

# THE PAKISTAN PENAL CODE

Act No. XLV of 1860

[PRACTICE & PROCEDURE]

A

Comprehensive and Systematic  
Commentary with all Amendments

*By*

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## PREFACE

The purpose of this book is to provide in simple language a systematic and comprehensive commentary based on the basic principles of the section. In my opinion there is a need to arrange a commentary of Pakistan Penal Code that defines and explains the spirit of each section of this Code. Further, the commentary on a section of the statute should be confined to the four corners of the section and should not exceed it. There is a practice of compiling voluminous commentaries by reproducing judgments under the sections without considering whether such judgments are relevant for explaining the principle of section or not. Resultantly, the reader is compelled to read more pages to find out relevant question.

In support of abovesaid I would like to reproduce some observations of Supreme Court and High Courts which are as under—

- (i) Everything said in a judgment more particularly in a criminal case must be understood with great particularity as having been said with reference to the facts of that particular case; it may be regarded as having a persuasive value rather than a binding precedent [**2009 SCMR 1273**].
- (ii) Jurists and Judges possessed of rich experience and a long line of rulings in criminal cases tell us that there is hardly a criminal case which would be cent per cent identical on all four to other case. Background and causes for commission of offence may differ from case to case. Ruling in one criminal case, therefore, is carefully considered before citing it as a precedent in its application to the other [**2009 SCMR 1273**].
- (iii) Rule laid down in the earlier cases cannot be applied in subsequent cases in the omnibus manner [**2001 SCMR 1334**].
- (iv) Verdict given in a criminal case generally must be confined to the facts of that particular case and cannot be universally applied to all cases [**2001 SCMR 25**].
- (v) Cases already decided by Supreme Court can hardly be of any assistance on account of the diverse nature and distinguishable features of each criminal case and in such situation rules or principles of general application cannot be laid down [**PLD 2004 SC 539**].
- (vi) Judgments in criminal cases are not to be taken as precedent in all cases except where a principle of law is enunciated or the facts of two cases are identical, which is seldom in criminal cases [**PLD 2007 Kar. 127**].

- (vii) Judgment in criminal case, however, did not have the force of precedent, in that, facts and circumstances of two criminal cases were seldom identical. Judgments in criminal cases where principles of law had been laid down, were to have force of precedent and were of binding nature **[PLD 2007 Kar. 27]**.
- (viii) Precedent in a criminal case would be applicable only when it would be on all fours of it **[2004 YLR 1809]**.
- (ix) Precedent is to be understood and applied in the context of facts of a particular case **[2004 YLR 548]**.
- (x) Each criminal case has its own peculiar features and no hard and fast rule or criteria for general application can be laid down in this respect **[2012 PCr.LJ 482]**.

In this book I tried to explain in an elaborate manner the principle of every section. Almost every penal section consists of at least three synopses: (i) Scope; (ii) Ingredients; and (iii) Procedure. Under the heading 'Scope', the explanation of the section, its scope, object and applicability have been discussed, while under the heading 'Ingredients' the essential elements which constitute the offence or which are necessary for creation of the offence are described. Under the heading of 'Procedure' the procedural aspects of a section as described in the Second Schedule of the Code of Criminal Procedure are reproduced. Moreover, other corresponding matters in Cr.P.C. like complaint, compounding of offence, place of trial, are also mentioned for every section in order to provide a ready reference.

I have depended on several authorities that are mentioned in the Bibliography and I am indebted to them.

It is hoped that this book will be very useful for Judges, Legal Practitioners, Students, concerned persons and all other users. Although it may not be an ideal or perfect work in all respects or according to wishes of users or concerned persons, it is hoped that it will meet the needs of most. I welcome all suggestions and proposals for improvement, additions and corrections for serving legal fraternity in a better way and be thankful for such guidance and cooperation.

Every effort has been made to make this publication error-free but there is a possibility of mistakes, errors and omissions. I shall be thankful if you could point out, for the benefit of others, such mistakes, errors, or omissions for rectification in future editions. Your cooperation and guidance will be of tremendous benefit for me.

Muhammad Abdul Basit

## ABBREVIATIONS USED

<i>AIR</i>	=	<i>All India Reporter</i>
<i>AJ&amp;K</i>	=	<i>Azad Jammu &amp; Kashmir</i>
<i>ALD</i>	=	<i>All Pakistan Annual Law Digest</i>
<i>A.L.J.</i>	=	<i>Allahabad Law Journal from 1904—</i>
<i>All</i>	=	<i>Allahabad</i>
<i>All.</i>	=	<i>Indian Law Reports Allahabad Series, from 1876—</i>
<i>All E.R.</i>	=	<i>All England Law Reports, from 1936—</i>
<i>A.L.T.</i>	=	<i>Andhra Law Times, from 1954—</i>
<i>Amdt.</i>	=	<i>Amendment</i>
<i>A. O., 1937</i>	=	<i>the Government of India (Adaptation of Indian Laws) Order, 1937, as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937</i>
<i>A. O., 1949</i>	=	<i>The Adaptation of Central Acts and Ordinances Order, 1949 (G. G. O. 4 of 1949)</i>
<i>A. O., 1961</i>	=	<i>The Central Laws (Adaptation) Order, 1961 (P. O. 1 of 1961).</i>
<i>A.O., 1964</i>	=	<i>The Central Adaptation of Laws Order, 1964 (P.O. 1 of 1964).</i>
<i>AP</i>	=	<i>Andhra Pradesh</i>
<i>Art.</i>	=	<i>Article</i>
<i>Arts.</i>	=	<i>Articles</i>
<i>Bal.</i>	=	<i>Balochistan</i>
<i>Beng. L.R.</i>	=	<i>Bengal Law Reports, 1865-1875</i>
<i>BJ</i>	=	<i>Baghdad-ul-Jadid</i>
<i>Bom</i>	=	<i>Bombay</i>
<i>Bom.</i>	=	<i>Indian Law Reports, Bombay Series, from 1876—</i>
<i>Bom. L.R.</i>	=	<i>Bombay Law Reporter, from 1899—</i>
<i>Cal.</i>	=	<i>Calcutta</i>
<i>Cal.</i>	=	<i>Indian Law Reports, Calcutta Series, from 1876—</i>
<i>C.B.N.S.</i>	=	<i>Common Bench, New Series, 1856-1865. C.P.</i>
<i>Ch.</i>	=	<i>Chancery, Law Reports, from 1891—</i>
<i>Ch.</i>	=	<i>Chapter</i>
<i>CL</i>	=	<i>Case Law</i>
<i>Cl(s).</i>	=	<i>Clause(s)</i>
<i>CLC</i>	=	<i>Civil Law Cases</i>
<i>CLD</i>	=	<i>Corporate Law Decisions</i>
<i>CPC, 1908</i>	=	<i>Code of Civil Procedure, 1908</i>
<i>Cr</i>	=	<i>Criminal</i>
<i>CrC</i>	=	<i>Criminal Cases</i>

<i>CrLJ</i>	=	<i>Criminal Law Judgments</i>
<i>Cr.L.J.</i>	=	<i>Criminal Law Journal of India, from 1904—</i>
<i>CrPC, 1898</i>	=	<i>Code of Criminal Procedure, 1898</i>
<i>CS</i>	=	<i>Civil Service</i>
<i>Cutt.</i>	=	<i>Indian Law Reports, Cuttack Series, from 1949—</i>
<i>C.W.N.</i>	=	<i>Calcutta Weekly Notes, from 1896—</i>
<i>DLC</i>	=	<i>Dacca Law Cases</i>
<i>DLR</i>	=	<i>Dacca Law Reporter</i>
<i>E. &amp; B.</i>	=	<i>Ellis and Blackburn, 1852-1858. Q.B.</i>
<i>Eq.</i>	=	<i>Equity, 1875-1890.</i>
<i>Ext.</i>	=	<i>Extraordinary</i>
<i>FAO</i>	=	<i>Federal Adaptation of Laws Order, 1975 (P. O. 4 of 1975)</i>
<i>FC</i>	=	<i>Foreign Cases</i>
<i>FIR</i>	=	<i>First Information Report</i>
<i>FSC</i>	=	<i>Federal Shariat Court</i>
<i>Gaz. of P.</i>	=	<i>Gazette of Pakistan.</i>
<i>G. G. in. C.</i>	=	<i>Governor General in Council</i>
<i>G. G. O.</i>	=	<i>Governor General's Order</i>
<i>Govt.</i>	=	<i>Government</i>
<i>H. &amp; N.</i>	=	<i>Hurlstone and Norman, 1856-1861. Ch.</i>
<i>HL</i>	=	<i>House of Lords</i>
<i>H.P.</i>	=	<i>Himachal Pradesh</i>
<i>I.C.</i>	=	<i>Indian Cases</i>
<i>ILD</i>	=	<i>Indian Law Decisions</i>
<i>ILR</i>	=	<i>Indian Law Reporter</i>
<i>Ins.</i>	=	<i>Inserted</i>
<i>I.R.</i>	=	<i>Irish Reports, from 1891—</i>
<i>Isl.</i>	=	<i>Islamabad</i>
<i>J&amp;K</i>	=	<i>Jammu and Kashmir</i>
<i>Jour</i>	=	<i>Journal</i>
<i>JT</i>	=	<i>Judgment Today</i>
<i>Kar</i>	=	<i>Karachi</i>
<i>K.B.</i>	=	<i>Law Reports, King's Bench, from 1891—</i>
<i>Ker.</i>	=	<i>Indian Law Reports, Kerala Series, 1956.</i>
<i>KLR</i>	=	<i>Key Law Reporter</i>
<i>K.L.T.</i>	=	<i>Kerala Law Times</i>
<i>Lah</i>	=	<i>Lahore</i>
<i>L.B.R.</i>	=	<i>Lower Burma Rulings, 1901-1922</i>
<i>Ld. Raym</i>	=	<i>Lord Raymonds' Reports, 1694-1732</i>

<i>L. G.</i>	=	<i>Local Government</i>
<i>L.J.C.P.</i>	=	<i>Law Journal Admiralty Common Pleas, from 1822-1948</i>
<i>L.J.Q.B.</i>	=	<i>Law Journal Admiralty Queen's Bench, from 1822-1948</i>
<i>Lofft</i>	=	<i>Lofft's Reports, 1772-1774, K.B.</i>
<i>L.R.</i>	=	<i>Law Reports, Old Series, from 1866-1875</i>
<i>L.R.C.P.</i>	=	<i>Law Report, Old Series, Common Pleas, from 1866-1875</i>
<i>L.R.Ch.App.</i>	=	<i>Law Reports, Old Series, Chancery, from 1866-1875</i>
<i>L.R.O., 1972</i>	=	<i>Law Reforms Ordinance, 1972</i>
<i>L.R.P.C.</i>	=	<i>Law Reports, Old Series, Privy Council, from 1868-1875</i>
<i>L.T.</i>	=	<i>Law Times, 1845-1858</i>
<i>Mad</i>	=	<i>Madras</i>
<i>MB</i>	=	<i>Madhya Bharat</i>
<i>MLD</i>	=	<i>Monthly Law Digest</i>
<i>M.L.J.</i>	=	<i>Madras Law Journal Reports, from 1891</i>
<i>MP</i>	=	<i>Madhya Pradesh</i>
<i>M.P.L.J.</i>	=	<i>Madhya Pradesh Law Journal.</i>
<i>M.W.N.</i>	=	<i>Madras Weekly Notes, from 1910—</i>
<i>Mys.</i>	=	<i>Indian law Reports, Mysore Series, from 1951—</i>
<i>Nag.</i>	=	<i>Nagpur</i>
<i>NLR</i>	=	<i>National Law Reporter</i>
<i>N. W. F. P.</i>	=	<i>North-West Frontier Province</i>
<i>Ord.</i>	=	<i>Ordinance</i>
<i>p</i>	=	<i>Page.</i>
<i>Pat.</i>	=	<i>Patna</i>
<i>PC</i>	=	<i>Privy Council</i>
<i>PCr.LJ</i>	=	<i>Pakistan Criminal Law Journal</i>
<i>PCr.R.</i>	=	<i>Pakistan Current Criminal Rulings</i>
<i>PCTLR</i>	=	<i>Pakistan Company and Tax Law Reports</i>
<i>Pesh</i>	=	<i>Peshawar</i>
<i>PLC</i>	=	<i>Pakistan Labour Cases</i>
<i>PLD</i>	=	<i>All Pakistan Legal Decisions</i>
<i>PLJ</i>	=	<i>Pakistan Law Journal</i>
<i>PLR</i>	=	<i>Pakistan Law Reporter</i>
<i>P.O.</i>	=	<i>President's Order</i>
<i>pp</i>	=	<i>Pages</i>
<i>PPC, 1860</i>	=	<i>Pakistan Penal Code, 1860</i>
<i>PSC</i>	=	<i>Pakistan Supreme Court Cases</i>
<i>Pt.</i>	=	<i>Part</i>
<i>PTCL</i>	=	<i>Pakistan Tax and Corporate Law</i>
<i>PTD</i>	=	<i>Pakistan Tax Decisions</i>

<i>Punj</i>	=	<i>Punjab</i>
<i>Q.B.</i>	=	<i>Law Reports, Queen's Bench, from 1891—</i>
<i>QBD</i>	=	<i>Queen's Bench Division</i>
<i>Qta</i>	=	<i>Quetta</i>
<i>R. &amp; O.</i>	=	<i>Rules and Orders.</i>
<i>Raj.</i>	=	<i>Rajasthan</i>
<i>Ran.</i>	=	<i>Rangoon</i>
<i>Reg.</i>	=	<i>Regulation.</i>
<i>Rep.</i>	=	<i>Repealed</i>
<i>Rev</i>	=	<i>Revenue</i>
<i>R.L.W.</i>	=	<i>Rajasthan Law Weekly, from 1950—</i>
<i>S.</i>	=	<i>Section</i>
<i>SBLR</i>	=	<i>Sindh Balochistan Law Reports</i>
<i>SC</i>	=	<i>Supreme Court</i>
<i>SCC</i>	=	<i>Supreme Court Cases</i>
<i>Sch.</i>	=	<i>Schedule</i>
<i>SCJ</i>	=	<i>Supreme Court Judgments</i>
<i>SCMR</i>	=	<i>Supreme Court Monthly Review</i>
<i>SCR</i>	=	<i>Supreme Court Reporter</i>
<i>SHO</i>	=	<i>Station House Officer</i>
<i>SRO</i>	=	<i>Statutory Rules and Orders</i>
<i>Ss.</i>	=	<i>Sections</i>
<i>Subs.</i>	=	<i>Substituted</i>
<i>Tax</i>	=	<i>Taxation</i>
<i>T.R.</i>	=	<i>Durnford and East's Term Reports, 1795-1800. K.B.</i>
<i>Tr.C</i>	=	<i>Tribunal Cases</i>
<i>UC</i>	=	<i>Unclassified Cases</i>
<i>US</i>	=	<i>United States of America</i>
<i>W.E.F.</i>	=	<i>With Effect From</i>
<i>W.L.R.</i>	=	<i>Weekly Law Reporter</i>
<i>WP</i>	=	<i>West Pakistan</i>
<i>YLR</i>	=	<i>Yearly Law Reporter</i>



# THE PAKISTAN PENAL CODE

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