OPINIONS OF THIRD PERSONS, WHEN RELEVANT

59. *Opinions of experts.* When the Court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in question as to identity of handwriting or finger impressions are relevant facts.

Such persons are called experts.

Illustrations

(*a*) The question is, whether the death of *A* was caused by poison.

The opinion of experts as to the symptoms produced by the poison by which *A* is supposed to have died are relevant.

(*b*) The question is, whether *A*, at the time of doing a certain act, was by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.

The opinions of experts upon the question whether the symptoms exhibited by *A* commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.

(*c*) The question is, whether a certain document was written by *A*. Another document is produced which is proved or admitted to have been written by *A*.

The opinions of experts on the question whether the two documents were written by the same person or by different persons, are relevant.

Electronic Transactions Ordinance, 2002. For the purposes of this Ord.

(*a*) after the word "impressions" the comma and the words, "or as to authenticity and integrity of electronic documents made by or through an information system" shall be inserted; and

(*b*) for the words "are relevant facts" the words and commas "or as to the functioning, specifications, programming and operations of information systems, are relevant facts" shall be substituted.

Ord. 51 of 2002, S. 29 and Sch. item 4

Evidence Act, 1872. This Article is exact reproduction of S. 45 of Evidence Act.

Synopsis

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1. Scope. The evidence of experts can only be admitted where Qanun-e-Shahadat allows such admission, and not otherwise. Thus the evidence of a Sub-Inspector that particular words used in a slip were code-words for particular figures, cannot be received under Art. 59 as the Court is not in such a case called upon to form an opinion on the point of foreign law, science, art or as to identity of handwriting.[13] Similarly in copyright cases, it is not permissible to admit as evidence the opinion of literary gentlemen, that the defendant did copy from the plaintiff's book, as this was not a matter for expert testimony at all.[14]

Execution of documents--proof of. Execution of document may be proved by scribe of the document as also by marginal witness. Production of Handwriting Expert is not a legal requirement.[15]

Tracker dogs. A dog may be of assistance to the police in tracing a criminal by his smell, but the behaviour of such dog cannot be evidence in the case. There is no provision under which such evidence is admissible.[16]

2. Opinion of experts. Opinion is an inference or conclusion drawn by a witness from facts. It is what one thinks of something as distinguished from what he knows about it. Opinion is a notion or conviction founded on probable evidence. It is an inference drawn from observed facts. It is one's notion, idea or views about something. Opinion is what one thinks about a particular thing, subject or point. It is an estimation which is not susceptible of exact knowledge. As a general rule, the opinion of a witness is irrelevant and is inadmissible in evidence. A witness can only state the facts which he has seen, heard or perceived and not about the conclusion which he has drawn on observing or perceiving these facts. To this general rule, however, there are some important exceptions which allow admission of opinion in evidence and these exceptions are now statutorily recognized and stand enacted in a set of Articles from 59 to 65 of the Qanun-e-Shahadat Order.[17]

13. AIR 1954 Madh-B 145=1954 Cr. L.J. 1347 (DB).
14. AIR 1933 PC 26.
15. 1991 MLD 1037.
16. AIR 1940 Pesh. 47=42 Cr. L.J. 259.
17. PLD 1992 Lah. 314.

Article 59 makes opinion of an expert relevant and so parties are entitled to examine an expert in proof of their respective contentions.[18] The term "expert" has a special significance and no witness is permitted to express his opinion unless he is an "expert within the terms of Art. 59 or in special cases is permitted to express such opinion by some special law.[19] An expert is a person who has special knowledge and skill in particular calling to which enquiry relates.[20] The opinion of an expert who has not received any training in any school or college but has gained knowledge in the course of his service is of no value.[1] Experienced architects and municipal land surveyors cannot be regarded as valuators or experts merely because in course of their business or duty they have had an occasion to value some property here and there.[2] A customs Appraiser is not an expert for determining the question whether a particular article constitutes gold, and a bald statement of such 'Appraiser' that what he examined was gold would not be sufficient evidence to prove that the article was gold.[3]

In every case it is for the court to decide the question as to whether a particular person is capable of giving evidence as an expert and he should be permitted to do so.[4] It cannot be suggested that because a certain expert's evidence was accepted by a Court in one case, it must be accepted in every other case. The earlier case must be taken to have been decided on its own facts.[5]

An expert witness may depose as to facts and also express his opinion based on those facts, if he is sufficiently qualified by experience to express such opinions.[6] Where an officer has compiled his work under order of Government and he has expressed his opinion after some investigation, the opinion, being result of his intimate knowledge after investigation on the subject, is certainly entitled to weight.[7] Opinion of a medical witness as to the cause of death or the nature of weapons used and other similar matters would be relevant under this Article.[8] Where police officer noticed that there was sameness in *modus operandi* in house-breakings and came to the conclusion that it must have been the work of a gang; it was held that their opinion as to existence of a gang was relevant, as from their experience, police officers are able to diagnose the nature of crime just as a doctor is able to diagnose a disease. So their belief that a gang was operating is entitled to respect.[9]

Proof of expert evidence. Where the person who was produced in Court had neither examined document in question, nor he was author of report relating to the

18. AIR 1958 AP 254.
19. AIR 1930 All. 587 (DB).
20. PLD 1984 Quetta 11=NLR 1984 Rev. 150 (DB)+1980 P. Cr. L.J. 186.
1. 1983 CLC 657.
2. AIR 1938 Sind 225+4 Oudh Cas 247.
3. PLD 1982 Kar. 352=PLJ 1982 Cr.C. 83=KLR 1982 Cr.C. 182.
4. 1980 P. Cr. L.J. 186.
5. AIR 1949 Nag. 66=ILR 1948 Nag. 711=50 Cr. L.J. 181.
6. 39 Cal. 245.
7. ILR 1954 Trav-Co. 1075 (DB).
8. PLD 1957 Lah. 669=9 DLR (WP) Lah. 37 (DB).
9. AIR 1937 Nag. 17=38 Cr. L.J. 237 (FB).

same. Report of expert did not stand proved in accordance with law.[10] In default of clear objection taken at the appropriate time, defendant is precluded from objecting to the mode of proof regarding admission of the opinion of expert or his examination on commission.[11] Where opinion of finger-print expert was taken on file by Trial Court without any objection having been raised about its mode of proof. Neither in lower Appellate Court nor in grounds of revision objection about improper admission of opinion of finger-print expert in evidence was taken. Defendant in default of clear objection at appropriate time was precluded from objecting to mode of proof regarding admission of opinion of expert or his examination on commission in revision.[12]

Investigating Officer. Although it would be inappropriate and not even possible to lay down any hard and fast rule on the question, yet generally speaking an Investigating Officer is not an expert as envisaged by the above-mentioned relevant provisions of law. Therefore, statement of an Investigating Officer that according to his investigation, a particular person was innocent or guilty, as the case may be, is an expression of opinion which expression or statement is irrelevant and inadmissible in evidence. Of course, there may be some exceptions to this rule and it would always be open to the Investigating Officer to demonstrate that some particular matter in a particular investigation required special skill, education or experience and that he was a person who was possessed of such scientific, technical or other specialised knowledge and was thus qualified to be acknowledge as an expert as provided by law. In such a case, of course the Investigating Officer could be treated as an expert and his opinion in such a situation could fall within the ambit of the relevant provisions of Qanun-e-Shahadat and could be brought on record as legal evidence.[13]

Photographer. Opinions and conclusions of a skilled person on proved facts are receivable in evidence, provided the witness has made special study of the subject or acquired special experience therein.[14] Even where the witness did not possess any technical qualification inasmuch as he had neither obtained a degree nor a diploma in photography, his experience for over 25 years in photography was sufficient enough to call him as an expert.[15]

Jeweller. Opinion of an experienced jeweller *qua* precious stones, was admissible in evidence when his experience in the field was not challenged in cross-examination.[16]

Excise Inspector. A certificate issued by an Excise Sub-Inspector cannot by any stretch of imagination by called an opinion of an expert.[17] Charas and opium recovered from accused were not sent to Chemical Analyst in accordance with law

10. PLJ 2003 Lah. 730=2003 CLC 1500=2003 YLR 889.
11. 1992 CLC 204=PLJ 1992 Lah. 151.
12. 1992 CLC 1801.
13. PLD 1992 Lah. 314.
14. AIR 1931 PC 189 (Question of photographic perspective).
15. AIR 1958 Mys. 150=ILR 1957 Mys. 177=1958 Cr. L.J. 1489.
16. 1980 P. Cr. L.J. 186.
17. 1992 P. Cr. L.J. 1985=PLJ 1992 Cr.C. 448=NLR 1993 Cr. 314.

for determination as to whether it was charas and opium or not. An Excise Inspector deposed that the goods recovered were charas and opium. It was held that an Excise Inspector cannot be treated as an expert witness and the charas and opium recovered from the accused were not proved to be charas and opium.[18]

Car mechanics. In a car accident mechanics or workshop owner may be called as experts to determine damage done to a car.[19]

Negligent driving, expert evidence as to. In a suit under Fatal Accidents Act involving determination of issue whether death was due to rash and negligent driving by defendant's driver, assessment by defendant's witness that defendant's driver was not rash and negligent was of no value.[20]

Nautical assessors. The function of nautical assessors is to advise the Court upon nautical matters and their advice is expert evidence, admissible in Admiralty Courts, on all issues of fact about seamanship.[1]

Opinions of living authors. Opinion of living author should not be cited in legal proceedings.[2]

Reasons for opinion. Expert opinion is relevant if it is accompanied and supported by reason so that Court although not an expert may be enable to form its own judgment on that material.[3] Therefore Court should take pains to have the expert explain in Court the reasons for his opinion.[4] The Court may rely on the opinion of an expert where scrutiny of the certificates in question shows that the samples were subjected to physical examination and testing, including crushing and mixing and upon such a physical examination, it was stated as a fact that the sample contained a stated percentage of castor-seed husk.[5]

Interpretation of documents. Generally speaking, it is not permissible to call a witness to explain to the Court what a document means unless such witness is an expert under the Qanun-e-Shahadat. It is for the Court to ascertain what the document means.[6]

Evidence of expert cannot be transferred from file of other case. The opinion which is admissible against an accused is the opinion given by an expert at the trial. Evidence given for the purposes of a civil suit is not admissible against the accused in a criminal case although he was a party to the civil suit.[7]

18. 1990 P. Cr. L.J. 1141.
19. PLD 1973 Lah. 8 (DB).
20. NLR 1987 CLJ 12=PLD 1986 Kar. 489.
1. AIR 1959 SC 597.
2. PLD 1976 SC 713=PLJ 1977 SC 64.
3. PLD 1984 SC (A J & K) 29=NLR 1984 Cr. L.J. 202.
4. AIR 1941 Mad. 551+1957 Cr. L.J. 108 (All). (It is sufficient if the expert gives his reasons briefly).
5. PLJ 1978 Kar. 429 (DB).
6. AIR 1939 Bom. 339=40 Cr. L.J. 891 (DB).
7. AIR 1928 Lah. 921=29 Cr. L.J. 778.

3. Foreign law. What the foreign law on a particular point is, is a question of fact and has to be proved by the parties setting it up.[8] As the Courts of a country are not supposed to be conversant with foreign law, opinions of experts on foreign law are allowed to be admitted.[9] Foreign law can be proved by producing a book purporting to be printed or published under the authority of the Government of the country concerned containing a statement of the relevant law.[10] Where however foreign law has been elaborately laid down in a Code, the Court should interpret the law and should not call experts on foreign law to give their views.[11]

Who may be called as an expert. Even a person who is not a lawyer but has expert knowledge of a foreign law may be called as an expert to clarify points of such law. Where a Manager of a bank was produced as an expert on foreign law, it was objected that the witness not being a professional lawyer was not a competent expert on a matter which involved a question of law. It was held; that a person who, though not a lawyer, had become conversant with a point of foreign law by carrying on business which made it his interest to take cognizance of the point, was a competent witness on that point.[12] But in a Karachi case it has been held that a legal adviser on foreign law of a company who has not practised law is not a competent expert within the meaning of this Article.[13]

Jewish law. No foreign law such as Jewish law becomes part of the law of Pakistan merely by the circumstance that it is to be applied by the Courts in Pakistan. Consequently under Art. 59 expert evidence is admissible on such foreign law.[14]

4. Hindu law. Hindu law on marriage is the law of the land and it is the duty of the Courts themselves to interpret the law and apply it and not to depend on the opinion of the witnesses howsoever learned they may be.[15] But the opinions given by learned witnesses may still be cited from old law reports.[16] Where a marriage is challenged on the ground of non-observance of certain rites, the Court is not bound to accept the opinion of the religious expert, but should determine the point on the basis of its interpretation of law. No special knowledge is involved in such a case.[17]

5. Muslim law. Muslim Law is not a foreign law therefore no expert evidence can be lead on it or on its application to different sects or schools of law.[18]

6. Experts on science or art. Under Art. 59 opinion of an expert is relevant where a question of science or art is involved.[19] The words "science or art" are to be

8. AIR 1926 Mad. 218.
9. PLD 1993 SC 88+PLD 1952 Sind 54=PLR 1951 Sind 50+AIR 1940 PC 116.
10. PLD 1993 SC 88.
11. AIR 1930 Mad. 146 (DB).
12. PLD 1956 Privy Council 34.
13. PLD 1968 Kar. 276.
14. AIR 1946 Cal. 90.
15. AIR 1948 Lah. 126=ILR 1947 Lah. 621 (SB).
16. AIR 1940 PC 116.
17. AIR 1934 All. 273.
18. AIR 1925 All. 720.
19. AIR 1946 Nag. 331=ILR 1946 Nag. 946=47 Cr. L.J. 918.

broadly construed, the term "science" not being limited to the higher sciences and the term "art " not being limited to the fine arts but having its original sense of handicraft, trade, profession and skill in work, which, with the advance of culture, has been carried beyond the sphere of the common pursuits of life into that of "artistic" and "scientific". To determine whether a particular question is of a scientific nature or not, the test to be applied is, "is the subject-matter of inquiry such that inexperienced persons are unlikely to prove capable of forming a correct judgment upon it without the assistance of experts? Does it so far partake of the character of a science or art as to require a course of previous habit or study in order to obtain a competent knowledge of its nature, or is it one which does not require such habit or study.[20] If the answer is in the affirmative expert evidence on the point is relevant.

The word "science" has been defined in the Universal Dictionary of English language as great proficiency, dexterity, skill based on long experience and practice.[1] Telephony is a science and evidence tendered by witnesses having diplomas and experience in telephone and engineering is admissible as expert evidence.[2]

Expert on law. There can be no doubt whatever that evidence of the opinion of a witness, as an expert, on any branch of law, was wholly irrelevant, except when the question was about a point of foreign law.[3]

Customs. The study of customs and manners of tribes and castes, the areas occupied by them and other connected matters come within the meaning of "science or art" and persons who have made a special and systematic study of them are experts whose opinions expressed in books are admissible under this article.[4]

Trade mark. Opinions of experts, as to whether goods of a particular firm bearing particular trade marks alleged to be an imitation would be likely to deceive the ultimate purchaser to buy the imitation goods in place of the genuine ones, are inadmissible under Art. 59 as they do not relate to any question of science or art. It is for the Court to decide whether the marks complained of are likely to deceive the public.[5]

Gambling. Gambling is neither an art nor a science within the meaning of Art.59.[6]

Excise cases. Reliance cannot be placed on certificate of Excise officer that material recovered from possession of accused was charas.[7] An Excise Inspector cannot be treated as an expert witness about liquor, *lahan,* etc. His testimony in absence of report of Chemical Examiner would not be sufficient to prove that articles

20. AIR 1948 Nag. 287=ILR 1947 Nag. 781.
1. AIR 1959 Pat. 534 (DB) (Include footprint expert).
2. AIR 1939 Sind 245.
3. 1976 P. Cr. L.J. 1212.
4. AIR 1948 Nag. 287=ILR 1947 Nag 781.
5. AIR 1917 Sind. 86.
6. AIR 1937 Bom. 385 (DB)+AIR 1939 Bom. 339 (DB)+AIR 1955 NUC (Madh-B) 3005.
7. PLJ 1981 Cr.C. 294+1976 P. Cr. L.J. 643.

recovered from accused were liquor, *lahan*, etc. However, if such departmental official is a trained expert witness under Article 59 he should not associate himself with investigation, otherwise accused would not have same amount of confidence in him as in any other independent expert witness.[8] Where liquid seized from possession of accused was not sent for examination to an expert to ascertain whether the same was wine as alleged. Mere reliance on opinion of Investigating Officer as to the liquid seized being wine, was in disregard of Art. 59 and was contrary to Law.[9]

Obscenity in art. The question as to whether a book or object is obscene or not depends on the law of the land. Therefore in a prosecution under section 292, P.P.C. the question whether the book is obscene or not does not altogether depend on oral evidence of a writer and art critic, because the offending novel and the portions which are the subject of the charge must be judged by the Court, in the light of section 292, P.P.C.[10]

7. Necessity of expert evidence. Evidence of the experts or the expert opinion is necessary when occurrence is not witnessed by eye-witnesses and case entirely depends upon circumstantial evidence.[11] A party to litigation is not bound to refer disputed document to opinion of handwriting expert. Although no duty is cast upon any party to move the Court to refer the document in question to handwriting expert, yet at times it might be advisable. But no adverse presumption, however, can be attributed to a party not applying for referring the disputed document to opinion of handwriting expert.[12] Therefore, where none of the contesting parties had moved Trial Court for referring the document in question to Handwriting Expert, remand of case to Trial Court for the said purpose was not legal.[13]

The opinion of experts is only admissible to aid the Court to come to its own decision. The primary responsibility is that of the Court. The Court can call for the opinions of experts if it feels necessary.[14] Opinion of handwriting expert if produced, may be taken into consideration by the Court but such opinion would not be binding on the Court.[15] In the case of conflicting evidence about the genuineness of a particular signature, it is necessary to examine the admitted facts and circumstances as furnishing the safest guide to a correct solution.[16] When direct evidence is led and accepted, it is hardly necessary to consider expert opinion, though direct evidence can be appreciated in the light of expert opinion.[17]

Civil cases. The question whether an expert has got to be examined or not depends upon the will of the parties and in case they do not seek an expert, the Court

8. NLR 1985 SD 27=PLJ 1985 FSC 30=1985 P. Cr. L.J. 8+PLD 1981 Kar. 195.
9. 1982 P. Cr. L.J. 840=PLJ 1981 Cr.C. 564.
10. AIR 1965 SC 881.
11. 2003 YLR 2958 (Sh.C. AJ&K).
12. 1991 MLD 1070.
13. 1991 CLC 417=NLR 1991 Civ. 329.
14. PLD 1966 Dacca 523.
15. 1991 MLD 1070.
16. 38 Cal. 805 (PC).
17. AIR 1952 Kutch 4.

cannot force one upon them.[18] Where the disputed signature or thumb-mark does not appear to be similar to the one not in dispute there is no bar to the Court comparing disputed writings with admitted ones itself; only it should always do so in the presence of and with the assistance of lawyers appearing in the case.[19] The Court may also direct the party placing reliance on the signature or thumb-mark to prove its genuineness by examining an expert; and in other cases where the signature or thumb-mark does not appear to be forged, it is the duty of the party who wants the Court to give a finding to the contrary to prove his case by leading clear evidence including that of an expert.[20]

Criminal cases. In criminal cases it is usually desirable to obtain the opinion of an expert or better still the evidence of persons who can speak to the signature having been written in their presence.[1] It is always unsafe to hold that a document is a forgery on the personal inspection of the document by the Court.[2] Therefore where it is clear to the Magistrate that the examination of handwriting expert in a case is absolutely necessary, it is his bounden duty, even without any suggestion emanating from prosecution, to summon such a witness under section 540, and there is no stage in the trial of the case which can be considered by him too late for taking that action, and the only safeguards necessary in that case would be a re-examination of the accused with reference to the new evidence and affording him an opportunity to give such further evidence in rebuttal as he likes.[3]

Translation. A court cannot depart from the official translation of documents except upon expert evidence, which parties should have an opportunity of testing.[4]

8. Value of expert evidence. The evidence of expert witnesses is only a piece of evidence which has to be examined and appraised like any other evidence that might be adduced in the case.[5] It is generally of assistance to Court though it has also its limitations.[6] It is clear from the Article that it is the Court which has to form an opinion and for that matter it may use the opinion of the expert to come to a finding, but, no finality is attached to the opinion of the expert and the Court can brush it aside.[7] The statement of an expert stands on precisely the same footing as that of any witness and may or may not be accepted by Court. Ordinarily, the Court will be slow to reject the opinion of a witness who is an expert in the matter he deposes about, but

18. AIR 1935 Pat. 482.
19. PLD 1966 Dacca 444=17 DLR 607 (DB)+AIR 1965 Pat. 332 (DB).
20. AIR 1956 Bhopal 6.
1. AIR 1937 Pat. 149=38 Cr. L.J. 136.
2. AIR 1924 Pat. 284+AIR 1924 Cal. 611=26 Cr. L.J. 71 (DB).
3. AIR 1952 Him Pra 46=1952 Cr. L.J. 1128.
4. AIR 1946 PC 185=73 Ind App 264=ILR 1947 Kar. (PC) 15.
5. 1991 P. Cr. L.J. 2049.
6. AIR 1942 Bom. 105 (DB).
7. 1983 CLC 657+1976 DLR 123 (DB)+PLD 1966 Dacca 444=17 DLR 607 (DB).

that is not to be understood to mean that the word of an expert is like law to the Court called upon to deal with his evidence as a witness.[8]

Expert evidence is a weak type of evidence. Much reliance cannot be placed on such evidence unless supported by material on record,[9] or is supported by or coincides with other evidence, since the expert is liable to err.[10] Thus the statement of a doctor unsupported by any other reliable evidence is of no value.[11] Where the medical evidence and the evidence of other witnesses in the case differed as to the time of death of a person, Court on considering all the facts disagreed with the medical evidence on that point.[12]

Expert evidence should be carefully examined by Court. A Court must not take an expert's opinion for granted, but must examine his evidence in order to satisfy itself that there can be no mistake, and the responsibility is greater when there is no other evidence to corroborate it.[13] Another reason for being careful is that an expert is usually biased, which in some cases may be entirely unintentional, in favour of the party whose case the expert has come to Court, to support.[14] Therefore if an expert sticks dogmatically to his opinion, he is liable to be disbelieved. An expert is entitled to more credit if, when cogent reasons are put forth before them in his cross-examination, he revises his own opinion.[15] But it is unfair to treat him as being on the same footing as those persons who may be said to make a profession of giving evidence.[16]

Corroborative value of expert evidence. An expert's evidence is only a piece of evidence. A judge of fact will have to consider that evidence along with the other pieces of evidence. Which is the main evidence and which is the corroborative one depends upon the facts of each case.[17] There is nothing in Qanun-e-Shahadat to require the evidence given by an expert in any particular case to be corroborated before it could be acted upon as sufficient proof of what the expert stated. Of course the question as to how much reliance a Court would be entitled to place on statements of any particular witness in any particular case must necessarily depend on facts and circumstances of that particular case. Court should satisfy itself as to the value of evidence of the expert in the same way as it must satisfy itself of the value of other evidence.[18]

8. PLD 1957 Lah. 109+PLR 1950 Lah. 822. (It is admitted in evidence only to help the Court in arriving at a correct decision)+AIR 1942 Cal. 239 (DB) (Expert's testimony may be discarded if there are good grounds for doing so).
9. 2001 YLR 2145+PLD 1984 Quetta 11=NLR 1984 Rev. 150 (DB)+PLD 1977 Lah. 606.
10. AIR 1938 Sind 225.
11. PLD 1951 BJ 7+32 Cr. L.J. 1931+AIR 1962 Cal. 504 (DB).
12. PLD 1969 Kar. 33 (DB).
13. AIR 1931 Cal. 441=32 Cr. L.J. 1001 (DB).
14. PLD 1962 Lah. 558.
15. AIR 1958 Cal. 264 (DB).
16. AIR 1940 Lah. 505 (DB).
17. AIR 1954 Andhra 39+159 Ind Cas 82 (DB) (Rang).
18. AIR 1945 Sind 4=46 Cr. L.J. 490 (DB).

Expert evidence is entirely in nature of confirmatory or explanatory of direct or other circumstantial evidence and is not of much significance in presence of direct and creditworthy evidence.[19] Generally it is useful for ascertaining whether direct evidence is true or not.[20] Where the evidence is merely opinion evidence and not factual in nature, it cannot be used even as corroborative evidence.[1] Medical evidence is hardly conclusive and decisive, because it is primarily an evidence of opinion and not of fact. The Court has to consider not merely medical evidence but also other evidence and circumstances appearing on the point.[2]

Conviction cannot be based on expert evidence. It will not be sane to base conviction on uncorroborated testimony of a handwriting expert.[3]

Competency and skill of expert. The value of expert evidence rests on the skill of the expert and the extent of his competency in forming a reliable opinion.[4] It must be remembered that expert evidence is nearly always a weak type of evidence, much more so in the case of an expert who has not sufficient knowledge on the subject.[5]

Expert must state facts on which he based his opinion. The evidential value of an expert's opinion is not great. It depends upon the facts upon which it rests and the validity of the process by which the conclusion is reached.[6] Expert's opinion must be supported by facts, accuracy of which can be verified by the Judge.[7] Where the experts give no real data in support of their opinion, the evidence though admissible, yet may be excluded from consideration as affording no assistance in arriving at a correct view.[8] Where doctors who performed *post mortem* examination of deceased person did not mention quantity of poison or alcohol which they actually found in bodies of deceased persons. Opinion of such doctors about cause of death could not be accepted as conclusive.[9]

Reasons for opinion. Value of expert evidence depends largely on the cogency of the reasons on which it is based.[10] Court can refuse to place any reliance on the opinion of an expert which is unsupported by any reasons.[11] It must further be remembered that the reasons must be sound and reliable. Opinion of an expert

19. PLD 1980 Pesh. 193 (DB)+PLD 1976 SC 53=PLJ 1976 SC 175+PLJ 1977 Pesh. 65 (DB).
20. 1984 PSC 36 (SC Ind)+AIR 1937 Pesh. 99+2 All LJ 444 (DB).
1. PLD 1962 SC 102=1962 (2) PSCR 22=14 DLR SC 81.
2. AIR 1962 Cal. 504 (DB)+AIR 1936 PC 289+AIR 1960 SC 500.
3. NLR 1983 Cr. 42+1969 P. Cr. L.J. 1328+PLD 1950 Lah. 507+48 Cr. L.J. 522 (DB) (Lah) (Not sufficient by itself for positive finding of fact)+AIR 1932 Lah. 490.
4. 1980 SCMR 979+3 Nag LR 1=5 Cr. L.J. 220.
5. AIR 1956 Bom. 129 (DB).
6. AIR 1933 Sind 124+AIR 1960 AP 164.
7. AIR 1941 Mad. 88=42 Cr. L.J. 316 (DB).
8. AIR 1924 Lah. 548+AIR 1931 Lah. 364 (DB)+AIR 1957 AP 758.
9. 1983 P. Cr. L.J. 355.
10. NLR 1981 SCJ 429=PLJ 1981 SC (AJK) 37=PLD 1981 SC (A J & K) 110+PLD 1975 Pesh. 205=PLJ 1975 Cr.C. 525 (DB)+1976 DLR 123 (DB).
11. 1987 P. Cr. L.J. 363 (DB)+AIR 1959 SC 488+AIR 1939 Mad. 283=40 Cr. L.J. 483.

witness not based on any well defined inexorable laws of nature cannot be taken as decisive especially when there is direct evidence opposed to it.[12]

Expert not examined in Court. Secondary evidence cannot be equated with the primary evidence. It is in this view of the matter that the Courts have always insisted that the expert when available should be examined in Court so that he may be available for cross-examination.[13] When evidence is given on commission its value is very considerably reduced.[14] Where an expert is not examined in Court his evidence has no value.[15]

Expert not appointed by Court. The fact that the private expert examined on behalf of a party had not been appointed as such by a Court, by itself cannot be a ground for holding that in the absence of any order in regard to his appointment as an expert, it was not open to the party to examine him on his own behalf. It is a different matter that the evidence of such an expert has to be appreciated in the light of the circumstances surrounding it.[16]

Opinion of expert on purely scientific matters. The court is not bound to accept the opinion of experts but in purely scientific matters or matters of skill great attention must be paid to their opinion and since they are the only source of information on these points, some reason should be given for discarding it.[17] Thus where the suit was for damages on account of damage done by water leakage from a Municipal sump. The opinion of the expert is entitled to great weight and must be preferred to the statements of the Municipal Engineer or overseer who is not technically qualified in that matter.[18]

9. Handwriting expert, evidence of. The best method of proof of handwriting or finger impression of a person were admission of person who wrote or signed the document, evidence of witness who saw document written or signed, evidence of handwriting expert, evidence of witness acquainted with handwriting of person and opinion formed by Court on comparison made by itself.[19] For proving handwriting the opinions of experts and of persons acquainted with handwriting of the persons concerned are made relevant under Arts. 59 and 61 respectively.[20] One of the scientific modes of proving disputed signature is to refer it to handwriting expert with admitted signature for his opinion after comparing the disputed with the admitted one.[1] But evidence of a handwriting expert is neither the only nor the best method of proving handwriting or signature of a person. It is at best only opinion evidence. Where other direct evidence is available there can be no illegality in acceptance of

12. AIR 1926 Lah. 313=27 Cr. L.J. 977.
13. PLD 1981 SC (A J & K) 110=PLJ 1981 SC (AJK) 37=NLR 1981 SCJ 429.
14. AIR 1928 Lah. 533=29 Cr. L.J. 377.
15. 1974 SCMR 417.
16. AIR 1965 Pat. 29.
17. AIR 1959 SC 597.
18. PLD 1962 Lah. 297=PLR 1963 (1) WP 814 (DB).
19. PLD 1994 Kar. 474+1993 CLC 748 (DB)+1988 CLC 456.
20. PLD 1994 Kar. 474+AIR 1959 SC 443+AIR 1959 SC 93+AIR 1957 SC 857.
1. 1993 CLC 747 (DB).

direct evidence.[2] Statements of witnesses who are acquainted with handwriting of an accused person cannot be rejected on the ground that handwriting expert had not been produced.[3] Where however there was conflict between contending parties as where landlords produced witnesses to prove execution of rent note purported to have been executed by tenants. Tenants denied execution of rent note but produced no evidence in support of their denial. It was held that whatever evidence legally required to prove execution of rent note having been produced by landlords it was for tenants to produce Handwriting Expert, which would have been best evidence for them, in proof of their denial. Failure of tenants to produce Expert as an evidence of rebuttal would raise inference to the effect that tenants' plea was false.[4]

Oral evidence. Oral evidence coming from unimpeachable source is not easily deniable. Expert's evidence, therefore, cannot be given overriding effect upon oral evidence.[5]

Stage for referring matter to expert. Court is not obliged to obtain Expert's opinion till such time as evidence has been completed by parties. Indeed report of Expert has to form part of evidence and has to be obtained before evidence is concluded. There would be no illegality in Court allowing a party to obtain Expert's opinion prior to recording of evidence.[6]

Value of expert evidence. Evidence has to be considered by the Court before deciding genuineness or otherwise of a document. If it does not agree with the evidence of a handwriting expert it can disregard his evidence and come to a finding of its own.[7] But opinion of handwriting expert supported by reasons deserves preference if the opinion is in accord with direct evidence.[8] Circumstances may in certain cases lend support to expert evidence. Thus where plaintiff's evidence regarding signatures of defendant on disputed document appeared to be doubtful because his purported signatures on two different documents were obviously dissimilar and thus inference would be that one of said documents had been fabricated and did not contain signatures of the same person. Opinion of handwriting expert based on comparative study and absence of effective impeachment during cross-examination becomes more reliable and worthy of credit.[9]

Evidence of expert is not conclusive. Evidence given by an expert of handwriting can never be conclusive, because it is, after all, opinion evidence.[10] It is never binding on Court. Such opinion is admitted in evidence only to help the Court in arriving at a correct decision. Opinion of handwriting expert does not amount to

2. 1985 SCMR 359+1984 CLC 3151+1968 P. Cr. L.J. (SC) 1712=1968 SCMR 1126.
3. NLR 1987 Cr. L.J. 371.
4. 1992 CLC 2457.
5. 1991 MLD 1937 (DB).
6. NLR 1996 CLJ 290=1997 MLD 2584.
7. 1982 CLC 1835+PLD 1968 Kar. 875=21 DLR (WP) 12.
8. PLD 1995 SC 381=PLJ 1995 SC 486=NLR 1995 Civ. 507.
9. 1989 CLC 2287.
10. 1994 MLD 461=NLR 1994 Civ. 117+1992 MLD 620 (DB)+1983 CLC 2862+1982 CLC 1835+PLJ 1982 Cr.C. 432+PLD 1976 Kar. 762+1971 P. Cr. L.J. 918+18 DLR 540+20 DLR 540+AIR 1963 SC 1728.

conclusive proof but it is only an opinion and as such is a relevant fact which can be taken into consideration in conjunction with other circumstances to reject or accept such opinion.[11] Opinion of Handwriting Expert, is a weak type of evidence and scarcely deserves serious consideration because the Courts of law are not under legal obligation to base their findings merely on Expert's opinion; there must be positive evidence available on record to prove a particular document.[12] It is not safe to place reliance on expert opinion as science as regards handwriting has not developed so much that any definite opinion can be given regarding genuineness or otherwise of signatures of a person.[13] The opinion of handwriting experts should always be received with great caution. Such evidence, and the reasons on which it is based, are entitled to careful examination before being rejected.[14] There is no legal bar for the Court to compare the handwriting itself. The Court can even take a view contrary to the opinion of a Handwriting Expert, if it is of the view after its own comparison that departure is warranted from the report of the Handwriting Expert.[15] The contention that two Courts below could not have ignored report of hand-writing expert, was repelled, as it had not been relied upon by the Courts for sufficient reasons.[16]

The evidence cannot be brushed aside as useless. The opinion of an expert is entitled to some consideration and weight when it is corroborated by other evidence.[17] But usually it is of the lowest order of evidence or of the most unsatisfactory character. It is so weak and decreit and scarcely deserves a place in our system of jurisprudence.[18] Mere resemblance between two writings is not sufficient to create conviction that they were written by one and the same person. In the world of today, which has shown such advancement in every direction, it is not difficult to forge the handwriting of a person in such a manner as to make it impossible for even the most acute and experienced Judge to discriminate between the false and the true.[19] The unreliability of expert evidence in this matter arises from the fact that a fine or stub pen, haste or deliberation, good or bad health, sitting or standing, the state of being drunk or sober may radically change the appearance and quality of writing. At the most, expert opinion on handwriting can raise a suspicion as to the genuineness of a document, but it is of no moment unless confirmed by other evidence.[20] It is common knowledge that handwritings of persons are never uniform, especially when they are old. Where the lapse of time between the signatures for comparison by an expert is great, the opinion of expert should be received with great caution.[1]

11. PLJ 2003 Lah. 666=2003 CLD 1195.
12. 2002 CLC 1244.
13. 1993 CLC 2439.
14. PLD 1982 SC (AJ&K) 89=NLR 1982 SCJ 546=1982 PSC 1239+PLD 1963 Lah. 141 (FB).
15. 2002 YLR 3085.
16. 1994 MLD 461=NLR 1994 Civ. 117.
17. AIR 1956 Mys. 9=ILR 1955 Mys. 585=1956 Cr. L.J. 253 (DB).
18. AIR 1931 Lah. 408=32 Cr. L.J. 818+11 Cr. L.J. 114.
19. PLD 1982 SC (A J & K) 89=PLJ 1982 SC (A J & K) 162.
20. AIR 1953 Hyd. 181 (DB) (Expert should take into consideration all these facts).
1. AIR 1958 Madh Pra 246.

Art.59]

An opinion of a handwriting expert cannot in law be accepted as conclusive proof. At best it can be taken as an inconclusive aid in conjunction with other evidence.[2] Evidence of handwriting expert is merely of corroborative nature and cannot form sole basis for conviction.[3] It must be supported by other positive corroborative evidence.[4] The correct principle of law is that the testimony of a handwriting expert should be taken as a guide and with its assistance the Court should apply its own observation to the disputed writing and reach the conclusion whether the signature which is denied, is or is not the signature of the person denying it.[5]

Person calling Expert cannot challenge his opinion. Party on whose application Handwriting Expert was summoned to give his opinion on signatures on disputed Promissory Note allegedly executed by him would be bound by opinion of Expert on that document and would be estopped to call in question decision of Court based on such opinion of Expert.[6] Where signatures of a petitioner on alleged agreement of tenancy were falsified not only by the evidence of Handwriting Expert produced by the respondent himself but also by the evidence of witnesses which in fact supported contention of petitioner that neither executant nor one of the witnesses was present at the time when document in question, was allegedly executed. Agreement of tenancy was, thus, not proved.[7]

Evidence of expert not challenged. The Court would take the fact deposed to by an expert as proved where evidence of handwriting expert remained unrebutted and unchallenged.[8]

Reasons for opinion. Acceptance of report of a handwriting expert who has given no reasons either in his report or in his statement before the Court for the opinion held by him, amounts to delegation to him of judicial functions of the Court and this cannot be allowed. Such report cannot be relied upon.[9]

Comparison of handwriting by Court. There is no rule of law which requires examination by an expert in every case. The Court itself is entitled to compare handwriting and to come to its conclusion.[10] Where parties to suit had not applied for referring disputed signatures to Handwriting Expert for comparison with admitted or proved signatures, Trial Court was not obliged to refer the same to him. Trial Court had rightly compared disputed signatures of vendor on the agreement of sale with

2. AIR 1949 Kutch 3=50 Cr. L.J. 964.
3. 1988 P. Cr. L.J. 2107.
4. 2001 YLR 2145.
5. 1983 CLC 2862+AIR 1952 Nag. 289 (DB)+AIR 1959 Pat. 328+1959 Cr. L.J. 893.
6. 1996 CLC 741=NLR 1995 AC 177 (DB).
7. 1995 MLD 298=NLR 1995 Civ. 274=NLR 1995 UC 385 (DB).
8. PLD 1987 Lah. 316=1987 Law Notes 396=PLJ 1987 Lah. 276=NLR 1987 Civ. 513.
9. KLR 1986 Mag. C 159+1985 P. Cr. L.J. 1849+PLJ 1982 Cr.C. 432+PLD 1960 Dhaka 897=13 DLR 436 (DB).
10. 1996 SCMR 575=NLR 1996 SCJ 299=PLJ 1996 SC 533+1989 CLC 2287+1985 SCMR 214+1984 SCMR 490+PLD 1962 SC 102+PLD 1964 AJ&K 1 (DB)+PLD 1963 Kar. 551=15 DLR (WP) 93+PLD 1958 AJ&K 40+1983 CLC 2862+PLD 1978 Kar. 1096+1974 SCMR 496+PLD 1975 Lah. 299=PLJ 1975 Lah. 76.

admitted or proved signatures of vendor on the plaint and schedule of property attached therewith and had rightly found that they were similar and of the same person.[11] The Court can in such cases take a contrary view to the opinion of the Handwriting Expert.[12] Where there were allegation of forged signatures of executant on agreement to sell and other connected documents. Handwriting Expert's opinion and concurrent findings of all the three Courts below was that signatures were not forged. Valuable property being involved in the case and there being wild allegations of fraud, Supreme Court made an exercise of comparison of the signatures of the executant with the help of magnifying glass and found the reasonings advanced by the expert quite plausible and convincing. Findings of Lower Courts were upheld.[13] It is to be noted that although Court is competent to compare disputed and admitted signatures to ascertain genuineness of disputed signature such procedure is risky and has to be adopted with caution and sparingly. Where the mode provided under the law for proving disputed signature has not been adopted it will not be a safe course for Court to compare signatures and give finding on it.[14]

Where letter produced by defendant alongwith application for setting aside decree bearing signatures of defendant were compared by court with signatures of defendant on document executed by such defendant for grant of loan, plea of defendant that same did not bear his signatures was repelled being not genuine.[15] But comparison by Court, should not be to assist a party to proceeding it should be to assist itself to come to a proper conclusion in the interest of justice.[16] Where plaintiffs failed to examine, handwriting expert in support of their contention, Court having been left with the only option of comparing disputed signatures with proved signatures of defendant found that disputed cheques and letters acknowledging liability were of the same person, i.e., defendant. Factum of overdraft facility and availing of the same by the defendant was thus established.[17] But it is not desirable that a judge should take upon himself the task of comparing the signatures in order to find out whether the disputed signatures agree with the other admitted signatures and the proper course is to obtain expert opinion.[18] Where the person who had written the disputed deed claimed that he had signed and written the deed in question. When the expert was produced to depose in respect of such disputed document Court was not to take the responsibility of comparing the writing of the said person with that of the disputed document. Opposite party, however, could request the Court for sending the disputed document for comparing the writings to another expert.[19]

Where two lower Courts totally omitted to consider the evidence of the Manager of the concerned bank, who according to well-settled law was a person

11. 1998 MLD 1908.
12. 1996 SCMR 575=NLR 1996 SCJ 299=PLJ 1996 SC 533.
13. PLD 1995 SC 381=PLJ 1995 SC 486=NLR 1995 Civ. 507.
14. 1993 CLC 747 (DB).
15. PLD 1987 Kar. 86.
16. 1988 CLC 456.
17. 1990 CLC 1566.
18. 1974 SCMR 490+AIR 1947 All. 411+AIR 1946 All. 67 (DB).
19. 1996 SCMR 575=PLJ 1996 SC 533=NLR 1996 SCJ 299.

under an obligation to know the signatures of his client and it was his duty to compare the signatures on the cheques of clients of the bank with the specimen signatures obtained on the card for operating bank accounts. It was held the Courts acted against the law and were not justified in ignoring the material evidence of the Manager of the bank and to rely merely upon their own impressions about the signatures.[20] Where appellant denied his signature on receipt allegedly issued by him. Report of handwriting expert stated that disputed signature was not put by appellant. In spite of order of Court expert was not summoned and trial Court compared disputed signature with admitted signature for determining question of genuineness and came to conclusion that signature on receipt was that of appellant. It was held, that comparison of signature with naked eye is a risky, uncertain and dangerous mode which should be adopted only in rare cases with great caution.[1] Where the features relied upon are physical characteristics which are susceptible of examination by scientific methods, with a view to identification, or as the case may be, differentiation, it is advisable that such aids should be called in for the resolution of doubts, which in the absence of reliable direct evidence must necessarily attach to such features, regarded as evidence. It can only be in very rare cases that mere visual inspection with the naked eye, unaided by scientific training or methods, can afford the necessary degree of satisfaction.[2] Where the disputed signature appears to belong to a class different from the group of admitted signatures, it is certainly one of those cases where expert evidence would be of great use.[3]

A Judge as a layman is not justified in comparing the signature in an exhibited document with that in an unexhibited document which was not even filed in Court and coming to the conclusion that the signature in the former is a forgery. Even a handwriting expert's opinion will not be conclusive on the point.[4] Moreover a Judge should not take upon himself to make a comparison because a Judge is at liberty to believe or disbelieve the evidence (including that of an expert) on the question of handwriting. But he is not entitled, in the absence of any evidence, to constitute himself as a witness and to supply the gaps in the evidence by his own observations.[5]

Procedure for comparison by Court. Comparison of signatures should be conducted in the presence of the parties. Where mode of comparison of signatures was not stated in the judgment by the Court. The comparison made by Court in chamber in absence of parties' counsel was totally contrary to the rule of prudence laid down by superior Courts in that regard.[6] Belated and unilateral examination of disputed signatures with those obtained on record by trial Court, without providing adequate opportunity of hearing to contestants, would not only be irregular but even illegal, being violative of principles of natural justice.[7]

20. 1985 CLC 373.
1. 1984 CLC 2871.
2. PLD 1953 FCR 189=1953 FCR 86=5 DLR 161.
3. AIR 1959 AP 204=1959 Cr. L.J. 428.
4. AIR 1949 Mad. 419.
5. AIR 1955 NUC (All) 386 (DB).
6. PLD 1989 Kar. 102=NLR 1989 Civ. 413=KLR 1989 CC 99 & 86.
7. NLR 1995 UC 57.

Necessity of examination by expert. It is true that a Court of law is not to play the role of a handwriting or thumb-mark expert where signature or thumb-mark does not appear to be similar to the one not in dispute, the Court can direct the party placing reliance on the signature or thumb mark to prove its genuineness by examining an expert; and in other cases where the signature or thumb-mark does not appear to be forged it is the duty of the party who wants the Court to give a finding to the contrary to prove his case by leading clear evidence including that of an expert.[8] Even otherwise where signature was totally denied by one of the parties it would be highly unsafe for the Court to take upon itself to determine genuineness or otherwise of signature without assistance of handwriting expert.[9] It must however be noted that it is not the duty or function of a Court to decide beforehand whether evidence of handwriting expert, if produced, would influence his opinion one way or the other. That is a matter which should be settled only after evidence has been recorded and read in the case.[10] Since the evidence of a handwriting expert is of no great value, no inference adverse to a party should be drawn from the mere fact that it did not call an expert to prove the genuineness of the signature.[11]

Genuineness of documents to be used for comparison. The opinion of an expert on the question whether two documents were written by the same person or by different persons is relevant. A document used for the purpose of comparing the disputed document must either be proved or admitted to have been written by the person against whom the disputed document is to be proved.[12] Where that was not done, the finding of the Court as to genuineness of signatures was of no value.[13] Where specimens of handwriting or signatures were not proved to be in the hand of accused, opinion and evidence of Expert about genuineness of signature would be an exercise in futility.[14]

Duty of expert. Expert evidence on matters of handwriting ought not to definitely point out that anybody wrote a particular thing. The expert is only to point out the similarities to the Court which has to determine whether a particular writing is that of a particular person.[15]

Tests to be applied. When examining handwriting the most important things, to be examined, are the general characteristics, formation of letters in the handwriting (questioned or admitted), fixed pen habits and mannerisms. The identity or resemblance in handwriting has to be found out on the value of the effect of various considerations arising from individual characteristics which have been embodied in the technical language of experts.[16] It is not unusual to find differences in the writing of one and the same person. Even after a short interval of time a certain amount of

8. AIR 1956 Bhopal 6.
9. PLD 1989 Kar. 102=NLR 1989 Civ. 413=KLR 1989 CC 99 & 86.
10. AIR 1932 Lah. 481=53 Cr. L.J. 761.
11. AIR 1928 Pat. 568.
12. 1986 CLC 456+1947 Jaipur LR 325 (DB)+39 Cal. 606 (DB).
13. 1986 CLC 456.
14. PLJ 1986 Cr.C. 464=NLR 1986 Cr. L.J. 484.
15. AIR 1921 PC 168.
16. PLD 1982 SC (A J & K) 89=PLJ 1982 SC (A J & K) 162.

variation does occur in the handwriting of every person, though the limits vary from writer to writer. Such variation points to genuineness. Thus in the matter of signature, for example, a complete correspondence between several samples of the same signature is a strong indication of forgery.[17] It all depends upon so many extraneous circumstances--the pen, the ink, the paper, the posture of his hand, the general condition in which he writes. It is for this reason that the law merely requires a consideration of the general character.[18] The striking general similarity between admitted signatures and the signature on the disputed document is a very telling test in deciding whether the signature on the dispute document is genuine.[19] The test of genuineness ought to be the resemblance not to the formation of letters in certain other specimens but to the general character of the writing impressed on it involving a permanent nature. The best evidence is that of persons who have actually seen the person write and who form opinion from the general character and the manner of letters.[20]

A clever forger will try to give the forged signature as much resemblance as possible to a genuine signature. But the personal characteristics of the writings or signatures of a particular individual are often an unfailing guide in determining the question of genuineness of the writing, and it is often a difficult work for a stranger or a forger to reproduce faithfully all such characteristics in the writings forged by him.[1] Therefore where a conclusion is based regarding the authorship of a document on a comparison of a writing, the expert should generally be able to point to marked peculiarities in the ordinary writing of the accused, which are reproduced in the forged documents, the accused being unable to avoid them.[2]

In examining a disputed document the true test is not the extent of the similarities observed when compared with genuine documents, as forged documents usually are good imitations of genuine documents, but the nature and extent of the dissimilarities noticed. It is these differences which expose the true character of the document in question.[3] Where there are frequent hesitations and pen-lifts in the disputed signatures. It would appear as if the writer of these signatures was very careful in placing the pen on the paper. Obvious breaks, to cover which considerable effort appears to have been made in re-touching the letters in the signatures would go to show that the signatures was forged.[4]

Where a person denies his signature on a document, comparison of disputed signatures of person with his specimen signatures alone, would be of no use because

17. PLD 1963 Lah. 141 (FB).
18. AIR 1946 All. 67 (DB).
19. AIR 1961 Cal. 300 (DB)+AIR 1937 Cal. 99 (SB).
20. 3 Ind Cas 291 (DB) (Cal).
1. AIR 1961 Cal. 300 (DB).
2. 36 Mad. 159=13 Cr. L.J. 226 (DB).
3. PLD 1962 Lah. 558+AIR 1962 Mys. 53.
4. PLD 1978 Kar. 1096.