

1995SCMR614

[Supreme Court of Pakistan]

Present: Sajjad Ali Shah, CJ., Muhammad Munir Khan and Irshad Hasan Khan, JJ

MIR MUHAMMAD ---Appellant

versus

THE STATE---Respondent

Criminal Appeal No. 287 of 1992, decided on 31st January, 1995.

(On appeal from the judgment of High Court of Balochistan, Quetta, dated 16-3-1992 passed in Criminal Appeal No. 40 of 1991).

Criminal Procedure Code (V of 1898)---

---S. 103---West Pakistan Arms Ordinance (XX of 1965), S. 13-E---Qanun-e-Shahadat (10 of 1984), Art. 40---Recovery---Association of two respectable inhabitants of the locality is not required in a case where the accused himself leads the police to a particular place and gets the article recovered.

In the present case, the accused had led the police to his house and pointed the place wherefrom the gun was recovered. Neither search warrants were issued by the Magistrate for the search of the house of the accused nor the Police had searched his house/place of its own. The plain reading of section 103, Cr.P.C. would show that the provisions of this section apply to a case where the Police conducts search of a house/place to recover an article for which search is to be made and not to a case where anything is to be discovered in consequence of the information given by or on the pointation of the accused. The recovery to be made on the pointation of the accused is relevant under Article 40 of the Qanun-e-Shahadat, 1984. The association of the two respectable inhabitants of the locality is not required in a case where the accused himself leads the Police to a particular place and gets the article recovered.

Sh. M. Naeem, Advocate for Appellant.

Nemo for the State.

Date of hearing: 31st January, 1995