

**P L D 2008 Lahore 470**

**Before Muhammad Akram Qureshi, J**

**WALAYAT---Petitioner**

**Versus**

**THE STATE---Respondent**

Criminal Miscellaneous No. 4232-B of 2008, decided on 4th June, 2008.

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

---S. 497(2)---Qanun-e-Shahadat (10 of 1984), Art.22---Penal Code (XLV of 1860), Ss. 395/412---Bail, grant of---Further inquiry---Case property, identification of---Farnas (stolen property) were never placed before complainant to ascertain its ownership and establish that recovered Farnas were stolen property---No evidence was available showing participation of accused in the alleged dacoity and that recovered Farnas were stolen property and that the Farnas were owned by complainant---Effect---Investigating Officer was legally required to mix Farnas in some others and had got those identified from complainant but such exercise was never undertaken and thus there was no evidence to establish that recovered Farnas were stolen property---Such was gross negligence on the part of Investigating Officer---High Court noted it with great concern that cases of Qatl-e-Amd, robbery and dacoity were being spoiled by adopting such mode and habitual dacoits or robbers were being let off---High Court further observed that it was a serious affair and senior officers of police department were keeping their eyes shut over such serious matters---Prosecution branch was also silent on such serious matter--  
-Absence of such necessary evidence had put the case against accused within the domain of further inquiry---No reasonable grounds existed to believe that accused had committed offence under Ss. 395/412, P.P.C.---Bail was granted in circumstances.

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

---Ss. 395 & 412---Qanun-e-Shahadat (10 of 1984), Art. 22---Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act (III of 2006), Ss.10 & 12---Dacoity and dishonestly receiving property stolen in the commission of dacoity---Identification parade---Procedure of arrangements---Guidelines by High Court---Procedure for making arrangements for identification parade easier was prescribed by High Court for circulation to Prosecutor General, Advocate-General, Additional Inspector General of Police (Investigation) and all the Sessions Judges of the Province, who shall pursue the same and circulate it to all concerned and subordinate courts and offices for appropriate legal action and observance.

Following are the guidelines prescribed by the High Court to make the arrangements of identification parade easier and to be sent to Prosecutor-General Punjab, Advocate-General Punjab, Addl. Inspector General of Police (Investigation) Punjab and all Sessions Judges of Punjab, who shall pursue the same and circulate it to all concerned and subordinate courts and offices for appropriate legal action and observe that:

- (i) In case of unknown assailant the arrested accused must be put to identification parade.
- (ii) Recovered articles must be got identified from the owners.
- (iii) Recording of baseless statement mentioning the complainant and eye-witnesses have come to know the names of assailants through reliable source should be avoided.
- (iv) The mature and well-versed Investigating Officers should be deputed to investigate the cases. In this respect the educated persons must be given preference.
- (v) The process of holding the identification parade in jail should be made easier and in this respect unnecessary hurdles should not be created in the ways of the Investigating Officers.
- (vi) The process of scrutinizing the challan should be reformed and cases of deficient evidence

should not be forwarded to courts.

(vii) Illegalities and irregularities committed by the Police Officials should be brought to the notice of higher Police Officials and strict departmental as well as criminal action under the relevant provisions of law shall be taken against them.

(viii) The Prosecutor-General and Prosecutors are reminded their powers under sections 10/12 of the Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006. It is expected that in future they shall make use of these powers effectively to cure above mentioned illegalities/irregularities.

Rana Muhammad Khan for Petitioner.

Adeel Aqil Mirza, D.P.-G. along with M. Akram S.-I. for the State.