



RESEARCH CENTRE, HIGH COURT OF BALUCHISTAN

COURT: REHMATULLAH UMRANI, ASJ

SUBJECT: *Interpretation of Article 40 of Qanoon-e- Shahadat Order, 1984*

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PROPOSED QUERY

Interpretation and Application of Article 40 of Qanoon-e- Shahadat Order 1984 in the light of decisions of the Superior Courts.

JUDICIAL INTERPRETATION IN DIFFERENT SCENARIOS

SCENARIO I: Only the Portion Relating Distinctly to Discovery is Admissible

The consistent position of law is that where an accused person makes a disclosure statement while in police custody, only that part of the statement which directly relates to the discovery of a fact is admissible; the remaining narrative portion remains excluded from consideration.

In **PLD 1974 Quetta 28**, the Court authoritatively held:

“It is not every statement that a person made to the police... but only such portion of it as relates distinctly to the fact discovered that is admissible.”

The Court further clarified:

“Information as to past user, or the past history, of the object produced is not related to its discovery.”

Thus, where an accused states that he concealed a weapon used in the commission of the offence at a particular place, only the portion relating to the concealment and recovery of the weapon is admissible; the statement regarding its use in the offence remains inadmissible.

The principle emerging from this line of authority is that disclosure statements must be judicially dissected, and only the portion having a direct nexus with discovery may be relied upon.

SCENARIO II: Confession Before Police Distinguished from Discovery Statement

Article 40 does not operate as a validating provision for confessions made before police officers. Rather, it creates a narrow evidentiary exception permitting proof only of the discovery of facts consequent upon information supplied by an accused person.

In **PLD 1974 Quetta 28**, it was observed:

“The test of admissibility is to consider what portion of the statement relates distinctly to the fact discovered.”

Therefore, even where recovery of an incriminating article is effected pursuant to the disclosure statement of an accused, any admission of guilt contained in such statement remains legally inadmissible.

The superior courts have consistently emphasized that Article 40 cannot be invoked to circumvent the prohibition contained in Articles 38 and 39 of the Qanoon-e-Shahadat Order.

SCENARIO III: Disclosure Leading to Recovery from a Hidden or Previously Unknown Place: Admissible Evidence

Where the disclosure statement results in the recovery of incriminating material from a place previously unknown to the investigating agency, such recovery constitutes admissible evidence under Article 40.

In **2025 YLR 215 (Balochistan High Court)**, the Court held:

“Disclosure and said recoveries in consequence thereof squared within the ambit of Art.40 of Qanun-e-Shahadat, 1984, making the recovery of dead body, recovery of crime articles and pointation of place of murder relevant and admissible.”

Similarly, recoveries effected from concealed locations such as trunks, blankets, underground places, or hidden compartments on the pointation of the accused have consistently been treated as admissible corroborative evidence.

The legal rationale underlying such admissibility is that discovery of a previously unknown fact provides independent assurance of the truthfulness of the information supplied by the accused.

SCENARIO IV: Disclosure Not Followed by Discovery, Inadmissible Evidence

Where the disclosure statement does not lead to the discovery of any new fact, the statement loses its evidentiary value and becomes inadmissible under Article 40.

In **2017 PCrLJ 1198**, the Court held:

“Disclosure of co-accused was inadmissible in evidence, because the same was not followed by any sort of discovery or recovery.”

The Court further clarified that disclosure statements of co-accused cannot be used against other accused persons unless they lead to independent discovery of relevant facts.

Thus, mere disclosure without consequential recovery does not satisfy the statutory requirements of Article 40.

SCENARIO V: Recovery from an Open, Accessible, or Known Place: Not a Discovery within the Meaning of Article 40

For Article 40 to apply, the recovery must relate to a fact previously unknown to the investigating agency. Where the recovered article is found in an open place, a jointly accessible premises, or a location already known to investigators, the recovery cannot be treated as a discovery in consequence of disclosure.

In **2017 PCrLJ 1198**, the Court observed:

“Recovery of pistol, which was not hidden in any secret place, but from the room of a jointly owned house... was not free from doubt.”

The principle emerging from judicial precedents is that recovery from a place accessible to others or already within the knowledge of investigators does not qualify as discovery under Article 40.

SCENARIO VI: Disclosure Leading to Recovery of Dead Body or Identification of Crime Scene, Strong Corroborative Evidence

Where the disclosure statement results in the recovery of a dead body or identification of a crime scene previously unknown to investigators, the evidentiary value of such disclosure assumes strong corroborative significance.

In **2025 YLR 215**, the Court observed:

“Before disclosure and recovery of the dead body, neither the private witnesses nor any Levies personnel knew about the whereabouts of the deceased...”

Accordingly, such recovery was treated as admissible and reliable corroborative evidence within the meaning of Article 40.

Similarly, in 2017, SCMR 486, the Hon’ble Supreme Court reiterated that the disclosure of evidence leading to the recovery of incriminating articles or the identification of concealed locations constitutes a legally admissible circumstance supporting the prosecution's case, provided the recovery is shown to be genuine and connected to the accused.

Thus, Article 40 of the Qanoon-e-Shahadat Order, 1984 occupies a narrowly defined evidentiary field and operates as a limited exception permitting proof only of that portion of information supplied by an accused person which leads to the discovery of a relevant fact. The superior courts have consistently held that the provision does not validate confessions made before police officers, nor does it permit reliance upon disclosure statements unaccompanied by recovery. Its application is confined strictly to situations where the discovery of a previously unknown fact lends independent assurance to the prosecution's case. Consequently, the evidentiary value of disclosure statements depends entirely upon the genuineness, exclusivity, and relevance of the discovery made in consequence thereof.
