

opportunity to cross-examine and if the questions in issue are substantially the same as the second proceeding. [2009 P.Cr.L.J. 919] Statement of witness recorded by a Magistrate under section 200, Cr.P.C. relevant for the purpose of proving the fact in issue only if opportunity to cross examine given. [PLD 1991 FSC 131; 1991 MLD 1951] Inadmissible evidence cannot be made admissible by consent of parties. Relevancy of evidence given in an earlier proceeding to prove a fact in subsequent proceedings. [PLD 1997 Kar 146] Evidence of a witness recorded in one case cannot be taken into consideration in another independent/separate case under this Article evidence given by the witness in judicial proceeding is relevant for the purpose of proving in the subsequent judicial proceedings or in latter stage of the same judicial proceeding. Same evidence is not relevant for the purpose of proving in a separate and independent proceeding. [2010 P.Cr.L.J. 1778] Any statement written or verbal of relevant facts made by a person whose dead is admissible in evidence Art. 47 of Qanun-e-Shahadat, 1984. [2012 P.Cr.L.J. 768]

2. **Essentials**—In the absence of any direct evidence, the mere declaration that "delay and unnecessary adjournment" would be involved in procuring the appearance of witness was not sufficient for satisfying the relevant condition of Art. 47, Qanun-e-Shahadat, 1984 which is to the effect that it should have been proved that the witness could not be found. [PLD 1995 S.C. 1]

3. **Transfer of previous statement**—Previous statement cannot be transferred without affording opportunity to cross-examine prosecution witnesses. [1991 MLD 1951]

4. **Statement of dead person.** Statement, written or verbal, of relevant facts made by a person who is dead is admissible in evidence in Art. 47. [NLR 2004 Cri. (S.C.) 715]

5. **Independent separate case.** Evidence of a witness recorded in one case cannot be taken into consideration in another independent and separate case. [2010 P.Cr.L.J. 1778]

Statement Made Under Special Circumstances

48. **Entries in books of account when relevant.** Entries in books of account, regularly kept in the course of business, are relevant whenever they refer to a matter into which the Court has to enquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

Illustration

A sues B for Rs. 1,000, and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient, without other evidence, to prove the debt.

NOTES

1. **Entries in account maintained by bank.** Banking alleging that credit entries in the account of account holder were made by oral instructions. Burden on the bank to prove deviation. [1990 CLC 1045]

2. **Dying declaration.** Though is admissible in evidence but by it self is not sufficient to sustain conviction. [2012 MLD 1358]

49. **Relevancy of entry in public record made in performance of duty.**—An entry in any public or other official book, register or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record is kept is itself a relevant fact.

NOTES

1. **Age**—Decree obtained against public at large without impleading Birth Register—Not binding on any body. [1998 SCMR 602] Presumption of correctness attached to entries of a register of an educational institutions. [1991 CLC 870] Entries to age—Presumption of correctness is attached. [1991 CLC 870] Entries in birth certificate or school certificate—To be established. [1992 PLC 477]

2. **Entries in record of right.** Strong piece of evidence though not of title. [1992 CLC 235] Connotation and evidentiary value. [1990 CLC 321; 1990 CLC 1591] Old transaction such as mutation and the entries of those carried into record of rights, if uninterrupted gets initial presumption of correctness. [2005 MLD 153]

3. Khatouni. Is merely in nature of a preliminary document does not form part of record of right. [1990 CLC 1819]
4. Death register—Presumption of truth is attached to entries in death register but such presumption is rebuttable. [1990 CLC 1443; 1987 CLC 1543]
5. Official act—Official acts unless proved otherwise are to be taken to have been duly and properly performed. [1990 CLC 1591; 1990 ALD 220]
6. Certified copy of F.I.R. Admissible being relevant and public document. [2012 YLR 1386]
7. Birth Certificate. Cannot be disbelieved for non-mentioning sex of the child. [2012 YLR 1480]

50. Relevancy of statements in maps, charts and plans. Statements of facts in issue or relevant facts made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of the Federal Government or any Provincial Government, as to matters usually represented or stated in such maps, charts or plans, are themselves relevant facts.

51. Relevancy of statements as to fact of public nature, contained in certain Acts or notifications. When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Act of the Central Legislature or of any other legislative authority in Pakistan or in a Government notification appearing in the official Gazette is a relevant fact.

52. Relevancy of statements as to any law contained in law books. When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.

How Much of A Statement is to be Proved

53. What evidence to be given when statement forms part of a conversation document, book or series of letters or papers. When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or of a connected series of letters or papers evidence shall be given of so much and no more of the statement conversation document book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.

Judgments of Courts of Justice When Relevant

54. Previous judgments relevant to bar a second suit or trial. The existence of any judgment, order or decree which by law prevents any Court from taking cognizance of a suit or holding a trial, is a relevant fact when the question is whether such Court ought to take cognizance of such suit or to hold such trial.

NOTES

Relevancy. Previous judgment is relevant to bar second suit or trial as it would bar a second suit. Previous judgment and order can be taken into consideration without referring the same in pleading. [2012 MLD 86 (AJ&K)]

55. Relevancy of certain judgments in probate etc., jurisdiction. A final judgment, order or decree of a competent Court in the exercise of probate matrimonial, admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing