIR 1927 Lah. 10 (DB). (Confirmation of circumstances of felony not enough—it must connect accused with crime)+AIR 1917 Lah. 317 (DB).
20. AIR 1958 Andh Pra. 255=1958 Cr.L.J. 596 (DB).
1. 1953 AMLJ 96.
2. AIR 1930 Cal. 430=31 Cr.L.J. 1115 (DB).
3. PLD 1954 Cal. 256+PLD 1961 Dacca 798=13 DLR 197+AIR 1952 SC 54+(1916) 2 KB 658=86 L.J.K.B. 28+48 Cr.L.J. 651 (DB) (Lah) (Corroboration need not by itself be sufficient to establish the commission of the crime by the accused. It should, however be of a nature

approver's evidence must be corroborated in material particulars so as to establish the accused's identity.<sup>4</sup> Where the evidence of an approver and some of the confessing accused shows that the share of each accused was a particular amount in money coins in a dacoity case and practically all the accused either produced or accounted for that particular sum, then the cumulative effect of this evidence must have weight in deciding whether the story of approver and his confession is true or not. But in the case of each accused the corroborative evidence must be such as serves to identify the accused with the offence.<sup>5</sup>

**Confession of co-accused.** The confession of a co-accused alone does not justify conviction of the accused. It must be corroborated by important independent evidence particular about identity of the accused.<sup>6</sup> Where evidence of an approver is principally on the question of conspiracy and where that evidence is sought to be corroborated by evidence of the confessing accused, it would not justify conviction of the co-accused.<sup>7</sup>

**More than one accused.** Where there is more than one accused, there must be corroboration against each of the accused showing his connection with the offence alleged against him.<sup>8</sup> But the rule has its exceptions; the rule which requires corroboration of the evidence of an accomplice as against each accused, if it applies at all, applies with very little force to a case in which the accused is charged with extorting a bribe.<sup>9</sup>

**Gambling cases.** In gambling cases evidence of approvers or accomplices must be so corroborated that the Court is satisfied about the truth regarding both the *factum* of the crime and the identity of the accused. The *quantum* of evidence and the question whether it provides sufficient corroboration for the evidence of the approver depend upon the circumstances of each case.<sup>10</sup>

8. **Corroboration as to details.** Independent corroboration of approver's evidence should be in material particulars. It need not cover the whole of the prosecution story or even all the material particulars. But at the same time it would not be safe to act upon such evidence merely because it is corroborated in minor particulars or incidental details.<sup>11</sup> Independent corroboration does not mean that every detail of what the witnesses of the raiding party have said must be corroborated by independent witnesses. Even in respect of the evidence of an accomplice all that is required is that there must be some additional evidence, rendering it probable that the

- which confirms not only that the crime has been committed, but also that the accused committed it)+AIR 1932 Sind 100+AIR 1931 Cal. 697 (SB)+AIR 1929 Lah. 680 (DB)+12 Cr.L.J. 605=1911 Pun Re. (Cr.) No. 15 (DB)+42 Pun. LR 67 (DB)+AIR 1915 Lah. 116 (DB).
4. AIR 1931 Lah. 406+AIR 1939 Lah. 429=40 Cr.L.J. 897 (DB).
  5. AIR 1932 Bom. 286=33 Cr.L.J. 396 (DB).
  6. 1911 Pun. Re. (Cr.) No. 15 (DB)+AIR 1929 Mad. 285+AIR 1926 Rang. 127.
  7. AIR 1928 Cal. 745=30 Cr.L.J. 586 (DB).
  8. PLD 1954 Lah. 201=PLR 1954 Lah. 93 (DB)+PLD 1961 Lah. 22 (DB)+1948 Bur. LR (HC) 217 (SB)+AIR 1932 Lah. 180+AIR 1932 Sind 100 (DB)+AIR 1916 Lah. 339 (DB).
  9. AIR 1935 Bom. 230=36 Cr.L.J. 968 (DB).
  10. AIR 1938 Sind 228=40 Cr.L.J. 271 (DB).
  11. AIR 1957 SC 637=1957 SCR 953=ILR 1957 Punj. 1602.



story of the accomplice is true and that it is reasonably safe to act upon it. Corroboration need not be by direct evidence that the accused committed the crime. It is sufficient even though it is merely circumstantial evidence of his connection with the crime.<sup>12</sup> The evidence of approver may not cover each and every detail and in case of any discrepancy, the minor discrepancies may not make the entire testimony of the approver unreliable.<sup>13</sup> The reason why it is not necessary that the story of the accomplice should be corroborated in every detail of the crime is that if it were so, the evidence of the accomplice would be susceptible to an explanation necessary that such an evidence should invariably be susceptible to an explanation inconsistent with the innocence of the accused. If such evidence taken alone with the approver's evidence shows or tends to show to the satisfaction of the Court that the part assigned to the accused by the approver is true, then the Court will be justified in acting upon it and make the approver's statement basis for conviction of such person. It is a well-settled law that it is wholly unnecessary for the prosecution to produce evidence to confirm all the particulars disclosed by the approver. If a single particular corroborates the approver's statement to such an extent that it convinces the Court that the accused person is guilty of an offence, then the Court will be well within its legal orbit to act upon it.<sup>15</sup>

**Corroboration as to truth of story.** Corroboration need not be in all details. Corroboration in some material particulars satisfying Court of the truth of the accomplice's story implicating the accused in the crime is sufficient. Evidence in corroboration may be circumstantial but it must be independent.<sup>16</sup>

**Corroboration as to guilt of accused.** The evidence of an approver need not be corroborated in every detail of the crime; and corroboration need not be by direct evidence. The corroborative evidence need not be by itself sufficient for conviction. All that is necessary is that the story of the approver should be corroborated in some particulars showing, or tending to show, that the accused was concerned in the commission of the crime.<sup>17</sup> If independent evidence produced in corroboration tends to show that the persons named by him were parties to the commission of the offence, the Court is entitled to accept his evidence even though there be no corroboration against the accomplice himself.<sup>18</sup>

12. PLD 1970 SC 166+1968 P.Cr.L.J. 1720 (SC)+PLD 1956 Lah. 100=PLR 1956 Lah. 757 (DB)+AIR 1958 SC 500+AIR 1935 Lah. 125=15 Lah. 673.
13. PLD 2002 Kar. 152=PLJ 2002 Cr.C. 275=NLR 2002 Cr. 449 (FB).
14. PLD 1954 FC 335=1954 FCR 35=PLR 1955 Lah. 872=7 DLR (FC) 37+PLD 1950 Lah. 115=PLR 1950 Lah. 148 (DB)+AIR 1941 Lah. 82+AIR 1938 Lah. 339 (DB). (Corroborative evidence need not connect accused in every detail with particular crime)+AIR 1933 Lah. 294=35 Cr.L.J. 641 (DB)+AIR 1933 Pat. 112+AIR 1927 Lah. 581=28 Cr.L.J. 625 (SB). (Enough if some relevant and material period of accomplice's story is corroborated).
15. PLD 1957 Pesh. 75 (DB).
16. 1988 P.Cr.L.J. 1543 (DB)+AIR 1938 Lah. 339=39 Cr.L.J. 621 (DB)+AIR 1929 Lah. 850=31 Cr.L.J. 517 (DB)+AIR 1927 Lah. 581=28 Cr.L.J. 625 (SB).
17. PLD 1950 Lah. 115=PLR 1950 Lah. 148 (DB)+PLD 1957 Lah. 1023=PLR 1958 Lah. 1189 (DB)+48 Cr.L.J. 651 (DB) (Lah).
18. PLD 1957 Dacca 454=9 DLR 416 (DB).

9. **Corroboration by circumstantial evidence.** The corroboration of the evidence of an accomplice need not be by direct evidence that the accused committed the crime.<sup>19</sup> It is not necessary that the evidence corroborating the story of an accomplice or an approver should be evidence which directly connects the accused with the offence; but there must be some evidence which tends to show that the story of the approver or accomplice is true in so far it relates to the accused.<sup>20</sup> Where the accomplice of a Police Sub-Inspector stated that the Sub-Inspector had accepted a bribe to hush up a murder case. The brothers of the murderer were found to have borrowed Rs. 140 on a pronote the very next day of the murder. The Police Sub-Inspector had admitted to his subordinate that he had been approached by certain persons and was asked to hush up the murder case about which he had heard rumours. The subordinate subsequently reported the murder case to the higher authorities. It was held that the statement of accomplice about the acceptance of the bribe being circumstantially corroborated, the offence was proved.<sup>1</sup> Similarly where it was proved that (1) the accused had a motive to do away with the deceased, (2) he was the last person seen in the company of the deceased a short time before he met his death, (3) he was seen walking close to the place of occurrence shortly after the deceased was killed, (4) he had information where the *gandasi* used in the assault on the deceased had been concealed after the offence. There was ample corroboration in material particulars of the evidence of the accomplice who gave detailed evidence implicating the accused.<sup>2</sup> But merely having been seen with approver a few days before a dacoity,<sup>3</sup> or the mere production by approver of a spear and a *dag* from a field and his statement that the spear was used by the accused is not corroboration of the approver's story. Similarly the fact that the accused was stained with human blood does not corroborate the approver's story.<sup>4</sup> The discovery of minute spots of blood on an accused's shirt cannot be regarded as any material corroboration of the approver's story that the accused took part in a murder; nor is the mere fact that there was sufficient evidence to prove motive.<sup>5</sup>

Evidence of mere presence of the accused with a person who afterwards was murdered is no corroboration of approver's evidence so as to justify conviction.<sup>6</sup> In a charge of bribery against a Judge the proof of the fact that the money was borrowed shortly before the alleged payment by the man, who is alleged to have paid the bribe, is no corroboration of the evidence of an accomplice as to payment.<sup>7</sup>

**Hearsay evidence.** Hearsay evidence of any statement by an accomplice cannot be produced against an accused person, but such statement made in the absence of an

19. AIR 1952 SC 54+AIR 1932 Sind 100=33 Cr.L.J. 324+AIR 1938 Sah. 339 (DB)+AIR 1929 Lah. 850 (DB)+AIR 1927 Lah. 581 (DB).
20. AIR 1933 Bom. 482=35 Cr.L.J. 317 (DB).
1. AIR 1941 Lah. 82=42 Cr.L.J. 497.
2. 1947 Jaipur LR 259 (DB).
3. AIR 1924 Lah. 727=25 Cr.L.J. 1347.
4. AIR 1927 Lah. 78=28 Cr.L.J. 193.
5. AIR 1925 Lah. 526=26 Cr.L.J. 875 (DB).
6. 1929 Mad. W.N. 698 (DB).
7. 12 Cr.L.J. 150 (SB) (Mad).

