

**P L D 1957 (W. P.) Lahore 109**

**Before Shabir Ahmad and Muhammad Yaqub Ali, JJ**

**GHULAM NABI-Convict-Appellant**

**Versus**

**THE STATE-Respondent**

Criminal Appeal No. 2 of 1956, decided on 8th November 1956, from the order of Tafazzul Hussain, Sessions Judge, Rahim Yar Khan, dated the 27th December 1955.

**(a) Confession-----**

-----Extra-judicial-Value depends on facts of case-Mere inability to give exact words of confession cannot make confession inadmissible.

Prejudice of Courts against admission of extra-judicial confession is not misplaced. Nevertheless, such confession, being evidence, cannot be brushed aside simply on the ground that such evidence can be easily fabricated. The weight to be attached to any evidence depends upon the circumstances of each case.

The mere fact that the witness deposing to an extra judicial confession was unable to give the exact words in which the confession was made cannot make the confession inadmissible in evidence.

**(b) Expert-----**

----Opinion-Value to be attached by Court Evidence Act (1 of 1872), S. 45.

A Court is not bound to accept as gospel truth each word of what a doctor states as an opinion. In law the statement of an expert stands on precisely the same footing as that of any witness and may or may not be accepted by Court. Ordinarily, the Court will be slow to reject the opinion of a witness who is an expert in the matter he deposes about but that is not to be understood to mean that the word of an expert is like law to the Court called upon to deal with his evidence as a witness.

**(c) Penal Code (XLV of 1860)----**

----S. 300, cl. fourthly-Act imminently dangerous-Stiffing mouth and nose of child six years old to prevent her from shrieking while the accused removed her ear-rings-Offence murder.

Held, that mere absence of intention to cause death does not take an act out of the purview of the offence of murder.

If an ordinary person must know that an act is so imminently dangerous that it will, in all probability, cause death or such bodily injury as is likely to cause death an accused person charged with the doing of such an act will be presumed to have that knowledge unless he can prove that he is deficient in such knowledge.

Where it was pleaded that the accused thrust earth into the mouth and nose of the child 6 years old in order to prevent her from shrieking while he was removing her ear-rings

Held, that the accused's act was covered by clause fourthly of section 300, P. P. C., and the accused's offence fell under section 302, P. P. C.

Wajid Ali Shah for Appellant.

M. Anwar, A. A. G. for Respondent.