

# **LEGAL & TERRITORIAL** **JURISDICTION**

By

**Qaiser Javed Mian**

Director Research/Faculty Member  
Punjab Judicial Academy, Lahore.

## **SECTION 177 OF CR. P. C.**

- **Ordinary place of inquiry and trial.**  
Every offence shall ordinarily be inquired in and tried by a Court within the local limits of whose jurisdiction it was committed.

## **SECTION 179 OF CR. P. C.**

- **Accused triable in district where act is done or where consequence ensues.** When a person is accused of the commission of any offence by reason of anything which had been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

## **SECTION 180 OF CR. P. C.**

**Place of trial where act is offence by reason of relation to other offence.** When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

## **SECTION 2 OF P. P. C.**

- **Punishment of offences committed within Pakistan.** – Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within Pakistan.

- **Jurisdiction also depends on the place of commission of offence.**—The question of jurisdiction arises also with reference to the place of inquiry or trial. The general rule prescribed by Section 177 is that an offence shall be ordinarily inquired into and tried by a Court within the local limits of whose jurisdiction it was committed, but the subsequent sections create various exceptions to this rule.

- **Cases where place of commission of offence is uncertain.**—When, for instance, it is uncertain in which of several local areas an offence was committed; or where an offence is committed partly in one local area and partly in another; or where the offence is a continuing one and continues to be committed in more local areas than one; or where the offence consists of several acts done in different local areas, -- it may be inquired into or tried by a Court having jurisdiction over any of such local areas. The same rule applied to offences committed on a journey, which may be inquired into or tried at any place through which the offender or property affected passed in the course of such journey.

**1. Muhammad Ahmed Baig          Versus          The State**  
**2003 MLD 1 [Karachi]**  
**Before Wahid Bux Brohi, J**

- Trial Court directed to file complaint against applicant for offences under **Ss.174, 175 & 228, P.P.C.** before Court of competent jurisdiction---Complaint filed against applicant was forwarded to Judicial Magistrate who took cognizance of the case---Only “Executive Magistrate” under **Ss. 28 & 29, Cr.P.C.** could try offences registered under **Ss.174, 175 & 228, P.P.C----** Cognizance of case or cases in circumstances, could not be taken by ‘Judicial Magistrate’---Offence against applicant having actually taken place within territorial limits of the concerned District, Magistrate of the District would have jurisdiction to try case against accused and not Magistrate of other District Courts---Judicial Magistrate on both counts was not competent to take cognizance of the case---Proceedings before Judicial Magistrate amounting to abuse of process of Court, were quashed, in circumstances.

## 2. Sheikh Muhammad Aslam and another Versus

The State and 2 Others

1991 MLD 1973 [Lahore]

Before Sh. Muhammad Zubair, J

- Same transaction.
- The real and substantial test for determination whether several offences were so connected together as to form one transaction, depends upon whether they are related together **in point of purpose**, or as **cause and effect** or as **principal and subsidiary acts** so as to constitute one continuous action.
  - **PLD 1958 SC (Pak.) 131 and PLD 1967 Pesh. 32 ref.**

**3. Muhammad Saeed And Others  
Versus  
The State And Others  
1984 P Cr. L J 1373 [Lahore]  
Before Kamal Mustafa Bokhari, J**

**(a) Criminal Procedure Code (V of 1898)-**

- Sc. 193 (1), 190 (3) & 202 (1) – Private complaint-Court of session has no original jurisdiction to try a criminal case-Private complaint is to be filed with Magistrate who sends same to Court of Session under S. 190 (3), Cr.P.C. if Magistrate find that same was to be exclusively triable by a Court of Session-Sessions Judge, thereafter only may reject complaint or summon accused and proceed with trial.-[Complaint]. [P.1374]A

- **Plaint, filing of - Procedure for trial illustrated.-[Complaint].**
- **A private complaint was filed under sections 6, 11 and 16 of Offence of Zina (Enforcement of Hudood) Ordinance VII of 1979 in the Court of the Sessions Judge which was entrusted to the Additional Sessions Judge who forwarded it to the Magistrate, for inquiry under section 202, Cr.P.C. The Additional Sessions Judge had recorded statement of the complainant as required by the proviso to section 202 (1), Cr.P.C. The Magistrate after holding inquiry sent his report and the complaint to the Additional Sessions Judge, who summoned the petitioners as accused. Petitioners filed application under section 265-K, Cr.P.C. for quashment of proceedings and acquittal of the petitioners which was rejected by the Additional Sessions Judge, who held that it had jurisdiction in the matter. Petitioners have challenged both the aforementioned orders under section 561-A.**
- **Held, the Private complaint should have been returned by the Sessions Judge and the complainant should have presented it to the Magistrate concerned who after taking cognizance under section 190(1), Cr.P.C. should have sent it to the Sessions Judge for trial. According to the procedure all complaints have to be filed before the Magistrate who takes cognizance under section 190 (1), Cr.P.C.**

## **4. Basharat Iqbal Versus The State and another 1993 SCMR 1901**

**[Supreme Court of Pakistan]**

**Present: Muhammad Afzal Zullah, C J. And Muhammad Azal Lone, J**

- **Ss. 179 & 182---Muslim Family Laws Ordinance (VIII of 1961), S.6(5)---Constitution of Pakistan (1973), Art. 185(3)---Territorial Jurisdiction---Leave to Appeal---High Court's judgment that the Court at Lahore had the jurisdiction to try the complaint having been based on S.179, Cr.P.C. was unexceptionable---Both the Courts at Hyderabad and Lahore having jurisdiction to try the matter in view of S.182, Cr.P.C. leave to appeal was refused in circumstances. [P.1902]**

**5. Muzammil Shah      Versus      The State**  
**1990 P Cr. L J 1682**  
**[Federal Shariat court]**

**Before Abdul Karim Khan Kundi And Abdul Razzaq A. Thahim, JJ**

- Case was registered against accused under S.377/511 P.P.C. and under S.12 of the Offence of Zina (Enforcement of Hudood) Ordinance (VII of 1979) and accused was sent up for trial for the same offence---Charge against accused was framed by Trial Court (Sessions Court) only under S. 377, P.P.C. to which accused pleaded not guilty and case proceeded and evidence was recorded---Accused finally was convicted and sentenced under S. 377, P.P.C. who filed appeal against that judgment before Federal Shariat Court---Appeal before Federal Shariat Court, held, was not competent as neither the charge had been framed under S.12 of Ordinance VII of 1979 nor any evidence had come on record for kidnapping and abduction of the victim in order to enable Federal Shariat Court to exercise jurisdiction.
- S. 20---Federal Shariat Court has jurisdiction when any of the accused is charged under the provisions of Ordinance (VII of 1979) and any other law.

6. Sultan Riaz Khan                      Versus                      The State and another  
PLD 2007 Karachi 91

Before Muhammad Mujeebullah Siddiqui, J

- **Extra-territorial jurisdiction**---expression “found”, as used in S.188,Cr.P.C---Connotation---Quashing of proceedings---Offence was committed in a foreign country and private complaint was filed in criminal court in Pakistan, in which Trial Court issued process against the accused who was a resident of foreign country---Accused raised the plea that after commission of offence, he never arrived/brought in Pakistan, therefore, Trial Court had no jurisdiction in the matter---Validity---Expression “found” used in S. 188, Cr.P.C. meant that a person was physically and actually present at any place in Pakistan or had voluntarily appeared before a Court in Pakistan or appeared in answer to the summons or he was brought before the Court under arrest---Presence of accused anywhere in Pakistan and procurement of his attendance before trial court in Pakistan had not been shown, therefore, Courts in Pakistan taking cognizance of the offence under S. 190(1), Cr.P.C. upon receiving a complaint had no jurisdiction to deal with the accused---High Court in exercise of revisional jurisdiction quashed the proceedings against the accused being without jurisdiction---Revision was allowed accordingly.

7. Ashiq Hussain

Versus Sessions Judge, Lodhran and 3 Others.

PLD 2001 Lahore 271

Before Asif Saeed Khan Khosa, J

- 28. It may be necessary to mention here that under the present dispensation under the Code there are two kinds of Magistrates, i.e. Judicial Magistrates and Executive Magistrates and both have their respective jurisdictions vis-à-vis competence to take cognizance of specified offences. It has already been mentioned above that the power of a Magistrate to discharge an accused person under the Code is relatable to his competence to take cognizance of an offence. Thus, an Executive Magistrate having no jurisdiction to take cognizance of a particular offence is not competent to discharge an accused person involved in such an offence and, likewise a Judicial Magistrate having not been conferred jurisdiction to take cognizance of a particular offence is not empowered to discharge an accused person involved in such an offence. **An order of discharge passed by an incompetent Magistrate is, therefore, an order passed without lawful authority and the same is of no legal effect. A reference may be made in this respect to the cases of Sufi Abdul Qadir v. The state and others 2000 P Cr. LJ 520 and Ghulam Shabbir v. State 2000 P Cr. LJ 141.**



**9. 1990 P Cr. L J 1687 [Karachi]**

**Before Syed Sajjad Ali Shah, CJ**

**In re: REFERENCE MADE BY SESSIONS JUDGE,  
LARKANA FOR TRANSFER OF CASES**

- Ss. 9, 193 & 178---Provincial Government is competent to set up venue for the trial of cases of a particular accused and also nominate any Sessions Judge or Additional Sessions Judge to try those cases which are to be specified by the said Government in Notification/Notifications---No intervention of High Court for transfer of cases from one territorial jurisdiction to another was thus called for and the reference from Sessions Judge in this regard was disposed of in the aforesaid terms.

**10. Mehboob Ahmed Versus The State and 5 others**  
**1991 P Cr. L J 792 [Karachi]**  
**Before Allah Dino G. Memon, J**

- No case under S.420.P.P.C. was made out from bare reading of complaint and the transaction, if any, was of a civil nature and accusation under S.420, P.P.C appeared to be mala fide---As regards offences under Ss.504 & 506, P.P.C Magistrate had no territorial jurisdiction to take their cognizance against accused and the same even otherwise had no nexus with the offence under S.420, P.P.C. and could not be tried together---Process issued by Court against accused was thus illegal and without jurisdiction---Proceedings pending against accused in the Court of Magistrate were ordered to be quashed in circumstances.

**11. Muhammad Amin Versus The State  
1973 P Cr. L J 661 [Karachi]  
Before Khuda Bakhsh Marri, J**

- **(a)** Criminal Procedure Code (V of 1898), Ss.498 & 491 - Bail, anticipatory-Jurisdiction-Question: Whether High Court has jurisdiction to grant anticipatory bail to a person, residing within its territorial jurisdiction for whom warrant of arrest has been issued by Court of a different Province-High Court, held, has jurisdiction to grant relief of anticipatory interim bail.

## **12. Mansha Muhammad Khan Versus The State**

**PLD 1983 Azad J & K 36**

**Before Muhammad Sharif, J**

- Special Magistrate appointed under S. 14-Subordinate to District Magistrate not only in respect of his executive but also of judicial functions – Special Magistrate having wider territorial jurisdiction than that of District Magistrate – Appeal lies from order of such Special Magistrate to Sessions Judge within local limits of whose jurisdiction Special Magistrate holds his Court in disposing of cases.

**13. Sardar Muhammad Yasin Khan, Advocate**

**Versus**

**Raja Feroze Khan**

**PLD 1972 Azad J & K 46**

**Before Khawaja Muhammad Yusuf Saraf, J**

- (a) Criminal trial-“Acquittal”-Meaning- Court not having territorial jurisdiction to try offender-Cannot pass an order of his acquittal.

**14. Sardar Muhammad Yasin Khan, Advocate  
Versus  
Raja Feroze Khan  
1969 P Cr. L J1414 (Azad J & K)  
Before Khawaja Muhammad Yusuf Saraf, J**

- (a) Criminal trial-Jurisdiction-Trial Court holding that it lacked jurisdiction to try case-Cannot pass order of acquittal of accused-Proper course for Magistrate in circumstances-To return complaint to complainant for presentation in Court of competent jurisdiction.S.531-Section does not confer any jurisdiction not otherwise possessed by Magistrates - Magistrate far from deciding case on merits, preliminarily holding that he lacked jurisdiction to hear case - Protection available under section 531 cannot be sought in circumstances - Section merely protects trials finalized without defect of territorial jurisdiction being discovered in trial Court.