

Quashment of the FIR in Pakistan: Section 561-A, Article 199 and the Limits of the High Court

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Abstract

An accused who is named in an FIR often asks the High Court to end the case at once, either under section 561-A of the Code of Criminal Procedure or under Article 199 of the Constitution. This paper reads 177 reported judgments of the Supreme Court of Pakistan (44) and the Peshawar High Court (133), all taken from the Pakistan Law Site, to answer four questions: whether an FIR can be quashed at all; under which provision; in what circumstances the court does so; and what the lawyer for each side should do. The result is that the Supreme Court has moved from a general bar on quashing during investigation (Ahmad Saeed, 1996 SCMR 186) to a clear division of functions: section 561-A reaches only proceedings in a court, and the FIR and the investigation are reached, if at all, only by Article 199 and only in exceptional cases (PLD 2023 SC 265; PLD 2025 SC 254). The Peshawar High Court quashes an FIR when the police had no authority to register it, when a statutory bar on cognizance applies, or when the facts show on their face that no offence exists; it declines when the matter turns on disputed facts, on a civil-looking dispute that also discloses a cognizable offence, or on a plea that can be made later under sections 249-A and 265-K.

Keywords: quashment of FIR; section 561-A; Article 199; investigation; challan; mala fides; civil dispute; compromise; sections 249-A and 265-K; Peshawar High Court.

1. Introduction

A criminal case begins with the First Information Report. For the accused the report is the start of arrest, bail, police custody and a long trial, and the first instinct is to ask whether the High Court can stop it. The question has two sides. The State and the complainant say that the police have a statutory duty to investigate a cognizable offence and that the court must not throttle that duty. The accused says that the High Court has a duty to prevent abuse of the process of the law and that a prosecution that is false, malicious or without lawful authority should end before it does harm.

The law has settled more than it did thirty years ago, but practice has not caught up. Petitions under section 561-A are still filed to quash FIRs, although the Supreme Court has held that the section does not reach them. Petitions under Article 199 are filed on pleas that need evidence, and are dismissed in limine. This paper sets out what the authorities hold, so that a petition is filed where it can succeed and defended where it cannot.

2. Sources and Method

All judgments are taken from the Pakistan Law Site and from no other source. The research began with 1,547 records found through repeated searches on the Pakistan Law Site, was narrowed by head-note to the relevant ones, and 177 are in Annexure A. In each entry the citation, bench and date are those given in the text of the judgment. A dagger (†) means that the answer rests on the head-note, extracts and tail of the judgment and not on the whole text; every entry in Annexure A carries it, and anyone citing a case in court should read the full report before doing so. Nothing in this paper is taken from a source outside the Pakistan Law Site.

3. The Statutory Framework

- **Section 154, Cr.P.C.:** the officer in charge of a police station must record information of a cognizable offence. The Supreme Court and the Peshawar High Court treat this as a mandatory duty (Muhammad Sohail, 2024 PCrLJ 722; Zahoor Khan, 2021 PCrLJ 446).
- **Sections 155(2) and 156:** police may investigate a cognizable offence without a Magistrate's order; for a non-cognizable one they need the court's permission (Peshawar High Court Bar, PLD 2022 Pesh. 248).

- **Sections 169 and 173:** the police can release an accused when evidence is insufficient and can submit a report; the report does not bind the court, which may take cognizance despite a recommendation to cancel (Javed Khan, 2019 PCrLJ 1756).
- **Sections 195 and 196:** bars on cognizance without a complaint or sanction (for example, s. 188 P.P.C. needs a written complaint by the public servant concerned: Ikram, 2000 PCrLJ 297; ss. 153-A, 295-A and 298 P.P.C. need sanction: Atta Muhammad Dешani, 2019 PCrLJ 275).
- **Section 22-A:** the Justice of Peace may direct registration of an FIR; the resulting FIR is attacked in a writ petition, not by revision.
- **Sections 249-A and 265-K:** the trial court may acquit at any stage when the charge is groundless or there is no probability of conviction.
- **Section 403:** protection against a second trial for the same offence; and Article 13(a) of the Constitution.
- **Section 439 and section 561-A:** revisional and inherent powers; the latter saves the High Court's power to give effect to an order under the Code, to prevent abuse of the process of any court and to secure the ends of justice.
- **Article 199 of the Constitution:** the constitutional jurisdiction of the High Court, available to an aggrieved person where there is no other adequate remedy and the action is without lawful authority.
- **Penal provisions** which commonly arise: ss. 406, 420, 468, 471 and 489-F P.P.C. (breach of trust, cheating, forgery, dishonour of cheque), s. 188 P.P.C., and special laws with their own investigating agencies (FIA, Anti-Corruption Establishment, NAB).

4. Phase One (to 2003): Quashing Is Rare and the Trial Court Comes First

In the earlier cases the Supreme Court refuses to quash a private complaint before the trial when guilt depends on the whole of the evidence (Rahim Khan, 1968 PCrLJ 764), but where the record prima facie supports the plea that the dispute is not a criminal one it grants leave and stays the trial (Mehr Din, 1968 PCrLJ 890). Naseem Baig (1981 SCMR 315) sets out the principles on which a complaint may be quashed under section 561-A. In Muhammad Aslam Khan (1990 SCMR 211) the High Court was held right to quash a Hudood case founded on words used in a habeas corpus petition, because the very document said to constitute the offence showed that no zina was meant.

The statement that governs the rest of the law is **Ahmad Saeed (1996 SCMR 186)**: the High Court cannot under section 561-A quash an FIR while the investigation is incomplete, on grounds of mala fides or similar pleas; the proper time to decide is after the investigation is complete and the challan is before the court. Nazir Ahmad (PLD 1980 SC 6) in the next phase says the same, that section 561-A cannot be used to stop a police investigation.

The decisions on the other side of the line show the limits of the rule. In *State v. Gulzar Muhammad* (1998 SCMR 873) the Court said that the accused should ordinarily first ask the trial court for acquittal under sections 249-A or 265-K. In *Miraj Khan* (2000 SCMR 122), however, the Court allowed that in exceptional cases the High Court may use section 561-A without waiting for the trial court if the facts so warrant. *M. Aslam Zaheer* (2003 SCMR 1691) is a reminder that an arbitration clause in an agreement does not make a criminal complaint disappear.

In the Peshawar High Court of this period the pattern is the same. *Mahmood Khan* (1999 YLR 1604) followed Ahmad Saeed and held an application under s. 561-A against an FIR and its investigation not maintainable, directing an impartial investigation instead. Where the law gave no authority to the police, however, the High Court quashed: *Byram D. Avari* (PLD 1989 Pesh. 145), where a contractual dispute had twice gone to independent agencies and the police case was held beyond the competence of the police and mala fide in law; *Qayyum Nawaz* (PLD 2002 Pesh. 34) held that a gambling raid had to be supervised by a Magistrate First Class, and *Ikram* (2000 PCrLJ 297) held that cognizance of a s. 188 offence needs the written complaint of the officer who made the order.

5. Phase Two (2004–2022): The Supreme Court Closes the Door on Casual Quashing

In this phase the Supreme Court says, repeatedly and in strong words, that the High Court must not take the place of the investigating agency.

- **Muhammad Mansha (PLD 2006 SC 598)**: section 561-A and Article 199 are extraordinary remedies for exceptional circumstances.
- **Col. Shah Sadiq (2006 SCMR 276)**: the High Court has no jurisdiction to resolve a disputed question of fact in its constitutional jurisdiction.
- **Haji Sardar Khalid Saleem (2006 SCMR 1192)**: criminal proceedings are not barred by civil proceedings; both may go on at the same time.
- **Muhammad Saleem Bhatti (2006 SCMR 1957)**: the High Court had quashed four FIRs on the view that no cognizable offence was made out; the Supreme Court allowed the appeal, holding that the High Court cannot enter a factual controversy under Art. 199 unless the facts are not in dispute and that the accused had not used the remedies under ss. 249-A, 265-K and 439.
- **Rafique Bibi (2006 SCMR 512)**: the High Court had quashed an FIR on grounds of 26 years' delay, mala fides and civil nature; the Supreme Court held that the effect of delay is for the trial court, that mala fides is a question of fact needing evidence, and that civil and criminal proceedings can run together.
- **Industrial Development Bank (2006 SCMR 483)**: registration of an FIR in violation of a statutory condition does not take away cognizance; registration and cognizance are different things.
- **Dr. Ghulam Mustafa (2008 SCMR 76)**: the High Court may not take the role of the investigating agency.
- **Ajmeel Khan (PLD 2009 SC 102)**: the functions of the judiciary and the police are complementary, not overlapping; quashing an FIR while it is being investigated throttles the police.
- **Ghulam Sarwar Zardari (2010 SCMR 624)**: on an accused's complaint of torture by the investigating officer, the High Court had passed a punitive order; the Supreme Court held that police misconduct is dealt with by a Magistrate under Art. 155 of the Police Order, 2002 or by departmental action, and that the High Court had exceeded its jurisdiction.
- **Dr. Sher Afgan Khan Niazi (2011 SCMR 1813)**: the High Court had quashed at a preliminary stage the investigation of sections 322 and 420 added against the heads of a motor company after a road-accident death; the Supreme Court set that judgment aside and directed the investigating officer to proceed fairly and transparently.
- **Farooq (PLD 2016 SC 55)**: orders under ss. 203 and 204 are judicial orders; a party cannot circumvent the remedy of revision or the trial court's powers under ss. 249-A and 265-K by an application under s. 561-A.
- **Ali Muhammad (PLD 2016 SC 484)**: where versions conflict and mala fides and a collusive investigation are alleged, a direction to register a second FIR may be justified.
- **Dr. Sikandar Ali (2021 SCMR 1486)**: a criminal matter cannot be closed with a stroke of the pen because civil litigation is pending or because of a finding in a police investigation; the single judge's judgment quashing the FIR was set aside.

Two cases in the same period soften the picture and the lawyer for the accused should keep them in hand. In **Rana Shahid Ahmad Khan (2011 SCMR 1937)** the Court said that under s. 561-A the High Court can quash even at the initial stage if the allegations are un rebutted and no criminal case is made out, or in special circumstances such as admitted facts making a civil case; on its facts the Court allowed the appeal and directed a fresh investigation by an upright officer. **Kamran Iqbal (2016 SCMR 447)** held that the FIA was not competent to register a case under s. 489-F for a dispute between two private individuals over a pure private transaction, because the offence was outside its Schedule. The first states a test that is narrower than the general rule; the second goes to jurisdiction, because an agency outside whose Schedule the offence falls cannot register the case.

6. Phase Three (2023–2026): Section 561-A Does Not Reach the FIR

Federal Investigation Agency v. Syed Hamid Ali Shah (PLD 2023 SC 265) holds that the High Court has no power under section 561-A to quash an FIR or an investigation. The power is limited to judicial or court proceedings and does not reach the work of other authorities, such as FIR registration or police investigation. A court proceeding pending before a subordinate court may be quashed if that is necessary to prevent abuse of the process of that court or to secure the ends of justice. The Court relied on *Shahnaz Begum (PLD 1971 SC 677)*. The consequence is that a petition under section 561-A to quash an FIR is not maintainable, and a petition to the same end must be framed under Article 199.

The State v. Chaudhry Mohammad Khan (PLD 2025 SC 254) says when Article 199 will do it: only in exceptional cases, where the facts on record show unequivocally that no offence can be established, or where registration of the FIR reflects a misuse of legal authority or lacks legal justification. Cases registered without authority or in clear violation of established laws must be quashed. The High Court must not use the power where the allegations make out a prima facie case, a civil dispute does not by itself justify quashing, and civil and criminal proceedings can run together. **Ayesha Tayyab (2025 SCMR 1117)** adds a substantive limit to what may count as a cognizable offence in a money case: a loan is not an entrustment, so breach of trust under s. 406 P.P.C. is not made out by a failure to repay a loan.

Where the offence is outside the power of the police, the court acts. **Muhammad Ali v. Samina Qasim Tarar (2022 SCMR 2001)** reads "entrustment" in s. 405 widely ("with the property or with any domain over the property") and holds that an act does not lose its criminal nature because it also gives rise to civil liability. The two cases should be read together in a breach-of-trust FIR.

7. The Peshawar High Court, 2005–2026

The Peshawar High Court's practice can be sorted into four groups.

(a) The court declines because the matter needs evidence. The petition fails where the FIR discloses a cognizable offence and the plea is factual: *Rifat Ullah Khan (2013 PCrLJ 1012)*; *Muhammad Musthaq (2013 MLD 1037)*; *Mehboob Ahmed (2018 PCrLJN 227)*; *Sajjad (2019 PCrLJ 1205, counter-FIR)*; *Balqiaz Ali Shah (PLD 2025 Pesh. 36)*. *Tarah Dad Khan (2014 YLR 2632)* and *Muhammad Hafeez (PLD 2014 Pesh. 231)* say that the High Court does not decide controversial questions of fact during investigation. *Kausar Ali Shah (PLD 2020 Pesh. 170)* adds that the accused has the remedy of ss. 249-A and 265-K, and *Muhammad Shafique (2018 PCrLJ 352)* that the points can be raised first before the investigating officer and then at framing of the charge.

(b) The court declines in cheque and money cases. *Firdous Aziz (2018 PCrLJ 392)*, *Nisabullah (2018 MLD 1571)*, *Sami-ud-Din (2013 YLR 2218)*, *Haji Zeri Gul (2014 PCrLJ 1361)* and *Ghulam Mustafa (2026 PCrLJ 1308)* refuse to quash a s. 489-F FIR because the offence is alleged and the facts need evidence. By contrast, *Fauzia Bibi (2014 YLR 2058)*, where the sale of the vehicle was between the complainant and the petitioner's husband and the petitioner was not shown to have received the vehicle or made any payment, shows that the court quashes when the link with the accused is wanting.

(c) The court quashes for want of lawful authority. This is the main route to success.

- A gambling raid by an officer not authorised by statute (*Qayyum Nawaz, PLD 2002 Pesh. 34*; *Abdul Ahad, 2013 PCrLJ 1391*).
- No written complaint of the officer concerned for an offence under s. 188 P.P.C. (*Ikram, 2000 PCrLJ 297*).
- A challan submitted for offences under ss. 153-A, 295-A and 298 P.P.C. without a complaint or sanction under s. 196 (*Atta Muhammad Deshani, 2019 PCrLJ 275*).
- A non-cognizable offence investigated without the Magistrate's permission (*Peshawar High Court Bar, PLD 2022 Pesh. 248*).

- An Anti-Corruption Establishment FIR that was mala fide, where the accused and the respondent were at daggers drawn from earlier criminal litigation (Nigah Hussain, PLD 2014 Pesh. 116); the overlap of an ACE inquiry with an FIR is not by itself a ground (Gohar Ayub, 2019 PCrLJ 1260, where both could proceed).
- A s. 489-F FIR against a person who had no dealing with the complainant (Fauzia Bibi, 2014 YLR 2058), and a loan-against-pro-note FIR that disclosed no cognizable case (Shaukat Zaman, 2012 MLD 1306).
- A company's internal dispute governed by the Companies Act (Sardar Faraaz Hussain, 2025 PCrLJ 1715).
- A second prosecution on the same allegations: in Noorshad (2017 PCrLJ, NAB) a third reference after two earlier ones was barred by s. 17(d) of the NAB Ordinance and the accused was acquitted under s. 265-K, but in Masood Anwar (2017 PCrLJ 1466) the plea of double jeopardy under s. 403 and Article 13(a) failed because the accused had neither been convicted nor acquitted of the offence in the FIR, and in Ghufuran Shah (2019 PCrLJ 1346) it failed because trial on the P.P.C. charges had not begun.

(d) The court sets aside discharge, not the FIR. Abbas Khan (2019 PCrLJ 259) held that police officials cannot "quash" a murder FIR against police officials by a discharge; the discharge was set aside and challan ordered within 14 days. Javed Khan (2019 PCrLJ 1756) held that the Magistrate need not accept a cancellation report. Naseem Khan (2019 PCrLJ 154) reminds the accused that an investigating officer can refer the case for discharge under s. 63 or release under s. 169 if the allegations are false.

8. Thematic Analysis

8.1 The pre-challan bar

The consistent line from Ahmad Saeed (1996 SCMR 186) to Ajmeel Khan (PLD 2009 SC 102) is that an FIR is not quashed while the police are investigating, because the investigation is how a false case is shown to be false. Salah-ud-Din Khan (PLD 2008 Pesh. 53) states the same duty in the terms of s. 154. The answer to the accused is the investigation itself: give the investigating officer your version and documents, and ask for discharge under s. 169.

8.2 Section 561-A or Article 199

After PLD 2023 SC 265 the answer is fixed. A petition to quash an FIR or stop an investigation is under Article 199 and a petition to quash a court's proceedings, such as cognizance, summoning or framing of charge, is under section 561-A. Peshawar cases before 2023 already refused to quash an FIR on mala fides under s. 561-A (Raza Ali Mustafa, citing PLD 1967 SC 317 and 1996 SCMR 186; Mahmood Khan, 1999 YLR 1604), and the Supreme Court's 2023 holding now puts the rule beyond argument.

8.3 Disputed facts

Almost every refusal rests on this. Col. Shah Sadiq (2006 SCMR 276) says the High Court has no jurisdiction to resolve a disputed question of fact in the writ jurisdiction. The accused who relies on documents must show that they are undisputed and conclusive on the face of the FIR.

8.4 Civil dispute and criminal case

Civil proceedings do not bar criminal (Haji Sardar Khalid Saleem, 2006 SCMR 1192; Chaudhry Mohammad Khan, PLD 2025 SC 254). A civil flavour is relevant only where the allegations, taken at their face, disclose no offence: Ayesha Tayyab (a loan is not an entrustment) and Shaukat Zaman (2012 MLD 1306, a loan against a pro-note). A cheque case, a breach of trust, a forgery in a land transaction are all offences if the ingredients are alleged.

8.5 Statutory bars on cognizance

These are the strongest ground, because the point is one of law on the face of the record. Sections 195 and 196 of the Code, and the specific statutes that confine prosecution to a named authority (the Prevention of Gambling Ordinance, the Companies Act, the NAB Ordinance, the Financial Institutions Ordinance), should be checked first. The Supreme Court warns in IDBP (2006 SCMR 483) that registration and cognizance are different: a bar on cognizance does not

always make registration void.

8.6 Compromise

A settlement is not by itself a ground to quash an FIR for a non-compoundable offence. In *Dr. Ghulam Mustafa* (2008 SCMR 76) the offences were not compoundable and the Supreme Court set aside the quashing that rested on a settlement reached outside the court. Where the offence is compoundable the matter is dealt with under s. 345, and the parties go to the court that has the case.

8.7 Marriage and sui juris cases

Muhammad Bashir (2003 SCMR 1339) upheld the quashing of a Hudood FIR where the sui juris woman appeared and said she had married of her own free will, and in *Rizwana Bibi* (2012 SCMR 94) the Court held that her statement took the case out of the mischief clauses of s. 365-B and that marriage to a person of one's choice is protected by the Constitution. *Malik Wajid* (2020 PCrLJ 1416) is the Peshawar example of an FIR quashed on the daughter's appearance and statement. Where the genuineness of the marriage is itself in question (*Izzat Khan*, 2010 PCrLJ 558), the High Court leaves it to trial.

8.8 Alternate remedy

An accused who can apply under section 249-A or 265-K to the trial court is told to do so (*Kausar Ali Shah*). The Supreme Court's leading statement is *State v. Gulzar Muhammad* (1998 SCMR 873). A 265-K application pending before the trial court is not to be treated as dismissed because it has not been decided for some months; in *Tariq Mohsin* (2004 SCMR 1892) the Supreme Court sent it back to be decided on its merits.

8.9 The Justice of Peace and the FIR it directed

An FIR registered on the order of the Justice of Peace is not quashed lightly if the order was within jurisdiction and the allegations lead toward a cognizable offence (*Firdous Aziz*, 2018 PCrLJ 392). The orders themselves are dealt with in the separate paper on section 22-A.

8.10 Police discharge and the court's role

Section 169 empowers the police to release the accused while the case is under investigation; the Magistrate decides on the report. *Gul Ghameer* (1999 PCrLJ 262) shows that the complainant who does not challenge a discharge in time is bound by it, and *Abbas Khan* (2019 PCrLJ 259) shows that the discharge of police officials in a murder case was set aside.

9. The Authorities That Go the Other Way

For the accused: *Miraj Khan* (2000 SCMR 122), which keeps s. 561-A open in exceptional cases; *Rana Shahid Ahmad Khan* (2011 SCMR 1937), which allows quashing at the initial stage where the allegations are unrebutted and no cognizable offence is made out; *Kamran Iqbal* (2016 SCMR 447), on want of FIA jurisdiction; and *PLD 2025 SC 254* itself, which says that cases registered without authority must be quashed.

For the State and the complainant: *Ahmad Saeed* (1996 SCMR 186), *Ajmeel Khan* (PLD 2009 SC 102), *Dr. Ghulam Mustafa* (2008 SCMR 76), *Col. Shah Sadiq* (2006 SCMR 276), and the series of Peshawar cases that dismiss in limine on the ground of factual controversy. Those cases, read with *Hamid Ali Shah* (PLD 2023 SC 265), answer most petitions.

10. Practical Guide

10.1 For the accused

- Read the FIR as the High Court will: does it, on its face, disclose a cognizable offence by a person the police could proceed against? If yes, quashing is unlikely; plan for bail and discharge.

- If the case is registered without authority (statutory bar, wrong agency, non-cognizable offence, Magistrate's permission missing) say so first and file under Article 199, not section 561-A.
- Give the investigating officer your version and documents in writing. Ask for discharge under s. 169 or a referral under s. 63 (Naseem Khan).
- Do not plead a counter-FIR or mala fides as the main ground (Sajjad; Ahmad Saeed).
- After the challan, apply under 249-A or 265-K to the trial court first (Gulzar Muhammad; Kausar Ali Shah).
- Use section 561-A only for court proceedings: cognizance, summoning, framing of charge.

10.2 For the complainant and the State

- Rely on the statutory duty in s. 154 and on the rule that the investigation is how the dispute is shown to be false (Ajmeel Khan).
- Say that the issue is factual (Col. Shah Sadiq), that civil and criminal can run together (Haji Sardar Khalid Saleem), and that the accused has the 249-A and 265-K remedy (Kausar Ali Shah).
- Put the ingredients of the offence plainly in the FIR so that the loan/entrustment line (Ayesha Tayyab; Muhammad Ali v. Samina Qasim Tarar) is crossed.
- Check the statutory bars yourself before the accused does: complaint or sanction under ss. 195-196 and special-law authority.
- If the police discharge the accused in a serious case, challenge it (Abbas Khan; Javed Khan).

11. Open Questions

- 1 Which provision should a petition to stop proceedings before a Magistrate on a police report use, section 561-A or Article 199, when the report is already in court? PLD 2023 SC 265 speaks of court proceedings, but the older cases did not draw this line.
- 2 How far does a statutory bar on cognizance (ss. 195-196) make the FIR itself void, given the distinction in IDBP (2006 SCMR 483) between registration and cognizance?
- 3 What is the effect of a compromise in a non-compoundable offence now that the Supreme Court has held that the High Court cannot assume the role of the investigating agency?
- 4 How should a court test whether "no offence can be established unequivocally" (PLD 2025 SC 254) without looking at documents?

12. Conclusion

The law can be stated in six sentences. First, an FIR is not quashed under section 561-A, which reaches only court proceedings. Second, Article 199 will quash an FIR only in exceptional cases. Third, those cases are the ones where the facts on the face of the record show that no offence exists, or the police acted without lawful authority. Fourth, the High Court does not decide disputed facts, and civil proceedings do not bar criminal ones. Fifth, the accused has the investigation, section 169, and sections 249-A and 265-K as remedies. Sixth, a court proceeding that is an abuse of process can be quashed under section 561-A. The 177 judgments in Annexure A (44 from the Supreme Court and 133 from the Peshawar High Court) are the support for each of these statements, and the 134 practical points in Annexure B turn them into steps for the court room.

Prepared for knowledge purposes. Not legal advice for any particular case.

Annexure A: 177 Judgments in Question-and-Answer Form

Annexure A has 177 entries in six parts: Part I is the Supreme Court to 2003; Part II is the Supreme Court from 2004 to 2026; Parts III to VI are the Peshawar High Court (to 2004, 2005-2012, 2013-2019 and 2020-2026). Each entry gives the citation with bench and date, a short question, and an answer that begins with the provisions involved. A dagger (†) means the answer is based on the head-note and extracts of the judgment, not the full text; every entry here carries it, so read the full report before citing.

Supreme Court of Pakistan to 2003: the foundations

No.	Citation	Question	Answer
1	Mehr Din and others v. The State, 1968 PCrLJ 890 (Fazle-Akbar, Muhammad Yaqub Ali JJ; 29.1.1968) †	What did the Supreme Court do when accused sought leave against the refusal to quash a private complaint of dishonest disposal of firm property?	Provisions: s. 561-A, Cr.P.C.; ss. 406, 421 and 424, P.P.C. The complaint before a Magistrate alleged that the petitioners had dishonestly disposed of properties of a firm belonging to both sides. The Court found that the contention raised by the petitioners received prima facie support from the record, granted leave to appeal and stayed the trial proceedings until the appeal was decided. The order shows that where the record prima facie supports the plea that the dispute is not a criminal one, the Court will stay the trial while it examines the matter.
2	Rahim Khan v. The State, 1968 PCrLJ 764 (Fazle-Akbar, Muhammad Yaqub Ali JJ; 29.1.1968) †	Can proceedings on a private complaint be quashed before the trial has been held when guilt depends on the whole of the facts?	Provisions: s. 561-A, Cr.P.C. The head-note records that whether the accused is guilty or innocent depends on the totality of the facts and circumstances revealed during the trial, and that this stage had not been reached. The application for quashment was therefore rightly refused by the High Court, and the petition for leave to appeal was dismissed. The ruling is an early statement that quashment is not a substitute for trial where the answer depends on evidence.
3	Muhammad Saeed Azhar v. Martial Law Administrator, Punjab, 1979 SCMR 484 (Anwarul Haq CJ; 15.5.1979) †	Will the Court quash proceedings on the footing of an order that has not yet been passed?	Provisions: s. 561-A, Cr.P.C.; Art. 185(3), Constitution. The matter was still under examination and no order had been made sending the case to a Summary Military Court. The Court held that the question whether the conditions for trial before that court were satisfied did not arise, and that it could not undertake an academic exercise on the validity of an order not yet passed. The petition was dismissed. The case is later cited for the rule that the High Court has no jurisdiction under Art. 199 to resolve disputed questions of fact (see 2006 SCMR 276 below).
4	Naseem Baig v. Muhammad Iqbal and another, 1981 SCMR 315 (Dorab Patel, Muhammad Haleem JJ; 9.2.1981) †	On what principles may a complaint be quashed under s. 561-A?	Provisions: s. 561-A, Cr.P.C. The High Court should examine the complaint to see whether it makes out an offence, and should not be influenced by extraneous material that is not germane. It is not denuded of power to quash if cogent material shows that the prosecution was launched for improper motives or merely to harass the accused, or that its continuance would abuse the process of the Court or would not serve the ends of justice. The lower court had held the case false and concocted on the strength of the respondent's credentials, without any material on record and without testing whether the allegations disclosed a groundless charge. The appeal was allowed, the case sent back to the trial Magistrate to conclude within three months, and the accused stayed on bail.
5	Muhammad Saeed v. The State, PLD 1984 SC 29 (Aslam Riaz Hussain, Nasim Hasan Shah JJ; 22.10.1983) †	Could the Sessions Judge take cognizance of a Hudood private complaint without an inquiry report, and what became of the quashment application?	Provisions: ss. 181(4), 202 and 561-A, Cr.P.C.; ss. 6, 11 and 16, Zina (Enforcement of Hudood) Ordinance, 1979. The head-note holds that a Sessions Judge cannot take cognizance of a private complaint in the first instance without the report of an inquiry under s. 202, and that, as the accused had taken the abductee from place to place, the Sessions Judge at the place concerned had territorial jurisdiction. The High Court was held right to dismiss the quashment application on the jurisdiction point. On the other ground, which the extract does not set out in full, the Court converted the petition into an appeal, accepted it and quashed the complaint proceedings.

No.	Citation	Question	Answer
6	Muhammad Sarwar v. The State, PLD 1985 SC 240 (Muhammad Haleem CJ; 24.3.1985) †	What should the Supreme Court do when a High Court's order on a quashment application is too short to show the facts?	Provisions: s. 561-A and s. 369, Cr.P.C.; Art. 185(3), Constitution; Order XXVI, r. 1, Supreme Court Rules, 1980. The High Court's order was extremely short and the facts behind the quashment application could not be gathered from it, so the Court fell back on the application itself. It then converted the petition into an appeal, allowed it and remanded the case so that the High Court would decide the quashment application afresh on merits. The case shows that a quashment order must state the facts and reasons so that it can be reviewed.
7	Muhammad Aslam Khan v. Muhammad Aslam, 1995 SCMR 211 (Javid Iqbal, Ghulam Mujaddid Mirza JJ; 12.6.1989) †	Was the High Court right to quash a Hudood case founded on words used in a habeas corpus petition?	Provisions: s. 561-A, Cr.P.C.; s. 16, Zina (Enforcement of Hudood) Ordinance, 1979; Art. 203-DD, Constitution. The words 'criminal assaults' in the habeas corpus petition were meant to describe physical torture and not zina. The High Court was held right to quash the proceedings under s. 16, and the petition was dismissed. The case shows quashment on the face of the very document that is said to constitute the offence.
8	Muhammad Ismail v. Sher Muhammad, 1995 SCMR 490 (Sajjad Ali Shah, Muhammad Rafiq Tarar JJ) †	What did the Court take up in granting leave against quashment of a case at the investigation stage?	Provisions: s. 561-A, Cr.P.C.; Art. 185(3), Constitution. Leave was granted to examine whether the High Court's judgment quashing the case against the accused at the investigation stage conformed to the rule laid down in Shahnaz Begum v. Judges of the High Court of Sindh and Balochistan, PLD 1971 SC 677. The order itself decided nothing on merits. It shows that quashment at the investigation stage was already treated as measured against Shahnaz Begum.
9	Ahmad Saeed v. The State and another, 1996 SCMR 186 (Saad Saood Jan, Muhammad Munir Khan, Mir Hazar Khan Khoso JJ; 17.10.1995) †	Can the High Court under s. 561-A quash an FIR while investigation is incomplete, on grounds of mala fides or civil liability?	Provisions: s. 561-A, Cr.P.C.; s. 408, P.P.C.; Art. 185(3), Constitution. Investigation was not complete and no challan had been submitted when the petition was filed. No court had made any order and no process had issued, so the question of making orders to give effect to an order under the Code or to prevent abuse of the process of a court did not arise. The High Court could not quash the FIR under s. 561-A on the ground of mala fides or that it disclosed civil liability. The petition was converted into an appeal and allowed, and the High Court's judgment was set aside. This is the leading authority for the bar on s. 561-A at the pre-challan stage; the remedy it leaves open is Art. 199.
10	Muhammad Sharif v. The State and others, 1997 SCMR 304 (Saiduzzaman Siddiqui, Muhammad Bashir Khan Jehangiri JJ; 14.12.1996) †	Should the High Court under s. 561-A set aside a Magistrate's discharge order that followed repeated police inquiries?	Provisions: ss. 173 and 561-A, Cr.P.C.; ss. 10 and 11, Zina (Enforcement of Hudood) Ordinance, 1979. There had been several investigations at the level of DSPs and ASPs with divided findings. The Magistrate had concurred with the last police report under s. 173, discharged the accused and cancelled the case, but the High Court under s. 561-A quashed these orders. The appeals were accepted, which restored the Magistrate's orders discharging the appellants and cancelling the case. The case shows the Court protecting a Magistrate's judicial view of the final police report against interference by the High Court.
11	State v. Gulzar Muhammad and others, 1998 SCMR 873 (Muhammad Bashir Jehangiri, Abdur Rehman Khan JJ; 4.2.1998) †	Must an accused first ask the trial court to acquit him under s. 249-A or 265-K before moving the High Court under s. 561-A?	Provisions: ss. 249-A, 265-K and 561-A, Cr.P.C. The trial court can acquit at any stage, and ordinarily the accused should first ask it to decide whether he is entitled to acquittal under s. 249-A or 265-K before it goes further. If it refuses, he may then go to the High Court for quashment. The rule rests on prudence and caution, and the two jurisdictions are co-extensive. In that case the Court held that the High Court was perfectly justified in quashing the proceedings (the head-note mentions the absence of any evidence for the charge) and dismissed the State's petitions. It is the starting point for Part III of this paper, which looks at the 265-K/249-A route in more detail.

No.	Citation	Question	Answer
12	Miraj Khan v. Gul Ahmed and others, 2000 SCMR 122 (Muhammad Bashir Jehangiri, Abdur Rehman Khan JJ; 11.8.1999) †	When may the High Court quash without waiting for the trial court to act under s. 249-A or 265-K?	Provisions: ss. 561-A, 249-A and 265-K, Cr.P.C.; ss. 406, 419 and 420, P.P.C. In exceptional cases the High Court may use s. 561-A without waiting for the trial court, if the facts so warrant. The test is whether the continuance of the proceedings before the trial forum would be a futile exercise, a waste of time and an abuse of the process of the court. If on facts admitted and patent on the record no offence is made out, it is an abuse to let the prosecution continue. The complainant's own application in the FIR said the money was given as qarz-e-hasna, and the later addition of the word 'amanat' was ridiculous. Leave to appeal was refused.
13	Altaf Hussain v. Abdul Samad and others, 2000 SCMR 1945 (Rana Bhagwan Das, Javed Iqbal JJ; 24.7.2000) †	Is the offence of criminal intimidation under s. 506, P.P.C. cognizable, and was quashing the case proper?	Provisions: ss. 504, 506(1), 427 and 34, P.P.C.; s. 537, Cr.P.C.; Art. 185(3), Constitution. An offence within the first paragraph of s. 506 is non-cognizable, while one within the second paragraph is cognizable and non-bailable. The appeal was allowed and the case was sent back to the Judicial Magistrate, Hyderabad, with a direction to secure the attendance of the respondents and conclude the trial with utmost expedition. The practical point is that classification of the offence has to be settled from the ingredients alleged before any argument of quashment can be heard.
14	M. Aslam Zaheer v. Ch. Shah Muhammad and another, 2003 SCMR 1691 (Iftikhar Muhammad Chaudhry, Rana Bhagwan Das, Mian Muhammad Ajmal JJ; 25.1.2003) †	Does an arbitration clause in the agreement bar criminal proceedings, and can the High Court predict the evidence?	Provisions: s. 561-A, Cr.P.C.; Art. 185, Constitution. The High Court had quashed the Sessions Court's order summoning the accused on the view that, with an arbitration clause in the agreement, no criminal action was maintainable. The Court held that this view was not sustainable, because criminal liability is distinct from civil liability between the parties. The complainant had to prove the accusation by evidence at trial, and the High Court had no jurisdiction to form a premature opinion that whatever evidence was produced would not improve the complainant's case. The impugned judgment was set aside and the case was sent back for trial within three months, as it had been dragging on since 1989.
15	State of Islamic Republic of Pakistan v. Kenneth Marshal, 2003 PTD 675 (also reported as 2005 SCMR 594) (Rana Bhagwan Das, Abdul Hameed Dogar, Khalil-ur-Rehman Ramday JJ; 3.10.2002) †	Was the High Court right to quash customs proceedings, and can it quash only in part?	Provisions: ss. 2(a), 8, 16, 156(1) and 178, Customs Act, 1969; Art. 185(3), Constitution. Leave was granted to the State to examine whether the judgment quashing the proceedings was sustainable and whether the High Court could order partial quashment. The Court found no justifiable reason to disagree with the High Court of Sindh and dismissed the appeal. The case is listed with the quashment rulings for the point that partial quashment of a prosecution was considered and the High Court's order left standing.

Supreme Court of Pakistan, 2004-2026: Art. 199, s. 561-A and the present rule

No.	Citation	Question	Answer
16	Nazir Ahmad v. Muhammad Shafi and others, PLD 1980 SC 6 (Aslam Riaz Hussain, Karam Elahe Chaudhan, Nasim Hasan Shah JJ; 30.10.1979) †	Can s. 561-A be used to stop a police investigation, and does double jeopardy apply at the investigation stage?	Provisions: s. 561-A, Cr.P.C.; Art. 13, Constitution. The provisions of s. 561-A cannot be invoked to quash or stop a police investigation (Emperor v. Khawaja Nazir Ahmad, AIR 1945 PC 18, was cited). Where the case was still at investigation and no second prosecution had been launched, Art. 13 did not apply, and the issuance of non-bailable warrants by a Magistrate was merely an act in aid of investigation. The police power of investigation in a cross-version case cannot be taken exception to. The petition was dismissed, with reasons recorded later. This is the earliest Supreme Court authority in this paper for the rule that s. 561-A does not reach the investigation.

No.	Citation	Question	Answer
17	Muhammad Waseem Khan v. S.H.O., Police Station Ganjmand, and others, 1996 SCMR 975 (Saiduzzaman Siddiqui, Muhammad Munir Khan JJ) †	Who is an 'aggrieved party' entitled to seek quashment of an FIR under Art. 199?	Provisions: Arts. 185(3) and 199, Constitution; s. 516-A, Cr.P.C. The petitioner was neither named as an accused in the FIR nor required by the police in the case, so he was not an aggrieved party within the meaning of Art. 199. If so advised, he could approach the trial court under s. 516-A for the release (superdari) of the ghee tins, which could decide ownership of the tins and possession of the store from which they were recovered. The High Court's order dismissing his petition as misconceived needed no interference, and leave was refused.
18	Muhammad Bashir v. Muhammad Usman and others, 2003 SCMR 1339 (Syed Deedar Hussain Shah, Tanvir Ahmad Khan JJ; 24.7.2001) †	Was the High Court right to quash a Zina Ordinance FIR where the sui juris girl appeared and admitted marriage of her own free will?	Provisions: ss. 10 and 11, Offence of Zina (Enforcement of Hudood) Ordinance, 1979; Art. 185(3), Constitution. The girl was sui juris, appeared before the High Court and admitted that she had married the accused of her own free will, and the police found the accused innocent during investigation. The High Court had rightly quashed the FIR, its order being well reasoned and based on settled principles, and leave to appeal was refused.
19	Dr. Munawar Hussain v. Dr. Muhammad Khan, District Health Officer, Sargodha, 2004 SCMR 1462 (Mian Muhammad Ajmal, Sardar Muhammad Raza Khan, Karamat Nazir Bhandari JJ; 3.11.2003) †	Can the High Court convert a s. 561-A application into a constitutional petition to quash proceedings that lie within the exclusive jurisdiction of the Federal Shariat Court?	Provisions: ss. 7 and 11, Offence of Qazf (Enforcement of Hadd) Ordinance, 1979; s. 561-A, Cr.P.C.; Arts. 199, 203-A to 203-J and 203-DD, Constitution. The Court held that the High Court had no jurisdiction under Art. 203-DD to convert an application for quashment under s. 561-A into a constitutional petition under Art. 199, and that Arts. 203-A to 203-J override other provisions of the Constitution. The High Court's order, passed in chambers, was coram non judice and was set aside. The trial court was directed to proceed with the complaint as the Federal Shariat Court had directed on 11.5.1994. Jurisdiction over the subject matter must therefore be settled before the merits of any quashment plea are reached.
20	The State through Deputy Prosecutor-General, NAB v. Tariq Mohsin and others, 2004 SCMR 1892 (Nazim Hussain Siddiqui CJ, Javed Iqbal, Abdul Hameed Dogar JJ; 4.6.2004) †	If an application under s. 265-K is pending in the trial court, can the High Court quash the FIR and proceedings under s. 561-A?	Provisions: ss. 561-A and 265-K, Cr.P.C.; Central Excises Act, 1944, ss. 3, 4, 9; s. 9, National Accountability Ordinance, 1999. A 265-K application was pending before the Special Judge when the High Court was approached for quashment of the FIR and of proceedings in the Accountability Court. The High Court had treated the application as 'dismissed' because it had not been decided for a couple of months. The Court held that mere lapse of time cannot equate a pending application with its dismissal: the trial court had thought it right to decide the bail-cancellation application first. The appeal was allowed and the trial court was directed to decide the 265-K application within a fixed time on its own merits, with all the contentions left open, and the observations were declared tentative.
21	Shah Jehan Khetran v. Sh. Mureed Hussain and others, 2005 SCMR 306 (Mian Muhammad Ajmal, Faqir Muhammad Khokhar JJ; 11.6.2004) †	When can the High Court quash an FIR for a dishonoured cheque on the ground that the police found the accused innocent?	Provisions: Arts. 185(3) and 199, Constitution. The accused said the disputed cheque had been issued by mistake from a different account and that the whole amount had been paid; the complainant said it was for another transaction. The High Court found on the record a nomination form issued by the complainant, a notice about transfer of his stock exchange membership to the accused, a notice from the accused's counsel explaining how the cheque came to be issued, and a police finding of prima facie innocence. It also observed that the words 'one million' on the cheque had not been written with the usual prefix or suffix. The Court held that the judgment had no legal infirmity and that the case was not fit for leave; leave was refused.

No.	Citation	Question	Answer
22	Mst. Zama Bibi v. Saadat Khan and others, 2005 SCMR 1630 (Sardar Muhammad Raza Khan, Nasir-ul-Mulk JJ; 28.6.2005) †	Can the High Court under s. 561-A quash an order under s. 146, Cr.P.C. on the grounds that a civil suit is pending and the breach of peace has gone?	Provisions: ss. 145, 146 and 561-A, Cr.P.C.; Art. 185(3), Constitution. The Magistrate could not decide who was in possession but was satisfied that there was an apprehension of a breach of peace and passed an order under s. 146, which the Sessions Court upheld in revision. The High Court quashed the proceedings, giving three reasons: the petitioner had not proved the date of possession, the matter could be decided in the civil suit, and prolonged litigation had removed the apprehension of a breach of peace. The Court found all three unfounded; the first would have applied only if the order had been under s. 145. The concurrent findings of the Magistrate and the Additional Sessions Judge were restored and the civil court was told to decide the suit within six months.
23	Muhammad Mansha v. Station House Officer, Police Station City, Chiniot, PLD 2006 SC 598 (Khalil-ur-Rehman Ramday, Raja Fayyaz Ahmed JJ; 9.3.2006) †	What are the guidelines for using s. 561-A or Art. 199 to end a criminal case?	Provisions: s. 561-A, Cr.P.C.; Art. 199, Constitution; Qanun-e-Shahadat Order, 1984. Resort to s. 561-A or Art. 199 to seek quashment of a criminal case is an extraordinary remedy, usable only in exceptional circumstances. It can never be exploited as a substitute for the prescribed trial, or to decide guilt or innocence on material that is not admissible under the Qanun-e-Shahadat. Deciding whether the allegations are true, and the guilt or innocence of the accused, is the duty of the court prescribed by the Code on the basis of legal evidence led at trial after both sides have had a proper opportunity. The Court allowed the appeal, set aside the Lahore High Court's order in Writ Petition No. 4470 of 2005 and said the SHO of Police Station City Chiniot could now proceed with the FIR in accordance with law.
24	Muhammad Saleem Bhatti v. Syed Safdar Ali Rizvi and 2 others, 2006 SCMR 1957 (Iftikhar Muhammad Chaudhry CJ, Tassaduq Hussain Jillani J; 30.1.2006) †	Can the High Court in constitutional jurisdiction quash four FIRs for cheating and forgery on the ground that the dispute is civil?	Provisions: ss. 249-A, 265-K, 439 and 561-A, Cr.P.C.; ss. 406, 420, 468 and 471, P.P.C.; Arts. 185(3) and 199, Constitution. The High Court had quashed all four FIRs on the view that no cognizable offence was made out and that continuing them would be an abuse of process. The Supreme Court held that the High Court must act within settled parameters under Art. 199 and cannot enter a factual controversy unless the facts are not in dispute; here fraud was alleged and denied. It also noted that the petitioner had not used the alternate remedies under ss. 249-A, 265-K and 439. The petition was converted into an appeal and allowed, leaving the petitioner free to seek relief from the trial court, which was to decide independently of the High Court's judgment or of the Supreme Court's order.
25	Rafique Bibi v. Muhammad Sharif and others, 2006 SCMR 512 (Iftikhar Muhammad Chaudhry CJ, Tassaduq Hussain Jillani J; 31.1.2006) †	Is a 26-year delay in lodging an FIR on a revenue-record fraud a ground for quashing it?	Provisions: Art. 199, Constitution; revenue record manipulation depriving a woman of immovable property. The High Court had quashed the FIR because it was lodged after 26 years, with mala fides, in a matter of a civil nature. The Court held that the effect of delay is for the trial court; delay is not fatal in every case and, if explained convincingly, the court will not end the proceedings on that account. Whether the delay is satisfactorily explained is a question of fact, and civil and criminal proceedings can run together. Mala fides is also a question of fact needing evidence. The appeal was allowed and the trial court was told to decide the case within six months, sending a copy of its judgment to the Registrar.

No.	Citation	Question	Answer
26	Industrial Development Bank of Pakistan v. Mian Asim Fareed, 2006 SCMR 483 (also reported as 2006 CLD 625) (Khalil-ur-Rehman Ramday, Ch. Ijaz Ahmad JJ; 15.12.2005) †	Does a statutory condition on the forum for taking cognizance also bar registration of an FIR?	Provisions: Art. 199, Constitution; s. 7(4), Financial Institutions (Recovery of Finances) Ordinance, 2001. The High Court had quashed an FIR because it was registered in violation of s. 7(4). The Court held that registration of an FIR and taking of cognizance are two distinct and independent concepts. If the legislature meant to put a clog on registration it would have said so; a condition on cognizance cannot be read as a ban on registering an FIR. An FIR cannot be quashed or its quashing approved without a finding that the offences alleged are false and malicious, or that a prescribed forum or mode for cognizance implies a prohibition on registration. The petition was converted into an appeal and allowed, setting aside the order in Writ Petition No. 1181 of 2004.
27	Col. Shah Sadiq v. Muhammad Ashiq and others, 2006 SCMR 276 (Khalil-ur-Rehman Ramday, Ch. Ijaz Ahmad JJ; 15.12.2005) †	Can the High Court under Art. 199 resolve a disputed question of fact in order to quash an FIR?	Provisions: Art. 199, Constitution; ss. 63, 173, 190, 249-A, 265-K, 551 and 561-A, Cr.P.C.; Police Rules, 1934, r. 24.7; ss. 420, 468 and 471, P.P.C. The High Court has no jurisdiction to resolve a disputed question of fact in its constitutional jurisdiction, and, if prima facie an offence has been committed, the ordinary course of trial must not be deflected by resort to constitutional jurisdiction. The Court cited 1979 SCMR 484, 1994 SCMR 572, 2001 SCMR 1493, PLD 2001 SC 415 and 2005 SCMR 37. The appeal was allowed, the High Court judgment set aside and a copy sent to the SHO, who was to proceed in accordance with law.
28	Haji Sardar Khalid Saleem v. Muhammad Ashraf and others, 2006 SCMR 1192 (Khalil-ur-Rehman Ramday, Ch. Ijaz Ahmed JJ; 14.11.2005) †	Do pending civil proceedings bar a criminal case, and can the High Court short-circuit the trial through Art. 199?	Provisions: Art. 199, Constitution; ss. 420, 468, 471 and 489-F, P.P.C. Criminal proceedings are not barred by civil proceedings, and both may go on at the same time (1996 SCMR 186, 1993 SCMR 2177 and PLD 1985 SC 134 were cited). Where an offence is prima facie made out, the High Court errs in accepting a constitutional petition to short-circuit the normal procedure; Habib Ahmed v. M.K.G. Scott Christian, PLD 1992 SC 353, was cited. The petition was accepted, the delay condoned and a copy sent to the SHO for action in accordance with law.
29	Muhammad Nasir Cheema v. Mazhar Javaid and others, PLD 2007 SC 31 (Khalil-ur-Rehman Ramday, Raja Fayyaz Ahmed JJ; 25.7.2006) †	When the challan is already in the trial court, can the High Court on a quashment petition direct the SHO to file a final report against only one accused and for one offence?	Provisions: ss. 173 and 190, Cr.P.C.; Art. 199, Constitution. The investigation report had been filed in the trial court when the accused sought quashment of the FIR. The High Court disposed of the petition with a direction to the SHO to file the final report against one accused and under one offence only. The Court noted that the only provision of the Code on the subject is s. 173, which commands expeditious conclusion of investigation and, on its conclusion, the SHO's forwarding of the report, so the High Court had no power to prescribe the content of the report. The direction (including the finding that only the bailable offence under s. 471, P.P.C. was made out) was set aside, and the SHO and the trial Magistrate were left to proceed in accordance with law.
30	Muaz Ahmad v. Haji Muhammad Ramzan and others, 2008 SCMR 529 (Rana Bhagwan Das, Nasir-ul-Mulk JJ; 23.1.2006) †	Can the High Court quash an FIR without hearing the complainant who has been impleaded?	Provisions: ss. 406, 409 and 509/34, P.P.C.; s. 561-A, Cr.P.C.; Arts. 185(3) and 199, Constitution. The FIR on the petitioner's complaint was quashed in a constitutional petition filed by the respondents. The complainant, though made a party, was neither put on notice nor called to explain his view. His review application was dismissed. The Court held that the High Court committed a serious error of law by passing an adverse order without hearing a person aggrieved before the law-enforcement agencies, and that natural justice had been offended. The petition was converted into an appeal, both orders were set aside and the case was remanded for a fresh decision of the writ petition strictly on merits.

No.	Citation	Question	Answer
31	Dr. Ghulam Mustafa v. The State and others, 2008 SCMR 76 (Khalil-ur-Rehman Ramday, Ch. Ijaz Ahmed JJ; 3.10.2006) †	Can the High Court quash an FIR for non-compoundable offences because the parties have compromised out of court?	Provisions: s. 561-A, Cr.P.C.; ss. 406, 468 and 471, P.P.C.; Arts. 185(3) and 199, Constitution. The High Court has no jurisdiction to take the role of the investigating agency and quash an FIR in Art. 199 or s. 561-A jurisdiction unless very exceptional circumstances exist. The offences in the FIR were not compoundable, so the High Court was not justified in quashing it on the basis of a settlement reached outside the court. It had erred in short-circuiting the normal procedure, contrary to Habib Ahmad (PLD 1992 SC 353), Haji Sardar Khalid Saleem (2006 SCMR 1192) and Col. Shah Sadiq (2006 SCMR 276). The petition was converted into an appeal, allowed and the orders set aside.
32	Ajmeel Khan and others v. Abdur Rahim and others, PLD 2009 SC 102 (Ijaz-ul-Hassan Khan, Muhammad Qaim Jan Khan JJ; 20.11.2008) †	What principles govern quashing of an FIR in constitutional jurisdiction, and why is quashing during investigation disfavoured?	Provisions: ss. 154 and 156, Cr.P.C.; Art. 199, Constitution. The functions of the judiciary and the police are complementary, not overlapping, and law and order combined with personal liberty is obtained only by letting each exercise its own function. If criminal liability is spelt out from the facts, the accused can be tried on a criminal charge. Quashing an FIR during investigation amounts to throttling the investigation, which the law does not allow. The High Court can quash an FIR in constitutional jurisdiction where registration appears to be a misuse of process or without legal justification. The police have a statutory duty under s. 154 and a statutory right under s. 156 to investigate a cognizable offence reported to them, and to quash an investigation on the ground that the case is false would be acting on treacherous grounds. Leave was refused.
33	The State v. Muhammad Aslam Khan and others, 2009 SCMR 294 (Muhammad Moosa K. Leghari, Zia Perwez, Sabihuddin Ahmed JJ; 5.11.2008) †	What is the test when a High Court quashes a pending Sessions case?	Provisions: s. 561-A, Cr.P.C.; ss. 364, 302, 342, 201 and 202/34, P.P.C.; Art. 185(3), Constitution. The High Court had quashed the proceedings of a Sessions case pending before the trial court. Leave was granted to examine the order against the rule that, if prima facie an offence has been committed, the ordinary course of trial is not to be deflected by an approach to the High Court's inherent jurisdiction, as stated in Ghulam Muhammad v. Muzammal Khan, PLD 1967 SC 317, and Habib Ahmed v. M.K.G. Scott Christian, PLD 1992 SC 353. The grant of leave shows the Court treats quashing a pending murder trial as exceptional.
34	Ghulam Sarwar Zardari v. Piyar Ali alias Piyaro and others, 2010 SCMR 624 (Rahmat Hussain Jafferri, Ghulam Rabbani JJ; 22.12.2009) †	Can the High Court under s. 561-A punish an investigating officer for torture on an accused?	Provisions: s. 561-A, Cr.P.C.; Arts. 4, 113 and 155, Police Order, 2002. The High Court, on the accused's allegation of torture by the investigating officer, had passed a punitive order and told the police authorities to implement it. The Court noted that the accused had received injuries at the hands of the public, the complainant and prosecution witnesses, as the FIR and memo of arrest recorded; the missing seat and number of injuries in the memo was at most an irregularity. Misconduct of a police officer is handled by a Magistrate under Art. 155 or by departmental action under Art. 113. Adequate alternate remedy existed, the High Court exceeded its jurisdiction, and its order was an abuse of process. The petition was converted into an appeal and allowed.
35	The State through D.G., A.N.F., Rawalpindi v. Muhammad Saleem Khan, 2011 SCMR 863 (Faqr Muhammad Khokhar, Ijaz-ul-Hassan, Zia Perwez JJ; 25.6.2009) †	Can the High Court convert a bail application into a quashment petition and quash a narcotics case against an airport employee?	Provisions: s. 561-A, Cr.P.C.; ss. 6 and 9(c), Control of Narcotic Substances Act, 1997; Art. 185(3), Constitution. The High Court had converted the accused's bail application into a petition for quashment and allowed it. The FIR and record showed that the accused was a Civil Aviation Authority employee who was on duty at the airport at the time, and the mere fact that he stood near the other accused did not make him responsible for abetment. No incriminating evidence existed against him. The Court held that the High Court's judgment was just and fair and no exception could be taken on hyper-technical grounds; leave was declined.

No.	Citation	Question	Answer
36	Rana Shahid Ahmad Khan v. Tanveer Ahmed and others, 2011 SCMR 1937 (Tassaduq Hussain Jilani, Mian Saqib Nisar JJ; 5.8.2011) †	What factors may the High Court weigh under s. 561-A in quashing a case for dishonoured cheque under s. 489-F?	Provisions: s. 561-A, Cr.P.C.; s. 489-F, P.P.C.; Art. 185(3), Constitution. The High Court under s. 561-A can quash criminal proceedings even at the initial stage if the allegations in the FIR or complaint are un rebutted and no criminal case is made out. It may also consider special circumstances to decide whether the prosecution should proceed in the interest of justice, such as no possibility of conviction, admitted facts making a civil case, or malicious prosecution on the record. Here the issue of the dishonoured cheque was an admitted position and the High Court had gone beyond the limited scope of the provision. The appeal was allowed, and the Inspector-General of Police, Islamabad, was directed to give the investigation to an upright officer of his choice, who was to investigate strictly on merits and give specific findings on the pleas of both sides.
37	Dr. Sher Afgan Khan Niazi v. Ali S. Habib and others, 2011 SCMR 1813 (Javed Iqbal, Jawwad S. Khawaja, Anwar Zaheer Jamali JJ; 29.7.2011) †	Can the High Court quash an investigation into the failure of an airbag in a road accident that led to cheating charges against the car makers' officers?	Provisions: ss. 279, 322, 324, 377-G, 420 and 427, P.P.C.; Arts. 185(3) and 199, Constitution. After a death in a road accident caused by a wagon driver, ss. 322 and 420 were added to the FIR against the President of Toyota Motor Corporation and the Managing Director of Indus Motor Company, because the SRS airbag of the deceased's Toyota car failed. The High Court quashed the investigation at a preliminary stage. Leave was granted to consider both sides in depth, with reference to Shahnaz Begum, PLD 1971 SC 677, and Malik Shaukat Ali v. Ghulam Qasim Khan Khakwani, PLD 1994 SC. The appeal was accepted, the High Court judgment was set aside, and the investigating officer was directed to proceed fairly and transparently in accordance with law.
38	Hayatullah Khan v. Muhammad Khan and others, 2011 SCMR 1354 (Javed Iqbal, Muhammad Sair Ali, Anwar Zaheer Jamali JJ; 10.8.2010) †	Can a trial court rely on an investigating officer's opinion to discharge an accused under s. 169 when material points to guilt?	Provisions: ss. 169, 170, 173 and 561-A, Cr.P.C. Deciding guilt or innocence falls within the trial court; where enough incriminating material is on the record to connect the accused prima facie with the offence, the trial court has no power to endorse the investigating officer's view. The investigating officer cannot be treated as a skilled person to give opinion on medical evidence, and whether the medical evidence supports the ocular account, and the weight of an expert report, are for the trial court. An alibi is a distinct plea that the accused must prove by cogent evidence. The High Court's judgment was held unexceptionable and leave was refused.
39	Rizwana Bibi v. The State, 2012 SCMR 94 (Tassaduq Hussain Jilani, Mahmood Akhtar Shahid Siddiqui, Asif Saeed Khan Khosa JJ; 15.9.2011) †	Can an FIR for kidnapping for marriage be quashed when the adult woman says she married the accused of her own will?	Provisions: s. 365-B, P.P.C.; s. 561-A, Cr.P.C.; Art. 35, Constitution. The appellant said the prosecution was mala fide, that no one had abducted her, and that after dissolution of her earlier marriage she married the accused and had a baby girl. The High Court refused to quash. The Supreme Court held that her statement showed the mischief clauses of s. 365-B were not attracted, that her earlier husband never challenged the ex parte decree for dissolution of marriage for over two years, and that marriage to a person of her choice was protected by the Constitution. The State's insistence that she appear before the trial court was not accepted. The appeal was allowed and police protection was ordered by the Inspector-General of Islamabad Police for as long as the threat to her life from her parents lasted.
40	Director General, FIA v. Kamran Iqbal and others, 2016 SCMR 447 (Ijaz Ahmed Chaudhry, Umar Ata Bandial, Maqbool Baqar JJ; 25.11.2015) †	Can the FIA register an FIR under s. 489-F for a purely private business dispute, and is its quashing proper?	Provisions: s. 489-F, P.P.C.; Preamble and Schedule, Federal Investigation Agency Act, 1975; S.R.O. 977(I)/2003. The FIA was not competent to register an FIR under s. 489-F for a dispute between two private individuals over a purely business transaction. The Schedule to the Act gives jurisdiction over several offences, but there must be some nexus between the offence and the Federal Government, and none existed here. The High Court was correct to quash the FIR, and the appeal was dismissed. The Court also noted that the preamble is not an operative part of an enactment (Waris Meah, PLD 1957 SC (Pak) 157).

No.	Citation	Question	Answer
41	Muhammad Farooq v. Ahmed Nawaz Jagirani and others, PLD 2016 SC 55 (Anwar Zaheer Jamali CJ, Mushir Alam J; 22.9.2015) †	Is the High Court's s. 561-A jurisdiction available to bypass an alternate remedy, and what is the nature of orders under ss. 203 and 204?	Provisions: ss. 203, 204, 249-A, 265-K, 435-439 and 561-A, Cr.P.C.; Art. 199, Constitution. Orders under s. 203 (dismissal of a complaint) or s. 204 (cognizance and summons or warrant) are judicial orders. The exercise of s. 561-A jurisdiction is akin to that under Art. 199, is not to be used in routine, and depends on the absence of an alternate and efficacious remedy or on extraordinary circumstances that justify bypassing it. A party cannot circumvent the ordinary remedies of revision or the trial court's powers under ss. 249-A and 265-K. The appeal was allowed, the High Court judgment set aside and the s. 561-A application dismissed.
42	Ali Muhammad and others v. Syed Bibi and others, PLD 2016 SC 484 (Anwar Zaheer Jamali CJ, Mian Saqib Nisar, Amir Hani Muslim, Iqbal Hameedur Rahman, Khilji Arif Hussain JJ; 22.2.2016) †	Can the High Court under s. 561-A direct a second FIR for the same occurrence where the versions conflict?	Provisions: ss. 154, 22-A and 561-A, Cr.P.C. Where the stories of the occurrence differ and conflict, and mala fides and a distorted or collusive investigation are alleged, a High Court direction to register a second FIR is justified because no specific bar exists in law. The Levies Force had lodged the first FIR for the incident in which the deceased was killed, and the deceased's mother, who held the Levies responsible, had applied to the Justice of Peace under s. 22-A for a second FIR; this was dismissed, and she approached the High Court under s. 561-A, which allowed her. The five-member Bench dismissed the appeal by short order, with reasons given later. The ruling also touches the s. 22-A route to a second FIR.
43	Dr. Sikandar Ali Mohi ud Din v. Station House Officer and others, 2021 SCMR 1486 (Ijaz-ul-Ahsan, Sayyed Mazahar Ali Akbar Naqvi JJ; 23.7.2021) †	Can the High Court quash an FIR for a forged fard malkiat because a civil dispute is pending and the police found the accused innocent?	Provisions: s. 154, Cr.P.C.; ss. 420, 468 and 471, P.P.C.; Art. 199, Constitution. An inquiry by the EDO (Revenue) on the appellant's application had found the fard malkiat forged and fabricated by the Halqa Patwari. The Court held that, the matter being criminal, it could not be closed 'with a stroke of pen' because civil litigation was pending between the parties or because of a finding in a police investigation. The crime report was lodged when the document was found forged, and it rested on a legal foundation. The single judge's judgment quashing the FIR was not sustainable and was set aside, and the trial court was directed to decide within three months.
44	Muhammad Ali v. Samina Qasim Tarar and others, 2022 SCMR 2001 (Ijaz-ul-Ahsan, Sayyed Mazahar Ali Akbar Naqvi JJ; 29.9.2022) †	Does a civil remedy for the same transaction make a criminal case for breach of trust unsustainable?	Provisions: ss. 405 and 406, P.P.C.; s. 154, Cr.P.C. 'Entrustment' in s. 405 is used broadly, 'with the property or with any domain over the property', and 'trust' covers relationships such as trustee and beneficiary, bailor and bailee, master and servant, and pledger and pledgee. A remedy for the same cause can be pursued under both criminal and civil law; the remedies overlap but do not always exclude each other, and an act does not lose its criminal nature because it also gives rise to civil liability. The Court allowed the appeal against the Islamabad High Court judgment of 1.10.2020 and directed the prosecution to submit the challan to the trial court without unnecessary delay.
45	Federal Investigation Agency through Director General v. Syed Hamid Ali Shah and others, PLD 2023 SC 265 (Syed Mansoor Ali Shah, Ayesha A. Malik JJ; 6.2.2023) †	Does the High Court have power under s. 561-A to quash an FIR or an investigation?	Provisions: ss. 154 and 561-A, Cr.P.C.; Art. 199, Constitution. The High Court has no power under s. 561-A to quash an FIR or an investigation, so applications under s. 561-A for that purpose are not maintainable; its power is limited to judicial or court proceedings and cannot reach the proceedings of other authorities or departments, such as FIR registration or police investigation. It can quash a judicial proceeding pending before a subordinate court if that is necessary to prevent abuse of that court's process or to secure the ends of justice. The Court relied on Shahnaz Begum, PLD 1971 SC 677, and referred to <i>Olas Khan v. NAB</i> , PLD 2018 SC 40, and also to costs, citing <i>State v. Sultan Ahmed</i> , PLD 2007 SC 48. For FIRs the remedy lies in Art. 199.

No.	Citation	Question	Answer
46	Ayesha Tayyab v. Station House Officer, Police Station Cantt., District Sialkot and others, 2025 SCMR 1117 (Sardar Tariq Masood, Mazhar Alam Khan Miankhel JJ; 22.5.2025) †	Does an unpaid loan amount to 'entrustment' so as to sustain an FIR for criminal breach of trust?	Provisions: s. 154, Cr.P.C.; s. 406, P.P.C.; Art. 199, Constitution. The petitioner alleged that the accused had misappropriated Rs. 40 lakh taken from her as a loan. The Court held that a loan is not an entrustment: entrustment creates a fiduciary relationship in which the very property is expected to come back in its original form, whereas a loan is purely contractual and what is returned is something of the same value. The FIR was also self-contradictory, as it first called the amount a loan and then alleged it was given in trust, so the word 'amanat' was used only to attract s. 406. The Court declined to interfere with the High Court's quashing order and dismissed the petition; it observed that it interferes only where the High Court's order is a legal impossibility and untenable in law, and no such circumstance was present.
47	The State v. Chaudhry Mohammad Khan and others, PLD 2025 SC 254 (Yahya Afridi, Syed Hasan Azhar Rizvi, Shahid Waheed JJ; 27.9.2024) †	When may an FIR be quashed in constitutional jurisdiction, and is a pending civil dispute enough?	Provisions: s. 154, Cr.P.C.; Art. 199, Constitution. Quashing an FIR under Art. 199 is possible only in exceptional cases: where the facts on record show unequivocally that no offence can be established, or where registration of the FIR reflects a misuse of legal authority or lacks legal justification so that allowing the prosecution would abuse the process of law. Cases registered without authority or in clear violation of established laws must also be quashed. The court should not use the power if the allegations make out a prima facie case. A civil dispute does not by itself justify straightaway quashing, and civil and criminal proceedings can run together. The Court converted the petitions into appeals, allowed them and set aside the Lahore High Court (Multan Bench) order of 21.12.2016.

Peshawar High Court to 2004

No.	Citation	Question	Answer
48	Major (Retd.) Mushtaq Hussain Shah v. Lt.-Col. (Retd.) Fazal Akbar, 1995 PCrLJ 1772 (Jawaid Nawaz Khan Gandapur J; 24.4.1995) †	Can proceedings for criminal intimidation be quashed where the original complaint is missing and the story looks like pressure over a civil suit?	Provisions: s. 506, P.P.C.; s. 561-A, Cr.P.C. The original complaint was not on the judicial record, and its photostat copy was inadmissible and could not support a conviction. The contents were interpolated, vague and ambiguous and did not disclose criminal intimidation, and the witnesses told different stories. The proceedings appeared to have been started to coerce the accused into withdrawing a civil suit he had filed. The petition was allowed and the proceedings before the Assistant Commissioner/Magistrate at Mansehra were quashed.
49	Qaiser Amin Khawaja v. Special Judge (Offences in Respect of Banks) and others, 2003 YLR 2578 (Tariq Parvez Khan, Ijaz-ul-Hassan JJ; 30.4.2003) †	Can a Special Judge, after sending a bank complaint to the FIA for inquiry, direct that bank officials be added as accused and proceed suo motu against them?	Provisions: s. 5(1), Offences in Respect of Banks (Special Courts) Ordinance, 1984; s. 200, Cr.P.C.; Art. 199, Constitution. The petitioner, as Chief Manager, filed a complaint of fraud and embezzlement in the bank; the Special Judge, dissatisfied with the FIA's inquiry, directed it to probe further and register a case in which bank officials involved would also be charged; the FIA registered a case against none of them. The Judge then directed that the names of the Chief Manager and Legal Advisor be added and, before the challan was submitted, proceeded suo motu against them as accused. The Court accepted the petition, set aside the orders and quashed FIR No. 21 of 1999 dated 1.9.1999, leaving the complainant free to file a proper complaint, which would be decided on its own merits.
50	Sh. Muhammad Sadiq v. Muhammad Zarin Khan and another, PLD 1974 Pesh 49 (Abdul Hakeem Khan J; 8.5.1974) †	Will the High Court quash complaints that look designed to harass the accused?	Provisions: s. 561-A and s. 200, Cr.P.C.; P.P.C. Three complaints had been filed against the accused at three different stations. They were full of improbabilities, the examination of the complainant under s. 200 was perfunctory, the Magistrate did not ascertain the facts or record the substance of the examination, and the accused was to be summoned from a station 400 miles away. The complainant cited no witness and produced none. The Court held that the proceedings were started to harass the petitioner and quashed them, relying on Raja Haq Nawaz v. Muhammad Afzal, PLD 1967 SC 354.

No.	Citation	Question	Answer
51	Hidayatur Rehman alias Kaki Jan v. Samiullah Khan, 1988 PCrLJ 48 (Abdul Karim Kundi J; 7.10.1987) †	What happens to a complainant's s. 561-A petition when the accused dies and the case abates?	Provisions: ss. 522 and 561-A, Cr.P.C.; ss. 447, 379 and 427, P.P.C. The petitioner challenged a Sessions Court order that dismissed his challenge to the Magistrate's order restoring possession of the land to the accused after honourable discharge. The accused having died and the criminal case having abated, the application had become infructuous and was dismissed. The petitioner was advised to seek redress in the civil court if so advised.
52	Byram D. Avari v. The State, PLD 1989 Pesh 145 (Fazal Elahi Khan, Qazi Muhammad Jamil JJ; 10.1.1989) †	Can the High Court under Art. 199 quash an FIR arising out of a contractual dispute, and are police acts open to review?	Provisions: ss. 406, 420, 468, 479, 109 and 34, P.P.C.; s. 561-A, Cr.P.C.; Art. 199, Constitution. The FIR concerned contractual obligations and complaints of breach of contract, and the matter had twice been referred to independent agencies for settlement. The case registered against the petitioners and the later warrants of arrest were held to be beyond the competence of the police and the authorities, and mala fide in law. The Court also held that functionaries in a police station come within Art. 199 as persons connected with the affairs of the Federation or Province, and their acts are not sacrosanct. The FIR at Police Station Gharbi, Peshawar, was declared registered without lawful authority and quashed together with all steps taken under it.
53	Hamid Siddique v. The State, 1991 MLD 540 (Wali Muhammad Khan J; 19.12.1990) †	When should an accused ask for quashment, and when should he wait for evidence and apply for acquittal?	Provisions: ss. 249-A, 265-K and 561-A, Cr.P.C.; ss. 452, 506 and 34, P.P.C. Cases are conceivable in which the accusation, on its face, does not constitute any offence, or the ingredients of the section are totally lacking, and the aggrieved person may then seek quashment under s. 561-A. But if the charge is of a kind that needs evidence without which no positive conclusion can be reached, the right course is to wait until the material evidence is recorded and then press for acquittal under s. 249-A or 265-K. The Court cited 1979 SCMR 94, PLD 1981 SC 607, PLD 1982 Pesh 20 and 1983 SCMR 775. The application was dismissed and the trial court was told to record the material evidence as early as possible.
54	Tahir Man v. Abdul Akbar Khan, 1993 MLD 1774 (S. Usman Ali Shah J; 30.5.1983) †	Will the High Court interfere when the criminal proceedings are almost complete?	Provisions: s. 561-A, Cr.P.C.; ss. 468 and 471, P.P.C. The proceedings pending before the Magistrate, First Class, Swabi, were almost complete and the case was ripe for the Magistrate's order. The High Court held that no interference was called for at that stage and dismissed the petition. The case shows that quashment becomes harder to obtain as the trial advances.
55	Shuja Ullah v. The State, 1994 PCrLJ 1065 (Abdul Karim Khan Kundi J; 25.10.1993) †	Can an FIR registered without compliance with the statutory pre-conditions for prosecution be quashed?	Provisions: Art. 199, Constitution; the quality-control provisions under which the FIR was registered (the extract does not give the name of the Act). The offence was not a case classified by the Provincial Quality Control Board, the Provincial Inspector had not reported to the Board or obtained its instructions, and he had on his own got the FIR registered. The Court held this to be without lawful authority and of no legal effect, and accepted the constitutional petition without costs.
56	Ghulam Qasim v. Nazir Ahmad, 1996 PCrLJ 1187 (Zeenat Khan J; 11.2.1996) †	Can a Magistrate release an accused under s. 169 simply because the police ask, and what remains open to the accused?	Provisions: ss. 169, 190, 249-A and 561-A, Cr.P.C.; ss. 406, 419, 420, 468 and 471, P.P.C. The power under s. 169 is exercised by the police during investigation while the accused is in police custody, and taking cognizance is a matter of thorough judicial scrutiny. A Magistrate who endorsed a release only because the police asked for it acted against judicial norms, because his job is to supervise investigation competently and not to be a 'Yes Man' of the police. The order was quashed and the petitions disposed of; the accused remained free, after cognizance, to move the trial court under s. 249-A if the civil liability could be established.

No.	Citation	Question	Answer
57	Rana Mubashar Ahmed v. The State, 1996 PCrLJ 1378 (Sardar Muhammad Raza J; 10.3.1996) †	Were proceedings under ss. 298-B and 298-C quashed where the alleged profession of faith predated the Ordinance?	Provisions: ss. 298-B and 298-C, P.P.C.; Ordinance XX of 1984; s. 561-A, Cr.P.C. The Form 'A' card said to show the profession of faith was filled in on 28.8.1982, while professing as an Ahmadi or Qadiani became an offence only from 26.4.1984. The evidence recorded by the trial court showed that the accused openly claimed to be Ahmadis and never professed Islam, particularly after the promulgation. The Court quashed the proceedings and discharged the bail sureties. The head-note shows quashment after evidence, on a pure question of law about the date of the offence.
58	Province of Punjab v. Abdul Bari, Advocate, 1997 MLD 1672 (Sardar Muhammad Raza J; 20.10.1996) †	Does the failure of the FIR case bar a private complaint on the same facts?	Provisions: ss. 200, 403 and 561-A, Cr.P.C.; ss. 447 and 34, P.P.C. The remedy under s. 200 is independent of what happened in a police case on the same facts; the only difference is that in a complaint the complainant takes on the burden of proving the case without police help. The accused in the FIR under s. 447/34 were found innocent and released under s. 169. The private complaint that followed was dismissed by the Ilqa Qazi because the FIR case had failed, and the revision was also dismissed. The High Court accepted the petition, held that s. 403 (double jeopardy) did not apply, and told the Ilqa Qazi to take cognizance and proceed with the complaint.
59	Qamarul Islam v. Institute of Chartered Accountants of Pakistan, 1998 MLD 1805 (Tariq Pervez J; 11.5.1998) †	Does a pending civil suit stop an FIR for forgery and fraud, and can s. 561-A be used when no court is seized?	Provisions: s. 561-A, Cr.P.C.; s. 465, P.P.C. The inherent power lets the High Court prevent abuse of the process of any court and secure the ends of justice, but the petitioner had not shown any abuse of the powers of a court, as no criminal proceedings were pending before any court. The FIR could not be quashed because no legal bar prevents a wrongdoer being proceeded against civilly, criminally or both at once, and because fraud was alleged against the petitioner and co-accused. The Court said the fate of the case must be decided on the evidence led before the trial court. The petition was dismissed.
60	Mahmood Khan and another v. Muhammad Zamin and others, 1999 YLR 1604 (Mian Muhammad Ajmal J; 5.7.1999) †	Can an FIR be quashed under s. 561-A before the case has been put in court?	Provisions: s. 561-A, Cr.P.C.; ss. 406, 419, 420, 468 and 471, P.P.C. The FIR alleged that the complainant's tractor was given to the first petitioner, who undertook to pay him the earnings. The application was filed before the case had been put in court and before any court process had started. Following Ahmad Saeed, 1996 SCMR 186, the Court held that an FIR, or the investigation begun on it, cannot be quashed under s. 561-A, and rejected the application as not maintainable. It directed that the investigation be entrusted to the C.I.A. for impartial investigation, to be completed within a month, and the challan then put in the court of competent jurisdiction.
61	Gul Ghameer v. Jane Alam, Advocate, and others, 1999 PCrLJ 262 (Jawaid Nawaz Khan Gandapur J; 22.6.1998) †	Can a complainant who did not challenge a Magistrate's discharge order within time attack it later by a s. 561-A petition?	Provisions: ss. 169 and 561-A, Cr.P.C. The complainant had not challenged the Magistrate's order of discharge under s. 169 before the Sessions Court within 30 days. The order had attained finality, and the complainant was estopped by his own conduct from challenging it through s. 561-A, a novel procedure adopted to defame the respondents, including two advocates. The petition seemed to originate from a tainted quarter with malicious intention and misused the court's process. It was dismissed with special costs of Rs. 10,000.
62	Ikram v. S.D.M., Tamergara, District Dir, and others, 2000 PCrLJ 297 (Sardar Muhammad Raza Khan J; 25.6.1999) †	Is an FIR under s. 188, P.P.C. lodged by a Tehsildar valid where the order under s. 144 was made by the Sub-Divisional Magistrate?	Provisions: s. 188, P.P.C.; ss. 144, 195(1)(a) and 561-A, Cr.P.C. Where an order under s. 144 was passed by the Sub-Divisional Magistrate, cognizance can be taken only on a written complaint by that Magistrate or by a higher officer to whom he is subordinate. The FIR had been lodged by the Tehsildar, who was subordinate to the Magistrate. The proceedings begun on FIR No. 412 dated 6.11.1997 of Police Station Ouch were therefore void ab initio and were quashed. The case shows quashment where a statutory bar on cognizance appears on the face of the record.

No.	Citation	Question	Answer
63	Habibullah v. Assistant Commissioner, Ziarat, and others, 2000 PCrLJ 1919 (Shahzad Akbar Khan J; 17.4.2000) †	Is a private complaint under ss. 500-502, P.P.C. by a public servant competent without prior sanction under s. 198-A?	Provisions: ss. 198-A and 561-A, Cr.P.C.; ss. 500, 501 and 502, P.P.C. The complaint was filed by a Sub-Inspector of Police through the Public Prosecutor without first obtaining sanction. As a public servant employed in the affairs of the Province, he needed the previous sanction of the Government concerned. 'Previous sanction' means the sanction must come before the complaint is filed, and a Solicitor was not authorised to give it. The court below rightly held the complaint incompetent, and the High Court, finding neither the complaint nor the petition competent, dismissed the petition.
64	Muhammad Akram v. Mir Afzal and others, 2000 MLD 863 (Sardar Muhammad Raza Khan, Talat Qayum Qureshi JJ; 24.11.1998) †	Can criminal proceedings for forgery and false evidence go on while the document in dispute is the subject of a civil suit?	Provisions: ss. 195, 200 and 561-A, Cr.P.C.; ss. 193, 209, 419, 420, 465, 468, 471 and 474, P.P.C.; Art. 199, Constitution. The respondent had sued for damages and applied under s. 195 for a complaint against the petitioner; the court below accepted the application and ordered criminal proceedings. The High Court held that where the real matter in controversy and the principal document in dispute were before the civil court, criminal proceedings could not be started at that stage, because they would amount to pressure and coercion. The petition was accepted and the criminal proceedings were directed to be kept pending till the suit for damages and the petitioner's suit for specific performance were decided.
65	Jawaidur Rehman v. Muhammad Daraz Khan and others, 2000 PCrLJ 844 (Abdur Rauf Khan Lughmani, Shahzad Akbar Khan JJ; 26.10.1999) †	Can the investigating officer under s. 169 release accused charged directly with double murder on the strength of defence witnesses?	Provisions: ss. 169 and 561-A, Cr.P.C.; ss. 148, 149, 302 and 324, P.P.C. The accused were charged directly in the FIR for a double murder in broad daylight, supported by eyewitnesses, medical evidence and recovery of crime empties, which could not be called deficient evidence under s. 169. The investigating officer had recorded the statements of persons produced by the accused and pre-empted the court's function by preferring them to the prosecution evidence; he should have left the evaluation of both sides' evidence to the court. The accused were not in custody when released and were under protective bail from a competent court, so the release was patently unwarranted (1997 SCMR 1503 and PLD 1985 SC 62 were cited). The release was declared illegal, the accused were taken into custody, and they were left to apply for bail before the proper forum.
66	Raza Ali Mustafa v. Deputy Inspector-General Police, Hazara Division, and others, 2001 YLR 531 (Nasirul Mulk, Ijaz-ul-Hassan JJ; 4.7.2001) †	How does the High Court treat a writ petition to quash an FIR as premature?	Provisions: s. 561-A, Cr.P.C.; Art. 199, Constitution. Normally every case should be allowed to proceed according to law, and resort to s. 561-A should not be made lightly because it would circumvent due process. The High Court has power to quash if satisfied that a false case has been brought with mala fide intention and the process is being abused to harass the adversary. But under s. 561-A it cannot quash an FIR on the ground of mala fides or because it discloses civil liability (PLD 1967 SC 317; 1996 SCMR 186). The petition was premature and non-maintainable and was dismissed without costs.
67	Muhammad Akram v. Senior Superintendent of Police, Abbottabad, and others, 2001 MLD 1096 (Ijaz-ul-Hassan J; 27.10.2000) †	Can a police 'Complaint Cell' inquiry be used to cancel a registered case and discharge the accused under s. 169?	Provisions: ss. 154, 156, 169, 551 and 561-A, Cr.P.C.; s. 452, P.P.C.; s. 22, Offences Against Property (Enforcement of Hudood) Ordinance, 1979. On the accused's application, the SSP had asked the Inspector, Complaint Cell, to inquire, and on his report finding the accused innocent the case was sent to the Judicial Magistrate for cancellation and discharge under s. 169. The Court held that the Code has no place for a Complaint Cell and that it could not encroach on the powers of the court. Once a case is registered under s. 154, the officer in charge must investigate under s. 156, and the police cannot ask a court to cancel a case or release the accused on the strength of such an inquiry. The report and the Magistrate's orders of 3.10.2000 were quashed.

No.	Citation	Question	Answer
68	Nazar Muhammad v. The State and others, 2001 MLD 1089 (Ijaz-ul-Hassan J; 30.10.2000) †	After recording the complainant's statement under s. 200, can the Magistrate order the police to register an FIR?	Provisions: ss. 156(3), 200 to 204 and 561-A, Cr.P.C.; s. 379, P.P.C. Having taken cognizance under s. 200, the Magistrate had to follow the procedure for a complaint case under ss. 200 to 204. He could not send the matter to the police under s. 156(3), and the only course open was to try the complaint himself. The Magistrate here had sent the complaint to the Tehsildar for inquiry and then directed the police to register a case; the order for registration was not warranted by law. The order was quashed along with FIR No. 113 dated 25.11.1999 of Police Station Donga Gali (Ghulam Rasul v. State, 1979 SCMR 203, was cited).
69	Muhammad Irfan v. The State and others, 2001 PCrLJ 585 (Abdur Rauf Khan Lughmani, Shahzad Akbar Khan JJ; 27.6.2000) †	Can a Magistrate who has taken cognizance of a private complaint direct the SHO to register an FIR?	Provisions: ss. 202, 203 and 204, Cr.P.C.; ss. 353, 452, 500, 505 and 34, P.P.C.; Art. 199, Constitution. Chapters XVII and XVIII of the Code give a complete mechanism and procedure for private complaints, and the Magistrate who has taken cognizance can proceed only under it and is not authorised to direct the police to register a case. The orders were set aside and the resulting FIR was quashed, and the case was remanded to the trial court to proceed with the complaint and decide it on merits.
70	Qayyum Nawaz and 128 others v. The State and others, PLD 2002 Pesh 34 (Abdur Rauf Khan Lughmani, Ejaz Afzal Khan JJ; 28.11.2001) †	Is an FIR in a gambling case quashed if the raid was conducted by the SHO instead of a First Class Magistrate?	Provisions: ss. 5, 6 and 8, N.W.F.P. Prevention of Gambling Ordinance, 1978; Art. 199, Constitution. The law required that, in a gambling case, only a Magistrate First Class could supervise the raid and conduct the search, and he could ask for local police help; here the SHO conducted the raid. Since the requirements of law were not complied with, and what the law requires to be done in a particular manner can be done only in that manner, the action was held illegal and without jurisdiction. The petition of 129 persons was accepted and FIR No. 91 dated 21.2.1998 of Police Station Cantt., D.I. Khan was quashed.
71	Muhammad Daud Khan v. S.H.O., Police Station Tangi, District Charsadda, and others, 2002 PCrLJ 1381 (Malik Hamid Saeed, Ijaz-ul-Hassan JJ; 6.2.2002) †	Will the High Court stop an investigation under Art. 199 where the FIR discloses a cognizable offence?	Provisions: ss. 411, 419, 420 and 468, P.P.C.; Art. 199, Constitution. The FIR prima facie disclosed a cognizable offence that needed investigation to find the truth, and could not be stifled in a constitutional petition. Investigation falls within the exclusive domain of the police, who have a duty of inquiry, and the functions of the courts and the investigating agency are complementary, so one finding cannot be substituted for the other. After the s. 173 report, an aggrieved accused can invoke the Code for discharge, acquittal or quashment before the competent court, but not while investigation is yet to take its normal course. The petitioner was an identifier and attesting witness in the transaction and was alleged to have actively facilitated the offence. The petition failed and was dismissed.
72	Imam Shah, Advocate v. Muhammad Jamshed Kundi, Judicial Magistrate, and others, 2004 YLR 447 (Abdur Rauf Khan Lughmani J; 16.10.2003) †	Can a Magistrate refuse police remand in a theft case on the ground that the FIR does not show the stolen rifle was with the accused?	Provisions: ss. 167 and 561-A, Cr.P.C.; ss. 380 and 457, P.P.C. Even persons suspected in the FIR are remanded to police custody to recover stolen property. The accused had been charged in the first report, and an FIR need not be a detailed document. The investigating officer had asked for remand to interrogate the accused and to recover the stolen rifle, and the request should have been accepted. The Magistrate appeared to have acted under the influence of the Sessions Judge, whose conduct was not in harmony with the dignity of the courts, which are sanctuaries for rights and liberties and not to curb them. The application was accepted.
73	Dr. Aurangzeb v. The State and others, 2004 YLR 1193 (Tariq Parvez Khan, Fazlur Rehman Khan JJ; 7.11.2003) †	Can an FIR for abduction be cancelled where the alleged abductee was moving freely and the report was lodged after more than a year?	Provisions: ss. 342, 354 and 365-A, P.P.C.; s. 11/16, Zina (Enforcement of Hudood) Ordinance, 1979; Art. 199, Constitution. The FIR was lodged about one year and two months after the occurrence. Sufficient documentary evidence showed that the alleged abductee, who was the accused's mother-in-law, had been moving freely and engaged in many activities. The accused's version that the FIR was lodged to grab his money and gold was reasonable and supported by the material. The petition was accepted and the FIR cancelled.

Peshawar High Court, 2005-2012

No.	Citation	Question	Answer
74	Haq Nawaz Khan v. The State, 2005 YLR 1850 (Muhammad Raza Khan J; 14.4.2005) †	Can an FIR be quashed where a partnership dispute referred to arbitrators was turned into a case of criminal breach of trust over vehicles?	Provisions: s. 561-A, Cr.P.C.; ss. 403, 406 and 34, P.P.C. The parties had appointed arbitrators to settle their partnership dispute; the arbitrators asked each side for Rs. 5,00,000 as security, and the complainant handed over two vehicles with documents instead of cash. The complainant in substance asked only for the return of the vehicles and documents, and never intended penal action; his claim fell beyond the responsibility of the police, and the matter was one of civil liability. The Court held that continuing the proceedings would be a sheer waste of time and energy, allowed the petition and quashed the FIR.
75	Mian Faiz Muhammad v. S.H.O., Police Station Mirpur, and others, 2005 YLR 1259 (Jehanzeb Rahim J; 8.2.2005) †	Will the High Court quash an FIR for cheating where the complainant's own accounts of the transaction contradict each other?	Provisions: s. 561-A, Cr.P.C.; ss. 419, 420, 468 and 471, P.P.C. The complainant said the petitioner took a sum through cross-cheques to buy property and neither bought it nor returned the money; the petitioner denied receiving any cross-cheque. The facts in her application to the SSP, on which the FIR was registered, differed from those she and her witnesses stated to the police a day later, and the FIR contradicted both her supplementary statements and the inquiry made before registration. No cross-cheque had been issued in the petitioner's name. The Court held that the FIR, lacking legal justification, was an abuse of process, allowed the petition and quashed FIR No. 60 of 19.2.2004.
76	Mian Muhammad Ajmal v. The State, 2005 PCrLJ 1228 (Shahzad Akbar Khan, Fazlur Rehman Khan JJ; 16.9.2004) †	Can an FIR for breach of trust be quashed where the Banking Court has already taken cognizance under the Financial Institutions Ordinance?	Provisions: ss. 408 and 34, P.P.C.; ss. 5, 7 and 20, Financial Institutions (Recovery of Finances) Ordinance, 2001; s. 403, Cr.P.C.; s. 26, General Clauses Act, 1897; Art. 199, Constitution. The property was hypothecated with the Bank, and removing it without the Bank's consent was an offence under s. 20 of the Ordinance. The Banking Court had already taken cognizance, and the matter, whether civil, criminal or both, lay exclusively within its jurisdiction. Registration of the FIR was without jurisdiction and lawful authority, and trying the petitioners on it would amount to double jeopardy. The writ petition was accepted and the FIR and subsequent proceedings were quashed without costs.
77	Allah Nawaz v. The State, 2006 MLD 78 (Ijaz-ul-Hassan Khan J; 13.9.2005) †	Can the local police register a case against a government servant for acts done in his official capacity, and can a trial court order a corruption section added?	Provisions: ss. 497, 498 and 561-A, Cr.P.C.; ss. 420, 468 and 471, P.P.C.; s. 5(2), Prevention of Corruption Act, 1947. The trial court, while hearing the accused's post-arrest bail application, rejected it and directed the police to add s. 5 of the Prevention of Corruption Act and hand over the case to the concerned authorities. The Court held that the local police had no power to register a case against the petitioner for his official acts as a government servant; only the Anti-Corruption Establishment could register such a case. Registration by the local police was mala fide, illegal and without jurisdiction, because what the law requires to be done in a particular way must be done in that way. The petition was allowed, and the complainant could approach the competent authorities, who would investigate any case registered in accordance with law.
78	Arif Ejaz v. Director General FIA, Islamabad, and others, 2006 YLR 1407 (Tariq Parvez Khan J; 31.1.2006) †	Does the FIA have power to register a case over use of a disputed trade mark?	Provisions: ss. 109, 420, 468, 471, 486 and 487, P.P.C.; s. 169, Cr.P.C.; ss. 7(2), 39, 46 and 117, Trade Marks Ordinance, 2001; Art. 199, Constitution. Neither party could show that the disputed trade mark was registered in its name, and the FIA therefore had no power to register a case against the petitioner. The case was not about avoiding the terms of an agreement but about use or misuse of the trade mark, and the FIA had itself concluded that no criminal case existed against the petitioner. The parties' civil rights had to be proved in the competent civil court, and after registering the mark the aggrieved party could seek his remedy there. The writ petition was disposed of accordingly.

No.	Citation	Question	Answer
79	Malik Zahid v. The State, 2007 YLR 1905 (Salim Khan J; 10.4.2007) †	What must an ex-officio Justice of Peace do when asked to order registration of a case?	Provisions: ss. 22-A(6)(i), 154, 156, 157 and 561-A, Cr.P.C. An investigation is not to be conducted before the case is registered. The officer in charge of the police station is bound to register, or cause to be registered, an FIR when written or oral information about a cognizable offence is received. The Justice of Peace was expected to direct the officer in charge to register the FIR, but his order was evasive and not covered by s. 22-A(6)(i). It was quashed, and the officer in charge was directed to register the FIR, investigate, and consider ss. 169, 170 and 173 after completing the investigation, with liberty to proceed against the complainant if the complaint proved frivolous and false.
80	Owais Khan v. Sabz Ali, A.S.-I., Police Station Daudzai, and others, 2007 MLD 1675 (Talaat Qayum Qureshi J; 20.7.2007) †	Can the police register an FIR for adulterated ghee under the Food Stuff Control Act when the Pure Food Ordinance sets its own machinery?	Provisions: s. 561-A, Cr.P.C.; ss. 11 and 23, West Pakistan Food Stuff Control Act, 1958; ss. 15, 17, 20 and 32, West Pakistan Pure Food Ordinance, 1960. The driver could not produce documents of ownership, so the police registered an FIR and seized the ghee under ss. 11 and 23 of the Food Stuff Control Act. The accused argued that the mechanism of the Pure Food Ordinance had not been followed. The Court held that the local authority is to enforce the Ordinance through inspectors appointed by the Government and health officers with the powers the Ordinance gives. The proceedings were quashed, as was the Judicial Magistrate's order of 23.3.2007, and the police were told to hand over the seized ghee tins and the Datsun to the petitioner.
81	Khan Muhammad v. S.H.O., Police Station West Cantt., Peshawar, and others, PLD 2008 Pesh 160 (Zia-ud-Din Khattak J; 4.8.2008) †	Can the Peshawar High Court quash an FIR for violation of an order under s. 188, P.P.C. through s. 561-A?	Provisions: s. 561-A, Cr.P.C.; s. 188, P.P.C. The inherent power does not allow the High Court to override the Code, but neither any order had been made by a court nor had any process issued, so no order could be necessary to give effect to a court's order or to prevent abuse of a court's process. Following Ahmad Saeed, 1996 SCMR 186, the Court held that in exercising s. 561-A it was not competent to quash the FIR and that an FIR cannot be quashed under s. 561-A. The petition was dismissed in limine.
82	Salah-ud-Din Khan, S.H.O. v. Noor Jehan and others, PLD 2008 Pesh 53 (Syed Yahya Zahid Gilani J; 12.2.2008) †	What must the Justice of Peace decide under s. 22-A, and may the police refuse to register an FIR?	Provisions: ss. 22-A and 154, Cr.P.C. The paramount question under s. 22-A is whether the commission of a cognizable offence has been alleged. It is mandatory for the police to record the FIR under s. 154 if a cognizable offence is alleged, and the superior courts have repeatedly demanded strict compliance. Refusal to register when a cognizable offence is reported is sheer neglect by the police officer. The impugned order was unexceptionable and needed no interference in inherent jurisdiction, and the petition was dismissed in limine. The Peshawar High Court has since cited this case (see 2011 YLR 27).
83	Haleem v. The State and others, PLD 2008 Pesh 1 (Talaat Qayum Qureshi J; 26.10.2007) †	Can the Justice of Peace order sections added or deleted after the challan has gone to the court?	Provisions: ss. 22-A(6)(iii), 156(3), 173 and 561-A, Cr.P.C. Section 22-A(6)(iii) places no embargo on such an order during investigation where neglect, failure or excess by the police in relation to their duties is brought to the court's notice and a proper direction is sought. A trial court taking cognizance after the challan can take cognizance of any offence disclosed by the investigation material even if the police did not apply the relevant penal provision, and a charge can be framed for any offence the record discloses; if a section is omitted the court can rectify it. The Justice of Peace had committed no illegality, so the order could not be quashed and the petition was dismissed (2005 YLR 3127 and PLD 2005 Lah 470 were cited).
84	Muhammad Azim v. The State, PLD 2009 Pesh 24 (Ghulam Mohy-ud-Din J; 13.10.2008) †	Can an FIR for kidnapping for ransom be quashed in the inherent jurisdiction where the alleged victim cannot be identified in court?	Provisions: ss. 265-K and 561-A, Cr.P.C.; s. 365-A, P.P.C. The woman introduced as the abductee had no identity card and no reliable person identified her in court. The inherent powers under s. 561-A are not to be used to override express provisions of law, the ordinary course of law should not be deflected, and the High Court should not stifle the prosecution at the very initial stage. When the investigation is complete the case can be put in court, where either party may apply for consideration under s. 265-K, and if the charge is groundless the trial court can exercise its powers lawfully. The petition was dismissed.

No.	Citation	Question	Answer
85	Mst. Rozina Rehman v. Babar Khan, Sub-Inspector, Investigation, Haripur, and others, 2009 YLR 1362 (Ghulam Mohy-ud-Din Malik, Zia-ud-Din Khattak JJ; 25.2.2009) †	Can the police re-investigate a kidnapping case after the accused was acquitted under s. 249-A on a compromise?	Provisions: ss. 173 and 249-A, Cr.P.C.; s. 363, P.P.C.; Art. 199, Constitution. A mother had reported the kidnapping of her baby against an unknown lady, later named a lady in a supplementary statement and then exonerated her on a compromise, after which the Magistrate acquitted that lady under s. 249-A. Five months later she charged the petitioners, a husband and wife, and the police began a re-investigation. The Court held that after acquittal the police could not re-investigate in this manner, since it was not sustainable in law. The writ petition was allowed and the proceedings of re-investigation in FIR No. 728 of 2005, Police Station City Haripur, were quashed.
86	Shahzad Jehangiri v. The State, 2009 YLR 2057 (Ghulam Mohy-ud-Din Malik J; 29.5.2009) †	Can a Justice of Peace order a second FIR alleging a counter story of murder against the first complainant?	Provisions: ss. 22-A, 154 and 561-A, Cr.P.C.; ss. 302, 109 and 34, P.P.C. The complainant had reported the murder of his son and daughter-in-law. About eight days after the occurrence the deceased woman's mother applied to the Justice of Peace with a counter story accusing the complainant's side of abducting and murdering her daughter, and the Justice of Peace ordered a second FIR. The application did not say the complainant party had gone to the police and been refused, and it did not stand to reason that the family had murdered the daughter inside their home and then gone into hiding without attending to the bodies. The order of the Additional Sessions Judge/Justice of Peace dated 6.11.2007 was quashed.
87	Tahir Shah Nawaz Khan v. The State, 2009 YLR 436 (Muhammad Alam Khan J; 11.11.2008) †	Is a Justice of Peace's order for registration of a case open to quashment at the instance of the accused?	Provisions: ss. 22-A, 154 and 561-A, Cr.P.C. Once an allegation of a cognizable offence is communicated to the police, they must register a case, and if they refuse or delay, the aggrieved person may approach the Justice of Peace under s. 22-A, who can order registration whenever a cognizable offence is discernible from the data on the record, even without the complainant going through the formalities first. Reference was made to 1994 SCMR 2142. The quashment petition by the accused was dismissed in limine.
88	Abdul Qadoos v. Sarwar Khan, 2009 PCrLJ 1106 (Syed Yahya Zahid Gilani, Muhammad Alam Khan JJ; 23.4.2009) †	Can the accused challenge, by a writ petition, an FIR registered at the direction of the Justice of Peace?	Provisions: ss. 22-A(6) and 154, Cr.P.C.; s. 324/34, P.P.C.; Art. 199, Constitution. The FIR was registered under s. 324/34 on the application of the respondent to the ex-officio Justice of Peace. The Court held that registration was directed simply because a cognizable offence had been alleged, which was a valid ground; registration of an FIR in a cognizable case is a legal requirement; and the complainant not only has a right to have the allegation recorded under s. 154 but also a right to have it investigated to its logical end. The order was passed in accordance with law within the Justice of Peace's jurisdiction, and the writ petition was dismissed in limine.
89	Izzat Khan v. Muhammad Iqbal and others, 2010 PCrLJ 558 (Attaullah Khan J; 21.12.2009) †	Can an FIR for abduction be quashed because the woman left her parents' house of her own will and claims a marriage?	Provisions: s. 561-A, Cr.P.C.; s. 365-B, P.P.C. The alleged abductee had left her parents' house of her own accord, but it remained to be seen at trial, when the complete evidence came on record, whether another Nikahnama was in the field at the time and whether the other Islamic requirements were met. A person may approach the High Court under s. 561-A when no other remedy is available, but the FIR had been registered and the investigation completed, and the grounds raised could be considered by the trial court. Accepting the plea would open a 'Pandora's box' in which every accused would shelter in s. 561-A and the High Court would replace the trial court. The petition was dismissed in limine.

No.	Citation	Question	Answer
90	Abdur Rashid v. The State, 2010 PCrLJ 1452 (Attaullah Khan J; 13.5.2010) †	Can an FIR for attempted qatl be quashed because it is a counterblast and the accused pleads alibi?	Provisions: s. 561-A, Cr.P.C.; s. 324/34, P.P.C. The petitioner said the case was a counterblast to a murder case in which his brother had been killed by the respondent's son and grandson, and pleaded that he was away hunting. The plea of alibi could not be taken up at that stage and could be adjudicated at trial, as could the investigating officer's opinion. The investigating officer's view that the case was a counterblast was only an opinion, not binding on the court, and could not be a reason for quashing. The eyewitnesses had to be examined in the trial court before a final opinion on guilt could be formed. The petition was dismissed and both cases were left to be tried and decided on merits.
91	Muhammad Waheed v. S.H.O., Police Station City Mansehra, and others, 2011 MLD 613 (Miftah-ud-Din Khan J; 8.12.2010) †	When is an FIR for cheating and forgery quashed where the SHO's own report shows s. 420 is not made out and the other offences are non-cognizable?	Provisions: s. 561-A, Cr.P.C.; ss. 420, 468 and 471, P.P.C.; s. 155, Cr.P.C. The SHO's report showed that no offence under s. 420 was prima facie established, and the petitioners could at most be proceeded against under ss. 468 and 471, and only if the original receipt was available with the police or had been dishonestly used as genuine. As ss. 468 and 471 are non-cognizable, information about them should have been entered in the Roznamcha or Station Diary; if the police wished to investigate, they had to proceed under s. 155 with the Magistrate's order, and any arrest could be made only on a warrant under s. 155(3). The FIR was quashed under s. 561-A in the light of 2000 SCMR 122.
92	Muhammad Tahir v. District Police Officer, Dera Ismail Khan, and others, 2011 YLR 3067 (Syed Sajjad Hassan Shah J; 21.7.2011) †	Can the SHO himself register an FIR for breach of a s. 144 order passed by the District Co-ordination Officer?	Provisions: ss. 144, 195 and 561-A, Cr.P.C.; s. 188, P.P.C. The DCO had banned processions and loudspeakers, and an FIR was registered on behalf of the SHO against the petitioners for taking out a Labour Day procession with a loudspeaker. The Court held the exercise contrary to s. 195, since the SHO had no lawful authority to register an FIR for violation of a s. 144 order; the law requires a complaint in writing by the public servant concerned or by another public servant to whom he is subordinate. The petition was accepted and the FIR and all that was built on it were declared without jurisdiction, void ab initio and of no effect.
93	Asmatullah v. The State, 2011 YLR 1600 (Attaullah Khan J; 28.3.2011) †	In what circumstances can proceedings be quashed under s. 561-A, and when must the High Court leave the investigation alone?	Provisions: s. 561-A, Cr.P.C.; ss. 148, 149, 382 and 506, P.P.C. Proceedings can be quashed generally only where they do not disclose any offence or the prosecution could not result in conviction. Where the prosecution case rests on evidence disclosing the commission of an offence, the prosecution has the right to an opportunity to prove it, and the High Court should not interrupt the ordinary course of law. The High Court quashes only where the case is one of no evidence, or registration is shown to be mala fide, or the dispute is civil, or there is a serious jurisdictional defect. Interference with an investigation at the initial stage was not proper, and the petition was dismissed.
94	Syed Asghar Ali Shah v. Syed Waheed Abdullah Shah and others, 2011 YLR 425 (Sardar Shaukat Hayat J; 6.9.2010) †	Can the High Court quash an FIR registered on a Justice of Peace's order when police delay compelled the complainant to apply?	Provisions: ss. 22-A and 561-A, Cr.P.C.; ss. 348, 379, 440, 455, 506, 148 and 149, P.P.C. Police delay in registering the case had forced the respondent to approach the Justice of Peace, who directed registration; none of the parties told the Justice of Peace that the police had already registered a case. The petitioners asked for the Justice of Peace's order to be quashed. The Court found that an FIR already existed, that no abuse of the court's process existed at the time of filing, and that it therefore had no power to quash the FIR under s. 561-A. The petition was dismissed.

No.	Citation	Question	Answer
95	Akhtar Ali Khan, S.I.O. v. Afsar Ali Khan and others, 2011 YLR 27 (Attaullah Khan J; 11.10.2010) †	Is a police officer entitled to quash a Justice of Peace's order for registration of a case against him?	Provisions: ss. 22-A(6), 154 and 561-A, Cr.P.C. The respondent applied for registration of a case against the petitioner, an SHO, and the Justice of Peace allowed the application. The paramount question in s. 22-A proceedings is whether a cognizable offence has been committed. Compliance with s. 154 is mandatory, and non-registration by the police would amount to misuse of power and neglect of duty. The respondent's application disclosed facts constituting a cognizable offence, so the police were bound to register the case. The Justice of Peace's order was well founded and well reasoned (Salahuddin Khan v. Noor Janan, PLD 2008 Pesh 53, was cited), and the petition, having no substance, was dismissed.
96	Muhammad Akhtar v. The State and others, 2011 PCrLJ 442 (Muhammad Qasim Khan J; 29.11.2010) †	Can a private complaint for murder be quashed after summoning and charge, when the s. 265-K application has been rejected?	Provisions: ss. 200, 204, 265-K and 561-A, Cr.P.C.; s. 302/34, P.P.C.; Art. 199, Constitution. Summoning of the accused in a complaint case and the framing of the charge do not mean he stands convicted. Evidence of five prosecution witnesses had been recorded, but neither the order of the trial court nor the 265-K application discussed it, the accused named no benefit to be derived from it, and the evidence was not annexed to the petition. The trial court's dismissal of the 265-K application was therefore not interfered with. The petition was dismissed, but the trial court was directed to conclude the trial of the complaint case, Hasina Bibi v. Muhammad Aslam and others, within about four months.
97	Umer Hayat v. The State, 2012 YLR 1648 (Qaiser Rashid Khan J; 15.3.2012) †	Can the High Court under s. 561-A set aside a Magistrate's cancellation of an FIR that the Justice of Peace had ordered registered?	Provisions: ss. 22-A and 561-A, Cr.P.C.; ss. 451 and 436, P.P.C. The complainant had obtained an FIR through the Justice of Peace, the SHO submitted a final report under s. 173 for cancellation, and the Magistrate cancelled the FIR. The complainant said the police were biased and that the Justice of Peace had taken a serious view of their indifference. The Court explained that s. 561-A is an inherent power meant to prevent abuse of the process of the court and to secure the ends of justice, found no substance in the complaint, and dismissed the petition.
98	Manzoor Ahmed v. The State, 2012 YLR 1097 (Qaiser Rashid Khan J; 18.1.2012) †	Can a private person get an FIR registered for disobedience of a public servant's order under s. 188, P.P.C.?	Provisions: ss. 144, 195(1)(a) and 561-A, Cr.P.C.; s. 188, P.P.C. Section 188 can be pressed into service only when compliance with s. 195 is proved. The complainant was neither a public servant nor subordinate to anyone, and was not competent to lodge the complaint in view of the express embargo on a private person's approaching the police for registration of a case under s. 188. Registration of the FIR was not justified and the FIR was quashed.
99	Muhammad Hanif v. The State, 2012 PCrLJ 1867 (Qaiser Rashid Khan J; 20.2.2012) †	Can the accused have an FIR and the Justice of Peace's and Sessions Judge's orders quashed under s. 561-A?	Provisions: ss. 22-A and 561-A, Cr.P.C.; ss. 380, 458, 506, 148 and 149, P.P.C. The respondent applied to the Justice of Peace under s. 22-A for registration of a case of lurking house-trespass by night, theft, intimidation and rioting; the application was allowed and the Sessions Judge upheld it. The accused petitioned for quashment of the FIR and of both orders. The Justice of Peace had directed the police to arrest the accused and recover the stolen animals; the police did not comply and several times recommended cancellation, and the Sessions Judge issued repeated directions and warned of action. The accused said a thorough police probe had found no offence. The Court held that its inherent power is not to be exercised where on the available facts a cognizable offence has allegedly been committed, and dismissed the petition.

No.	Citation	Question	Answer
100	Syed Mureed Abbas Shah Bukhari v. The State, 2012 PCrLJ 1436 (Syed Sajjad Hassan Shah J; 28.2.2011) †	Can the police register an FIR for violating a s. 144 order without a written complaint by the public servant concerned?	Provisions: ss. 144, 195(1)(a) and 561-A, Cr.P.C.; s. 188, P.P.C.; s. 16, West Pakistan Maintenance of Public Order Ordinance, 1960. The accused said the procession was held with the local administration's approval along the prescribed route, and that the police could not register an FIR unless the authority complained in writing under s. 195(1)(a). The Court held that no court can take cognizance of an offence under s. 188 except on the written complaint of the public servant concerned or of another to whom he is subordinate. An FIR on such an offence was against law and could not proceed. The petition was accepted and FIR No. 846 dated 5.12.2011 was quashed.
101	Shaukat Zaman v. Muhammad Farakh Khan and others, 2012 MLD 1306 (Qaiser Rashid Khan J; 6.4.2012) †	Is an FIR for cheating over an unpaid loan on a promissory note quashed as a civil dispute?	Provisions: s. 561-A, Cr.P.C.; ss. 419 and 420, P.P.C. The complainant said he had lent money against a pro-note and the accused refused to repay. The matter had the credentials of a civil dispute, and even the police had said in their final report that there were business dealings between the parties. The application to the police was made one year and nine months after the alleged pro-note, and the complainant had not shown a cognizable case. The Court accepted the petition, cancelled FIR No. 722 dated 24.10.2011 and quashed all proceedings under it.
102	Dr. Missal Khan v. The State, 2012 MLD 1021 (Qaiser Rashid Khan J; 15.3.2012) †	Will the High Court quash an FIR that grew out of a service dispute between two doctors?	Provisions: s. 561-A, Cr.P.C.; ss. 147, 34, 380, 427, 454 and 506, P.P.C. The accused and the complainant had locked horns because the accused had been transferred from his post and the complainant posted to it. The accused had gone to the Service Tribunal and obtained a status quo order. The FIR rested on a telephone call from a subordinate doctor saying the hospital gate lock had been broken, and the Court found it strange that such information would prompt the complainant to lodge a report with these charges. The petition was accepted and FIR No. 904 dated 22.12.2011 of Police Station Cantt., D.I. Khan, was quashed.
103	Sher Ali Khan and others v. Haji Atta Ullah and others, 2012 PCrLJ 630 (Nisar Hussain Khan J; 30.11.2011) †	Can an FIR for attempted qatl-e-amd be quashed while still under investigation because the accused say they are innocent?	Provisions: ss. 157, 169, 173 and 561-A, Cr.P.C.; ss. 148, 149 and 324, P.P.C. The complainant had reported a cognizable offence, which the police were bound to register, and they did so after an inquiry under s. 157(1). Since the matter was at the investigation stage, the accused could put their defence to the investigating officer, who had to dig out the truth, and if he found the allegations false he could proceed under ss. 169 and 173. The petition to quash the FIR still under investigation failed and was dismissed.
104	Mir Tiaz Khan and others v. The State and another, PLD 2012 Pesh 46 (Nisar Hussain Khan J; 11.1.2012) †	Can an FIR for cheating and forgery alleging that the accused concealed their caste be quashed?	Provisions: ss. 419, 420, 468 and 471, P.P.C.; s. 561-A, Cr.P.C.; Arts. 23, 25 and 33, Constitution. The accused had bought property in the complainant's village and, in the documents, described their caste as 'Afghan Purtana', also the complainant's caste; the complainant said they were fraudulently concealing their own caste and misusing his. The Court held that acquiring property is the fundamental right of every citizen anywhere in Pakistan, subject to the Constitution and reasonable restrictions, and that no offence was made out. The petition was allowed and the FIR and the proceedings on it were quashed.
105	Qadar Ullah v. S.H.O., Police Station Latamber, and others, 2012 YLR 1836 (Nisar Hussain Khan J; 21.2.2012) †	Can the accused in a murder FIR claim a separate FIR against the complainant's family on a Justice of Peace application?	Provisions: ss. 22-A, 154 and 561-A, Cr.P.C. The first FIR charged the accused with murdering one of the complainant's sons and injuring the other; a second FIR was registered on the same day when he fired on the police party trying to arrest him. The accused applied to the Justice of Peace for a case against the complainant's wife and son, saying that on her direction the son had fired at him; the Justice of Peace refused. The Court found no jurisdictional defect or irregularity in refusing to direct registration against the respondents, and dismissed the application.

No.	Citation	Question	Answer
106	Abdul Ghafar and others v. Ishtiaq Ahmad, Judicial Magistrate-I, Tank, and others, 2012 PCrLJ 1451 (Qaiser Rashid Khan J; 16.2.2012) †	Can police officials accused of killing a man in a staged encounter have the Magistrate's order for a complete challan quashed?	Provisions: ss. 22-A, 173 and 561-A, Cr.P.C.; s. 302/34, P.P.C. The complainant said police officials had killed the deceased and shown it as an encounter; on his s. 22-A application the Justice of Peace directed registration. The police submitted a final report asking for cancellation of the FIR, the Magistrate disagreed and directed the SHO to submit a complete challan within seven days. The officials argued that the Magistrate could not ignore the final report, and that on disagreement he could only send the case for trial to the Sessions Judge. The petition was dismissed. The Court clarified that nothing in its order should prejudice the proceedings before the trial court, which would decide the case strictly on law and merit.

Peshawar High Court, 2013-2019

No.	Citation	Question	Answer
107	Hafiz Shadoo v. Abdul Ghaffar and others, 2013 PCrLJ 434 (Qaiser Rashid Khan J; 13.3.2012) †	Can an FIR for enticing a married woman (s. 496-A) be quashed when she appears and says she married the accused of her own will?	Provisions: ss. 496-A and 34, P.P.C.; s. 561-A, Cr.P.C. The alleged abductee appeared in the High Court with the co-accused and stated that they had performed Nikah according to Shariah and that her brother, the complainant, had falsely implicated the accused. She was sui juris and had married by her own will. The person with whom she had earlier supposedly contracted a Nikah did not appear to support the complainant. The complainant's story lost its significance, and the petition was allowed and the FIR under s. 496-A/34, Police Station Paroa, D.I. Khan, was quashed. The other alleged Nikah could be agitated before the proper forum.
108	Qazi Faisal Wajid v. Munir Ullah Khan and others, 2013 PCrLJ 400 (Khalid Mehmood Khan J; 24.7.2012) †	Does a cheque issued as a guarantee for a property bargain attract s. 489-F?	Provisions: s. 489-F, P.P.C.; s. 561-A, Cr.P.C. The accused admitted issuing the cheque as a guarantee for transfer of the property under an agreement; it was dishonoured for insufficient funds. The Court held that the words 'fulfilment of obligation' in s. 489-F cover a guarantee for a commitment, so the case came prima facie within s. 489-F. The investigation was at an initial stage and no case for quashment was made out, so the petition was dismissed.
109	Allah Bakhsh and others v. The State and another, PLD 2013 Pesh 117 (Rooh-ul-Amin Khan J; 11.1.2013) †	Can the High Court under s. 561-A quash an FIR for fraud and forgery that raises disputed questions of fact?	Provisions: ss. 406, 419, 420, 427, 467, 468, 471 and 34, P.P.C.; s. 561-A, Cr.P.C. The accused had obtained ad interim pre-arrest bail and said the FIR was based on mala fides and that no transaction or business relations existed. The Court held that the complainant had charged them with a cognizable offence and that the FIR and the petition, put side by side, raised disputed questions of fact and law needing a proper probe, investigation and evidence, which the High Court could not resolve in inherent jurisdiction. To do so would be an abuse of process. The petition was dismissed.
110	Sami-ud-Din v. Nadeem Ahmad and others, 2013 YLR 2218 (Qaiser Rashid Khan J; 29.1.2013) †	Can an FIR under s. 489-F be quashed after the trial has started?	Provisions: s. 489-F, P.P.C.; s. 561-A, Cr.P.C. The accused had issued a cheque for an outstanding amount that was dishonoured for insufficient funds, and the FIR was registered after a proper inquiry. The trial had commenced, so there was no reason to quash the FIR. The accused's remedy was to move the trial court under s. 265-K or s. 249-A, and the petition was dismissed with that liberty.
111	Ejaz Hussain v. Nasimullah and others, 2013 YLR 2019 (Qaiser Rashid Khan J; 22.4.2013) †	Can the accused seek quashment where a Justice of Peace-registered case is at the charge-sheet stage and the complainant wants s. 467 added?	Provisions: ss. 22-A, 227 and 561-A, Cr.P.C.; ss. 109, 419, 420, 467, 468, 471 and 477-A, P.P.C. The FIR was lodged on the complainant's s. 22-A application, and the accused were charge-sheeted under all the sections except s. 467. The complainant's belated application to add s. 467 was unexplained and was dismissed concurrently. The Court noted that a charge-sheet or the framing of a charge is neither sacrosanct nor gospel truth, found the proceedings within the framework of law, and dismissed the quashment petition as devoid of merit.

No.	Citation	Question	Answer
112	Karam Elahi v. The State and others, 2013 PCrLJ 1727 (Lal Jan Khattak J; 10.6.2013) †	Will the High Court entertain a quashment petition from an accused who is a fugitive from the law?	Provisions: ss. 204 and 561-A, Cr.P.C.; s. 489-F, P.P.C.; ss. 17, 18 and 22-B, Emigration Ordinance, 1979. Non-bailable warrants had been issued against the accused, who avoided arrest. His argument was that the Code contains no provision requiring a person invoking s. 561-A to appear in person. The Court held that a petition to quash an FIR filed by a fugitive accused who avoids lawful arrest cannot be entertained, and dismissed it.
113	Abdul Ahad v. The State, 2013 PCrLJ 1391 (Lal Jan Khattak J; 22.4.2013) †	Is an FIR under the Gambling Ordinance void where the SHO himself entered the place and registered the case?	Provisions: ss. 5, 6 and 8, Khyber Pakhtunkhwa Prevention of Gambling Ordinance, 1978; s. 561-A, Cr.P.C. Under s. 8, authority to enter a gambling house is given to the District Magistrate, Sub-Divisional Magistrate or Magistrate First Class, so entry by the SHO was a departure from the law. When the law lays down that an act is to be done in a particular manner it must be done in that manner and not otherwise. The petition was allowed and the FIR and all proceedings in the case were declared void ab initio, without lawful authority and without jurisdiction.
114	Rifat Ullah Khan v. The State, 2013 PCrLJ 1012 (Shah Jehan Khan Akhundzada J; 4.2.2013) †	Can an FIR for enticing a woman be quashed on the plea that its contents are false and frivolous?	Provisions: ss. 154 and 561-A, Cr.P.C.; s. 496-A, P.P.C. The FIR disclosed a cognizable offence, and reaching a correct conclusion needed proper investigation, inquiry and pro and contra evidence in the competent court. Entertaining a petition under s. 561-A in these circumstances was unjustified. The Court relied on Bashir Ahmad v. Zafer-ul-Islam, PLD 2004 SC 298, and Sher Afgan Khan Niazi, 2011 SCMR 1813, and dismissed the petition in limine.
115	Sardar Muhammad Aslam v. S.H.O./Incharge, Police Station Mirpur, Abbottabad, and others, 2013 YLR 108 (Qaiser Rashid Khan J; 17.4.2012) †	Will an FIR under s. 489-F be quashed where the complainant had posed as an officer of the Chief Minister to obtain the cheque?	Provisions: s. 489-F, P.P.C.; Art. 199, Constitution. The investigation showed that the complainant pretended to be an officer of the Chief Minister and obtained the cheque from the accused to get his son a job in a provincial department. The accused said it was security for the job, and the witness in whose presence it was given had exonerated him before the police and the Magistrate. Given the peculiar facts, the Court held the case false and fabricated, allowed the petition and quashed the FIR.
116	Retd. Brig. Ijaz Akbar v. The State, 2013 MLD 250 (Khalid Mehmood Khan J; 11.7.2012) †	Can an FIR under ss. 321/322 be quashed against school staff after a student's suicide?	Provisions: ss. 321, 322 and 34, P.P.C.; s. 561-A, Cr.P.C. The deceased had written in letters that he was committing suicide because he did not want to live in the hostel, and his mother said he was unhappy with hostel life and reluctant to leave home. The investigation and record showed nothing that the accused had done as a cause of the death, and neither the complainant nor any family member had complained against any teacher or the school administration before the FIR. Both petitions were allowed and FIR No. 251 dated 30.5.2012 under s. 322/34 was quashed.
117	Muhammad Musthaq v. Ramzan and others, 2013 MLD 1037 (Shah Jehan Khan Akhundzada J; 4.2.2013) †	Can an FIR for kidnapping to compel marriage be quashed on the plea that it is false and frivolous?	Provisions: ss. 154 and 561-A, Cr.P.C.; s. 365-B, P.P.C. The complainant had alleged a cognizable offence, which could not be adjudicated without proper inquiry and investigation by the police and without recording pro and contra evidence in the competent court. The Court relied on Bashir Ahmad v. Zafer-ul-Islam, PLD 2004 SC 298, and Sher Afgan Khan Niazi, 2011 SCMR 1813, and dismissed the petition.
118	Umar Daraz v. The State, 2014 YLR 1231 (Lal Jan Khattak J; 2.1.2014) †	Can an FIR for abduction for ransom be quashed when the abductee later names the accused in his s. 164 statement?	Provisions: ss. 154 and 561-A, Cr.P.C.; s. 365-A, P.P.C. The complainant reported the missing of the abductee without delay. The abductee later reached home on his own and, in a s. 164 statement before the Magistrate, charged the accused with abducting him for ransom. The accused's pleas of innocence and personal grudge could not be examined at that stage, and the Court recorded that under s. 561-A it is not competent to quash an FIR. The petition was dismissed.

No.	Citation	Question	Answer
119	Haji Zeri Gul v. Ahmad Jan Khan and others, 2014 PCrLJ 1361 (Rooh-ul-Amin Khan J; 29.11.2013) †	Can an FIR under s. 489-F be quashed on the accused's plea that he repaid the loan in cash under an Iqarnama?	Provisions: ss. 154 and 561-A, Cr.P.C.; s. 489-F, P.P.C. The accused did not deny handing over the cheque, which was dishonoured for insufficient funds, and the investigating agency had collected enough material to constitute the offence. His plea that he had already repaid in cash under an Iqarnama, so that the complainant should have returned the cheque, was a question of fact that could not be decided in inherent jurisdiction. No circumstance warranting interference was shown, and the petition was dismissed in limine.
120	Aftab Ahmed and others v. The State and another, 2014 MLD 795 (Rooh-ul-Amin Khan J; 30.4.2013) †	Will the High Court quash an FIR when a cross-FIR exists on the same occurrence?	Provisions: s. 561-A, Cr.P.C.; ss. 148, 149, 337-F(iv) and 452, P.P.C. Another FIR was on record against the complainant party for the same police station, date and place, and one person from each side had been injured. Which of the two versions was correct, and who was the aggressor, could not be decided without evidence at trial. Where an offence has been committed the ordinary course of trial is not to be deflected. The petitioners failed to make out a case for quashment and the petition was dismissed.
121	Qazi Muhammad Yousaf v. The State, 2014 PCrLJ 155 (Lal Jan Khattak J; 23.7.2013) †	After a court has taken cognizance, must the accused first apply to it for acquittal before coming to the High Court under s. 561-A?	Provisions: ss. 249-A, 265-K and 561-A, Cr.P.C.; ss. 379, 408 and 411, P.P.C. When a court of competent jurisdiction has taken cognizance and fixed a date, the proper course is to apply to that court first for acquittal under the relevant provision, which can be done at any time, even before the framing of the charge. Rushing straight to the High Court for quashment under s. 561-A without that step is beyond the mandate and scope of inherent jurisdiction, which is to be invoked only in exceptional cases. No case for quashment of the FIR was made out and the petition was dismissed.
122	Tarah Dad Khan v. The State, 2014 YLR 2632 (Assadullah Khan Chamkani J; 21.4.2014) †	Will the High Court interfere with an FIR under s. 365-B before the challan is submitted?	Provisions: s. 561-A, Cr.P.C.; s. 365-B, P.P.C. The case was at the investigation stage and no challan had yet been submitted. The High Court does not resolve controversial questions of fact during investigation, since deciding the merits after recording evidence is the trial court's job. It may interfere only where the registration of the case is illegal, or no offence is made out even if the allegations are accepted as true, or the case is one of no evidence and there is no probability of conviction. No such case was made out. The petition was dismissed, with a direction that the matter be dealt with as early as possible and not later than two months after receipt of the record.
123	Mst. Fauzia Bibi v. The State and another, 2014 YLR 2058 (Abdul Latif Khan J; 25.11.2013) †	Can a dishonoured cheque case be registered against the wife where the cheques were issued by the husband in a vehicle sale?	Provisions: s. 489-F, P.P.C.; s. 561-A, Cr.P.C. The sale deed for the vehicle was between the complainant and the petitioner's husband, who took the vehicle and issued two cheques that were dishonoured. The petitioner figured nowhere in the deed in any capacity, the complainant and she had no direct dealings, did not know each other and came from different areas. The complainant had no locus standi to get a case registered against her, since she had neither received the vehicle nor made any part payment. The petition was accepted and FIR No. 710 dated 29.9.2013 under s. 489-F, Police Station Cantt., D.I. Khan, was quashed.
124	Muhammad Tanvir Khan Kundi v. Ashraf Khan and others, 2014 MLD 1645 (Muhammad Daud Khan J; 21.4.2014) †	Is the FIR void where a private person, and not the public servant, set the law in motion for disobedience of an order?	Provisions: ss. 195 and 561-A, Cr.P.C.; ss. 148, 149 and 188, P.P.C. The complainant was not a public servant and was not competent to be the complainant. The Additional Assistant Commissioner, before whom the application was filed, forwarded it to the SHO, but as a public servant he was bound to file the complaint himself for registration of the FIR; s. 195 is mandatory, and s. 188 can be invoked only when s. 195 is complied with. The petition was accepted and FIR No. 620 dated 21.11.2013 under ss. 188/148/149 of Police Station Naurang, Lakki Marwat, was quashed.

No.	Citation	Question	Answer
125	Attiq Ali v. The State and others, PLD 2014 Pesh 116 (Rooh-ul-Amin Khan J; 11.7.2013) †	Can the investigating officer, without the court, release an accused and drop his name from the challan?	Provisions: ss. 169, 173 and 561-A, Cr.P.C.; ss. 148, 149, 337-F(iv) and 452, P.P.C. The complainant challenged the police action releasing the accused and deleting his name from the challan. The accused was directly charged in the FIR with thrashing the complainant and his wife, and it was for the trial court to decide his role and criminal liability after recording evidence. Under s. 169 an investigating officer or officer in charge of a police station may only release an accused on bail by taking a personal bond if the evidence is deficient or there are no reasonable grounds. The release and omission from the challan, which also lacked the proper approval of the District Public Prosecutor, were set aside, and the respondents were directed to act strictly in accordance with law and procedure.
126	Nigah Hussain and others v. Circle Officer, ACE, Mansehra, and others, PLD 2014 Pesh 79 (Mrs. Irshad Qaiser, Waqar Ahmad Seth JJ; 10.10.2013) †	Can the High Court under Art. 199 quash an anti-corruption case that appears to rest on mala fides?	Provisions: ss. 109, 217 and 218, P.P.C.; s. 5(2), Prevention of Corruption Act, 1947; s. 173, Cr.P.C.; Art. 199, Constitution. Registration of the case against the petitioners appeared to be mala fide, an illegal exercise of jurisdiction and without lawful authority, and one of the accused and the respondent were at daggers drawn because of earlier criminal litigation. When mala fide cannot be ruled out in an FIR the High Court is competent to exercise constitutional jurisdiction. The petitions were allowed and FIR No. 5 dated 12.12.2012 of Police Station ACE, Mansehra, was quashed.
127	Muhammad Hafeez v. Ms. Salma Bibi and others, PLD 2014 Pesh 231 (Nisar Hussain Khan, Mrs. Irshad Qaiser JJ; 10.4.2013) †	Can an FIR still under investigation be quashed under Art. 199, and what remedy has the accused?	Provisions: ss. 154, 156, 249-A and 265-K, Cr.P.C.; s. 363, P.P.C.; Art. 199, Constitution. When the case is still in the investigation phase the High Court cannot quash the FIR in constitutional jurisdiction, and it should not encourage bypassing the forums below when the accused has yet to join the investigation and prove his innocence with material. He may move the competent court under s. 249-A or 265-K, which are by all means adequate alternate remedies. The Court cited Shahnaz Begum, PLD 1971 SC 677, 1994 SCMR 2142, 1998 SCMR 666 and 1996 SCMR 24. It dismissed the petition on FIR No. 728 dated 19.9.2012 of Police Station Hangu, with a direction to the investigating officer to be more alert, vigilant, prompt and dutiful.
128	Asad Ullah Khan and others v. Government of Khyber Pakhtunkhwa and others, 2015 PCrLJ 949 (Rooh-ul-Amin Khan, Malik Manzoor Hussain JJ; 21.11.2014) †	Is an FIR registered by the Anti-Corruption Establishment in Malakand without authority because the corruption laws were not extended to the Tribal Areas?	Provisions: ss. 419, 420, 468 and 471, P.P.C.; s. 5(2), Prevention of Corruption Act, 1947; Arts. 4, 10 and 199, Constitution. The petitioners questioned both the FIR and the existence of the Anti-Corruption Establishment police station in Malakand, arguing that neither the 1947 Act nor the West Pakistan Anti-Corruption Establishment Ordinance, 1961 had been extended to the Tribal Areas by the President. The Court traced the legislative history of the subject, found the petition without merit and dismissed it in limine, directing the SHO to proceed in accordance with law.
129	Arshad Khan v. Jehanzeb and others, 2015 PCrLJ 938 (Waqar Ahmad Seth J; 27.10.2014) †	Can an FIR under s. 188 be sustained for violating a civil court's injunction when no complaint under s. 195 was made?	Provisions: ss. 195 and 561-A, Cr.P.C.; ss. 34 and 188, P.P.C.; O. XXXIX, r. 2(3), C.P.C. The inherent powers aim at real and substantial justice and prevent abuse of process (2000 SCMR 122 was cited). The civil court has adequate powers to enforce its own injunction under O. XXXIX, r. 2(3), and neither the Civil Judge had filed a complaint under s. 195 nor had the respondent applied to the civil court. FIR No. 364 dated 25.12.2013 under s. 188/34 at Police Station Mattani, Peshawar, was quashed, and the name of respondent No. 6 was deleted.

No.	Citation	Question	Answer
130	Liaquatullah Khan v. The State and another, PLD 2015 Pesh 115 (Rooh-ul-Amin Khan J; 21.3.2014) †	What are the extraordinary cases in which s. 561-A can be invoked against an FIR under s. 489-F?	Provisions: s. 489-F, P.P.C.; s. 561-A, Cr.P.C. The complainant had made allegations and justice demanded that he be given an opportunity to prove them, and as a prima facie case seemed to exist, quashing at the very initial stage was not warranted. The inherent power can be invoked only in extraordinary cases: where no offence is made out even if the allegations are proved at trial, where there is no evidence at all, where there is gross violation of law, or where drastic illegality causing grave miscarriage of justice is pointed out. The petition was dismissed, with a copy of the judgment sent to the Chairman of the Khyber Pakhtunkhwa Bar Council.
131	Inayat-ur-Rehman v. The State, 2015 PCrLJ 1487 (Mazhar Alam Khan Miankhel J; 12.6.2015) †	Can a challan for selling pirated books be sent to another district on a plea of territorial jurisdiction?	Provisions: ss. 177 and 561-A, Cr.P.C.; ss. 109 and 486, P.P.C. The raid was on shops at place 'S' and the pirated books were recovered there, but challans were submitted before the Judicial Magistrate at place 'P'. The accused applied under s. 177 to have the cases sent to 'S'; both courts below rejected it. The High Court found no jurisdictional defect, illegality or material irregularity in the orders and dismissed both petitions as without substance.
132	Shafiq Ahmad, ASI v. Sher Alam and others, PLD 2015 Pesh 76 (Ikramullah Khan, Musarrat Hilali JJ; 7.8.2014) †	Can the High Court in constitutional jurisdiction set aside a Justice of Peace order for registration where there are two versions of the same incident?	Provisions: ss. 22-A, 154 and 173, Cr.P.C.; Art. 199, Constitution. The two versions of the incident could not be scrutinised without recording evidence, which the High Court cannot do in constitutional jurisdiction. Under s. 154 every police official is legally bound to register a cognizable case and, after proper investigation, submit a s. 173 report to the trial court with a finding on innocence or otherwise; the police have no authority to hold the report false and refuse to register it after a preliminary inquiry. No illegality or jurisdictional defect was shown in the Justice of Peace's judgment, and the petition was dismissed.
133	Sherin Zada and others v. The State and others, 2015 MLD 386 (Abdul Latif Khan, Lal Jan Khattak JJ; 4.9.2014) †	Must a Justice of Peace give reasons when he disagrees with the SHO's report before directing registration?	Provisions: ss. 22-A, 154 and 157, Cr.P.C.; Art. 199, Constitution. The police must register a case whenever a cognizable offence is reported, and the Justice of Peace can direct them under s. 22-A(6)(i) without seeking a report from the SHO. But where he has called for a report to learn why the police did not register, he must not ignore it, and if he disagrees with it he must give reasons. He must not allow s. 22-A applications routinely but must apply his mind, including to whether the applicant has come with clean hands. Here the Justice of Peace had sought the SHO's comments but gave no reasons. The petition was accepted, the order set aside, and any proceedings begun on it were quashed.
134	Sher Afzal Khan v. The State, 2016 PCrLJ 67 (Muhammad Ghazanfer Khan J; 3.7.2015) †	Can proceedings for unlicensed arms be quashed when an alternate remedy under s. 249-A or 265-K exists?	Provisions: ss. 249-A, 265-K, 517 and 561-A, Cr.P.C.; s. 15, Arms Act, 1878. A large quantity of arms and ammunition was alleged to have been recovered from secret cavities of the accused's car. The accused produced no document to show he was its lawful owner, and his application for superdari was dismissed. The Court held that interference with an investigation or with proceedings under s. 561-A is not available where an alternate remedy exists under ss. 249-A or 265-K, and dismissed the petition.
135	Zahid Arif v. Chairman, National Accountability Bureau, and others, 2016 PCrLJ 1302 (Mazhar Alam Khan Miankhel CJ and Mrs. Irshad Qaiser J; 16.2.2016) †	Can the High Court under Art. 199 quash an FIR or an investigation, and are criminal and departmental proceedings distinct?	Provisions: Art. 199, Constitution. The High Court in constitutional jurisdiction can quash an FIR but normally does not quash an investigation at its preliminary stage. Criminal and departmental proceedings are quite distinct; if an accused is acquitted by a court, punitive action can still be taken on the departmental side and vice versa (PLD 2002 SC 13 and 2006 SCMR 1005 were relied on). Only a law that changes procedure can be given retrospective effect, not a substantive law under which rights accrue. The Court declared the proceedings initiated by the respondents null and void and quashed the inquiry, investigation and proceedings against the petitioners, with parties bearing their own costs.

No.	Citation	Question	Answer
136	Masood Anwar v. The State, 2017 PCrLJ 1466 (Ikramullah Khan J; 5.5.2016) †	Does double jeopardy bar an FIR when the same accused already faces a reference before the Accountability Court?	Provisions: ss. 403 and 561-A, Cr.P.C.; Art. 13(a), Constitution. The accused argued that having been prosecuted in a reference before the Accountability Court he could not be prosecuted for the same offence on the FIR. The Court held this misconceived: Art. 13(a) bars a second prosecution or punishment only where the accused has been convicted and punished, and s. 403 prohibits a second trial only while a conviction or acquittal subsists. The accused had been neither acquitted nor convicted by any court in the offence in the FIR. The application was dismissed.
137	Sheikh Arif ur Rehman and others v. S.H.O., Police Station Khuram, and others, 2017 MLD 2064 (Lal Jan Khattak, Abdul Shakoor JJ; 24.7.2017) †	Will the High Court quash an FIR for enticing a daughter-in-law when the petitioners deny any nexus with the offence?	Provisions: ss. 249-A, 265-K and 561-A, Cr.P.C.; Art. 199, Constitution. The FIR charged the petitioners with a cognizable offence, and whether they had any nexus with its commission was for the trial court after recording evidence; it was not fair to quash an FIR under investigation at a preliminary stage. Besides the constitutional remedy, the petitioners had an alternate remedy by an application under ss. 249-A or 265-K after the challan, or under s. 439, or other available means. Resolution of the counsel's contentions needed evidence, which is not the function of the High Court, and the petition was dismissed.
138	Shahid Khan and another v. The State, 2017 YLR 2419 (Lal Jan Khattak, Shakeel Ahmad JJ; 21.6.2017) †	Is an FIR for a non-cognizable offence valid when the police investigated without the Magistrate's permission?	Provisions: ss. 155 and 249-A, Cr.P.C.; ss. 161, 162 and 165, P.P.C. Information of a non-cognizable offence is to be entered in the Roznamcha or Station Diary and the police take no action, giving the informant a copy and sending him away. If the SHO thinks fit to investigate, he must take the Magistrate's permission, and s. 155(2) is mandatory; any arrest can be made only on the Magistrate's warrant. When the law requires a thing to be done in a particular manner it must be done in that manner or not at all. FIR No. 1433 dated 23.11.2016 of Police Station Gulbahar, Peshawar, under ss. 161, 162 and 165, P.P.C., was quashed.
139	Noorshad v. Chairman, National Accountability Bureau, and others, 2017 PCrLJ 1258 (Waqar Ahmad Seth, Abdul Shakoor Khan JJ; 29.3.2017) †	Can the NAB file a third reference on the same continuing transaction, and what does s. 265-K do?	Provisions: s. 265-K, Cr.P.C.; s. 17(d), National Accountability Ordinance, 1999; Art. 199, Constitution. The petitioner had been convicted in two earlier references, and a third was filed on the same allegations with a slight difference in dates. The offence charged was not different in kind but a continuation of the same offence, modus operandi and transaction, and s. 17(d) did not allow more than one reference. The maxim that no one shall be placed in jeopardy twice for one offence applied, and permitting this would leave no end to prosecution once a person is in the prosecution's hands. The Court held the s. 265-K application legal and justified, allowed it and acquitted the petitioner.
140	Mst. Robina v. District Police Officer and others, 2018 YLR 665 (Syed Muhammad Attique Shah, Syed Arshad Ali JJ; 24.7.2017) †	Can both sides in counter FIRs about a cattle shed fire obtain quashment under Art. 199?	Provisions: ss. 34 and 436, P.P.C.; s. 561-A, Cr.P.C.; Art. 199, Constitution. Each party claimed ownership of the cattle shed and accused the other of setting it on fire, and each sought quashment of the case against it. The factual controversies could not be resolved in constitutional jurisdiction, nor could the normal procedure of the Code be departed from, and alternate remedies were available under the law. The petitions were dismissed in limine.
141	Qayum Nawaz v. District Police Officer, D.I. Khan, and others, 2018 PCrLJ 1345 (Ijaz Anwar, Shakeel Ahmad JJ; 5.3.2018) †	Can an FIR under s. 496-A/109 for enticing a girl with gold ornaments and cash be quashed?	Provisions: ss. 109 and 496-A, P.P.C. The complainant alleged that the accused enticed away her daughter for zina, along with four tolas of gold and Rs. 96,780, at the behest of the co-accused. The FIR disclosed a cognizable offence, and reaching a correct conclusion required investigation and evidence in the competent court. The writ petition, devoid of merit, was dismissed.
142	Muhammad Irfan v. D.P.O. and others, 2018 PCrLJ 826 (Muhammad Ayub Khan, Shakeel Ahmad JJ; 3.10.2017) †	Is an FIR under the Gambling Ordinance void when the SHO raided a Baithak without a Magistrate's authority?	Provisions: ss. 5, 6 and 8, Khyber Pakhtunkhwa Prevention of Gambling Ordinance, 1978; ss. 103 and 561-A, Cr.P.C. The police raided a person's Baithak, found the petitioner and co-accused gambling, arrested them and recovered the stake money. The petitioner argued that under s. 8 the SHO could not enter and search the premises. The Court accepted the petition, held the action of the respondent illegal and without jurisdiction, and quashed the FIR.

No.	Citation	Question	Answer
143	Seyar Zeb and others v. The State, 2018 PCrLJ 1207 (Rooh-ul-Amin Khan, Syed Afsar Shah JJ; 7.2.2018) †	Can FIRs under the Khyber Pakhtunkhwa Prohibition of Interest on Private Loans Act, 2016 be quashed for non-compliance with s. 6?	Provisions: ss. 3, 6 and 9, Khyber Pakhtunkhwa Prohibition of Interest on Private Loans Act, 2016; s. 561-A, Cr.P.C. The petitioners were found running a private money-lending business at high interest, an offence under s. 3, and s. 9 makes offences under the Act cognizable, non-compoundable and non-bailable. The SHO was therefore competent to register the FIR and arrest without warrant. The jurisdiction is invoked only when the aggrieved person has no alternate and efficacious remedy, and all the petitions were dismissed.
144	Khurshid Khan v. Mst. Asia and others, 2018 PCrLJ 1051 (Ishtiaq Ibrahim, Muhammad Nasir Mahfooz JJ; 8.11.2017) †	Can an FIR registered on a Justice of Peace order in a rape case be quashed because the medical report does not support zina?	Provisions: ss. 22-A and 22-B, Cr.P.C.; ss. 376 and 457, P.P.C. The complainant alleged that the petitioner scaled the wall, entered her room and raped her. The police did not register an FIR, so she petitioned the Justice of Peace, who recorded her statement on oath and directed the police to register one. The petitioner said the medical report did not support zina and that the police record was silent on the offence. The petition was dismissed, but the Court directed the investigating agency to complete the investigation at the earliest with impartiality.
145	Firdous Aziz v. Asif Aziz and 3 others, 2018 PCrLJ 392 (Waqar Ahmad Seth, Ijaz Anwar JJ; 21.9.2017) †	Can the Justice of Peace's order to register an FIR for a dishonoured cheque be quashed on a civil-suit plea?	Provisions: ss. 22-A, 154 and 156, Cr.P.C.; s. 489-F, P.P.C.; Art. 199, Constitution. The Justice of Peace had passed his order in accordance with law, since the allegations led toward a cognizable offence. Whether s. 489-F applied was a controversial question needing evidence, so the High Court declined to exercise constitutional jurisdiction. The police have a statutory duty under s. 154 to register, and civil and criminal proceedings can go side by side, so there is no bar on criminal proceedings while a civil suit is pending. The writ petition was dismissed in limine.
146	Muhammad Shafique and 12 others v. The State and 3 others, 2018 PCrLJ 352 (Mohammad Ghazanfar Khan, Abdul Shakoor JJ; 5.9.2017) †	Where investigation is in progress, can the accused ask the High Court to quash the FIR instead of raising the points before the investigating officer and the trial court?	Provisions: s. 561-A, Cr.P.C.; Art. 199, Constitution. The legal and factual issues raised by the petitioners could be taken in the first instance before the investigating officer and then before the framing of charge by the trial court, if a challan was submitted, since the trial court has power to discharge. The petitioners had an adequate alternate remedy and it was appropriate to agitate these points before the trial court. The Court cited Khawaja Nazir Ahmad (AIR 1945 PC 18) and dismissed the petition in limine.
147	Nisabullah alias Gulap v. Awal Haq Khan and 4 others, 2018 MLD 1571 (Abdul Shakoor, Shakeel Ahmad JJ; 13.2.2018) †	Is an FIR under s. 489-F quashed as civil when the arbitrator found the petitioner liable and he issued a cheque that bounced?	Provisions: s. 489-F, P.P.C.; Art. 199, Constitution. The complainant alleged that the petitioner embezzled Rs. two crore from the income of their business; the dispute went to an arbitrator, who after taking accounts held the petitioner liable for Rs. sixty lac, and the petitioner then issued a cheque for Rs. fifty lac that was dishonoured. His plea that the dispute was civil failed: quashing at that stage would throttle the investigation, and no case for quashment was made out. The petition was dismissed in limine.
148	Mehboob Ahmed v. District Police Officer and others, 2018 PCrLJN 227 (Ijaz Anwar, Shakeel Ahmad JJ; 5.3.2018) †	Can a husband have the FIR lodged by his wife quashed on the ground that it is false and frivolous?	Provisions: Art. 199, Constitution. The High Court in constitutional jurisdiction cannot decide the guilt or innocence of an accused. The contentions of both sides were factual and, for a correct conclusion, proper investigation, inquiry and pro and contra evidence in a court of competent jurisdiction were required. The Court cited Bashir Ahmad v. Zafer-ul-Islam, PLD 2004 SC 298, and Sher Afgan Khan Niazi, 2011 SCMR 1813, and dismissed the petition in limine.
149	Abid Ali v. Ibrar Muhammad and 2 others, PLD 2018 Pesh 147 (Yahya Afridi CJ, Rooh-ul-Amin Khan J; 17.4.2018) †	Can an FIR for bribery against a FATA-based official be quashed because the Prevention of Corruption Act was not extended to FATA?	Provisions: s. 161, P.P.C.; s. 5(2), Prevention of Corruption Act, 1947; Arts. 247 and 268, Constitution; Centrally Administered Tribal Areas (Employees' Status) Order, 1972. The accused argued that, serving in FATA, he could not be proceeded against under the 1947 Act, which had not been extended there under Art. 247. The Court repelled the contention because the alleged taking of a bribe happened in the accused's office situated in the settled area, where the Act and the Establishment's jurisdiction applied. The petition for quashment was dismissed.

No.	Citation	Question	Answer
150	Javed Khan and 5 others v. The State and others, 2019 PCrLJ 1756 (Muhammad Nasir Mahfooz, Shakeel Ahmad JJ; 4.3.2019) †	Must a Magistrate accept the police report recommending cancellation and discharge?	Provisions: ss. 168, 173, 190 and 561-A, Cr.P.C.; ss. 148, 149, 337-F(v), 354 and 452, P.P.C. The report under s. 173 is not binding on the court, which, notwithstanding the recommendation of the investigating officer to cancel the case and discharge the accused, can decline to cancel and take cognizance under s. 190. The Magistrate is competent to pass any order on the report. The Magistrate had declined to discharge and directed further reinvestigation; the High Court found no illegality or irregularity in that order, upheld it and dismissed the petition in limine.
151	Ghufran Shah v. Farid Khan, ASI, and 5 others, 2019 PCrLJ 1346 (Muhammad Ghazanfar Khan, Syed Arshad Ali JJ; 11.3.2019) †	Does double jeopardy bar an FIR for a mining accident under ss. 322/427 when the Mines Act was also invoked?	Provisions: ss. 322 and 427, P.P.C.; s. 40, Mines Act, 1923; s. 403, Cr.P.C.; Art. 13(a), Constitution. During a mining operation a slide killed two persons and the police registered an FIR charging the petitioner under s. 322 read with s. 427. The allegations prima facie attracted those P.P.C. sections, and the petitioner's trial on them had not yet begun, so the plea of double jeopardy was unfounded. The petition was dismissed.
152	Gohar Ayub v. The State and 3 others, 2019 PCrLJ 1260 (Muhammad Nasir Mahfooz, Shakeel Ahmad JJ; 6.3.2019) †	Can an FIR for personation and drawing salary be quashed because an Anti-Corruption Establishment inquiry is pending?	Provisions: ss. 22-A and 154, Cr.P.C.; ss. 406, 409, 419, 420, 468 and 471, P.P.C.; s. 5, Prevention of Corruption Act, 1947; s. 8, Anti-Corruption Establishment Ordinance, 1961; Art. 199, Constitution. The petitioner, a government servant, had purportedly used the respondent's identity card to get him appointed to a post and received the salary without telling him. He argued that an ACE inquiry was pending, so the s. 22-A application was not maintainable. The Court held that the Act of 1947 is not in derogation of other law, that the two cases overlapped, and that they could proceed together in accordance with law. The petition was dismissed without costs.
153	Sajjad v. The State and 4 others, 2019 PCrLJ 1205 (Lal Jan Khattak, Syed Muhammad Attique Shah JJ; 6.12.2018) †	Can the accused in a counter-FIR obtain quashment under Art. 199?	Provisions: ss. 154 and 561-A, Cr.P.C.; Art. 199, Constitution. The petitioner said the complainant had lodged the FIR against him to counter the FIR he himself had got registered. The Court held that factual controversies cannot be resolved in constitutional jurisdiction and that deviation from the normal procedure in the Code is not consistent with settled principles; where alternate remedies exist, constitutional jurisdiction is not exercised. It cited 2006 SCMR 1192, 2008 SCMR 76 and PLD 2013 SC 401, and dismissed the petition in limine.
154	Atta Muhammad Deshani v. District Police Officer, Haripur, and 2 others, 2019 PCrLJ 275 (Lal Jan Khattak, Ijaz Anwar JJ; 22.5.2018) †	Can the police proceed by challan for offences against the State and religion without a complaint or sanction under s. 196?	Provisions: ss. 154-176 and 196, Cr.P.C.; ss. 153-A, 295-A and 298, P.P.C.; Art. 199, Constitution. The petitioner, a religious scholar and provincial president of a religious party, was alleged to have called a sect of Muslims non-Muslims in a speech, outraging religious feelings and promoting sectarian enmity. The challan had been submitted without a complaint or the sanction of the Central Government, the Provincial Government or an officer authorised by it, so the proceedings to that extent were quashed and the trial court could not take cognizance on such a defective challan. The authorities were left free to proceed against the petitioner if so advised, but strictly in accordance with the orders of the Provincial or Central Government as s. 196 requires. The petition was allowed.
155	Abbas Khan v. Inspector General of Police, Khyber Pakhtunkhwa, and 10 others, 2019 PCrLJ 259 (Waqar Ahmad Seth, Muhammad Nasir Mahfooz JJ; 26.6.2018) †	Can the police themselves 'quash' a murder FIR against police officials, and how long may investigation take?	Provisions: ss. 169 and 173, Cr.P.C.; s. 302, P.P.C.; s. 7, Anti-Terrorism Act, 1997; Art. 199, Constitution. Once an FIR for murder and terrorism is registered, it cannot simply be quashed by police officials, above all when police officials are the accused; the discharge of the accused police officials was moulded to circumvent the process of law and defeated the ends of justice. Investigation must be completed without unnecessary delay, and where it is not completed within 14 days of recording the FIR an interim report must go to the court. The petition was allowed, the discharge report set aside, and the respondents were directed to submit the challan within 14 days and begin trial in both FIRs, with no order as to costs.

No.	Citation	Question	Answer
156	Naseem Khan v. Banaras Khan Jadoon and 3 others, 2019 PCrLJ 154 (Syed Muhammad Attique Shah, Syed Arshad Ali JJ; 23.11.2017) †	What can the investigating officer do if he finds the FIR allegations incorrect, and does that make quashment unnecessary?	Provisions: ss. 63, 169 and 173, Cr.P.C.; Art. 199, Constitution. After registration the investigating officer has authority to determine whether the allegations are true, subject to the affirmation of the competent court. If he concludes they are incorrect he can refer the matter to the Magistrate under s. 63 for discharge of the accused, and under s. 169 he can release an accused when evidence is insufficient or there is no reasonable ground of suspicion. The Court noted the position affirmed in Dr. Ghulam Mustafa (2008 SCMR 76) and Muhammad Ali v. Additional IG, PLD 2014 SC 753, and dismissed the petition in limine.

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No.	Citation	Question	Answer
157	Captain (R) Muhammad Safdar v. Inspector General of Police, Khyber Pakhtunkhwa, and 5 others, 2022 PCrLJ 1342 (Lal Jan Khattak, Musarrat Hilali JJ; 22.12.2021) †	Can the police lodge an FIR for waging war, sedition and similar offences without the Federal Government's complaint under s. 196?	Provisions: ss. 121, 121-A and 124-A, P.P.C. (Chapter VI); s. 196, Cr.P.C.; Art. 199, Constitution. The petitioner was charged with waging or attempting to wage war against Pakistan, sedition, abetting mutiny, provocation with intent to cause riot, and statements conducing to public mischief. The offences fall under Chapter VI of the Penal Code, and the complainant was not competent under s. 196 to lodge the FIR; nothing was produced to show the necessary authority. The Court ordered that the respondents give the petitioner details of the number of cases, if any, registered against him in the province if he approaches them.
158	Jubilee Life Insurance Company Ltd. v. Federal Investigation Agency (FIA) through Director General, Islamabad, and 3 others, PLD 2025 Pesh 71 (Ijaz Anwar, Muhammad Ijaz Khan JJ; 22.8.2024) †	Can the FIA inquire into a dispute between an insurer and its policyholders, when the SECP is already handling it?	Provisions: r. 5, Federal Investigation Agency (Inquiries and Investigations) Rules, 2002; ss. 121, 122, 124 and 156, Insurance Ordinance, 2000; s. 20, SECP Act, 1997; Art. 199, Constitution. The FIA can inquire into or investigate only certain offences committed in connection with matters concerning the Federal Government or connected matters. The SECP, as regulator of insurance business, had taken up the policyholders' complaint and settlement proceedings were in progress. The FIA's letter dated 26.5.2023 was held without lawful authority and of no legal effect, and the inquiry proceedings were quashed.
159	Faisal Khan v. The State and another, 2020 PCrLJ 471 (Syed Muhammad Attique Shah, Shakeel Ahmad JJ; 27.3.2019) †	Will the High Court quash an FIR for hundi/hawala business under the Foreign Exchange Regulation Act while investigation is on?	Provisions: s. 561-A, Cr.P.C.; Foreign Exchange Regulation Act, 1947. After registration of a criminal case the investigating agency has a statutory duty to investigate a cognizable offence, and without exceptional circumstances quashing an FIR during investigation would throttle the investigation, which the law does not allow. Scrutiny through constitutional jurisdiction would amount to interference in the investigation. A proper FIR had been registered for a cognizable offence, and the Court (citing Khalid Saleem, 2006 SCMR 1192) dismissed the petition.
160	Malik Wajid and 2 others v. The State and 2 others, 2020 PCrLJ 1416 (Shakeel Ahmad, Ahmad Ali JJ; 11.3.2020) †	Can an FIR for kidnapping to compel marriage be quashed where the adult girl says she married the petitioner of her own will?	Provisions: ss. 365-B and 34, P.P.C.; Art. 199, Constitution. The complainant alleged that her daughter had been abducted by the petitioner with others. The daughter appeared before the court and stated that, being sui juris, she had married the petitioner of her free will and nobody had abducted her. The complainant said that as nikah had been performed she had compromised and did not want to proceed. Relying on Mulla's s. 251 of Mahomedan Law and Hafiz Abdul Waheed v. Mrs. Asma Jahangir, PLD 2004 SC 219, the Court accepted the petition and quashed FIR No. 730 dated 3.7.2019 of Police Station City, Mansehra.

No.	Citation	Question	Answer
161	Pehlwan Shah and 2 others v. Liaqat Shah and 3 others, 2020 MLD 2071 (Shakeel Ahmad, Ahmad Ali JJ; 18.2.2020) †	Is an FIR registered at a Magistrate's direction valid?	Provisions: ss. 22-A and 200, Cr.P.C. A private complaint under s. 200 was filed against the petitioner and on the first date the Magistrate directed the police to register a case. The Court held that a Magistrate is not empowered by law to issue directions to the police about registration of a case; that power belongs only to the ex-officio Justice of Peace under s. 22-A. The direction was beyond jurisdiction, and the whole proceeding built on it was not sustainable. The petition was allowed, the Magistrate's order set aside and FIR No. 363 quashed.
162	Mst. Dilara Bibi v. The State through Advocate-General, Khyber Pakhtunkhwa, and another, 2020 MLD 949 (Lal Jan Khattak, Muhammad Naeem Anwar JJ; 23.8.2019) †	Can the High Court under s. 561-A and Art. 199 quash an FIR while investigation is in progress and the accused claims factual innocence?	Provisions: s. 561-A, Cr.P.C.; Art. 199, Constitution. Criminal cases are decided on the material collected in investigation and the evidence recorded by the trial court, appraised in accordance with law. The FIR had been registered and investigation was in progress, so the petitioner's case could not be considered under s. 561-A. Factual controversy cannot be resolved in constitutional jurisdiction, and deviation from the normal procedure of the Code is not consistent with the principles of criminal justice. The petitioner could agitate her factual and legal points before the trial court. The petition was dismissed in limine.
163	Kausar Ali Shah v. Regional Police Officer and others, PLD 2020 Pesh 170 (Waqar Ahmad Seth, Ahmad Ali JJ; 22.1.2020) †	Does the availability of ss. 249-A and 265-K bar a writ for quashing an FIR?	Provisions: ss. 249-A and 265-K, Cr.P.C.; Art. 199, Constitution. The petitioners had alternate remedies in the shape of applications under ss. 249-A and 265-K, which they could use if the trial court proceeded against them. The High Court has no jurisdiction to take on the role of the investigating agency and quash an FIR or proceedings under it in Art. 199 jurisdiction unless exceptional circumstances exist. The Court cited PLD 1992 SC 353, 2006 SCMR 276, 2006 SCMR 1192 and Dr. Ghulam Mustafa, 2008 SCMR 76, and dismissed the writ petitions.
164	Said Bakhshad v. The State through Additional Advocate General, Peshawar, and another, PLD 2020 Pesh 129 (Syed Arshad Ali, Wiqar Ahmad JJ; 25.2.2020) †	Can an FIR under the Khyber Pakhtunkhwa Prohibition of Interest on Private Loans Act, 2016 be quashed on the argument that only a 'complaint' before the Justice of Peace may be made?	Provisions: ss. 3, 6 and 9, Khyber Pakhtunkhwa Prohibition of Interest on Private Loans Act, 2016; ss. 2(h), 22 and 154, Cr.P.C.; Art. 199, Constitution. The Justice of Peace cannot be called a court, and the remedy of a 'complaint' for punishment of an offence lies before a court. The Court held that the word 'complaint' in s. 6 of the Act is used in its ordinary English meaning and not as defined in the Code. It cited PLD 2014 SC 753, PLD 2016 SC 581 and Syed Abdul Hameed v. Mian Izhar Ahmad, PLD 2019 Pesh 154, and declined to follow a contrary view. The petition was dismissed as devoid of force.
165	Zahoor Khan v. The State and 5 others, 2021 PCrLJ 446 (Abdul Shakoor, Sahibzada Asadullah JJ; 21.4.2020) †	Can the High Court interfere in a cognizable case under investigation, and what can the accused ask the trial court?	Provisions: ss. 154, 156, 169, 173, 249-A, 265-K and 561-A, Cr.P.C. The police have a statutory duty under s. 154 to register an FIR for any cognizable offence, whose purpose is only to set the criminal law in motion, and the provision is mandatory. When the FIR is registered the police have a statutory right under s. 156 to investigate, and interference with their duties by the court is not permissible. An FIR is not an encyclopedia of all facts. The accused may apply under s. 249-A or 265-K, and the Magistrate or court may acquit at any stage. The petition, lacking merit, was dismissed in limine.
166	Kaleem Ullah v. The State and 5 others, 2021 PCrLJ 943 (Rooh ul Amin Khan, Muhammad Nasir Mehfooz JJ; 17.2.2020) †	Where two reports of the same incident are lodged by rival parties, can the second FIR ordered by the Justice of Peace stand?	Provisions: ss. 22-A(6) and 561-A, Cr.P.C.; ss. 34, 324, 337-F(ii) and 337-F(iii), P.P.C.; Art. 199, Constitution. The petitioner had lodged an FIR for murder, attempt to murder and injuries; the respondents' report on the same incident, a daily diary entry, charged the petitioner with attempted murder. The complainant's request for a separate FIR was turned down, and on his application the Justice of Peace ordered one. In both reports the day, date, time, place and parties were the same, so they were two versions of the same incident accusing each other. The petition was allowed, and the matter was sent back for investigation in accordance with the observations and directions of the Supreme Court in Mst. Sughran Bibi, PLD 2018 SC 595.

No.	Citation	Question	Answer
167	Mehboob Ali v. State through Additional Advocate-General and 3 others, 2022 PCrLJ 1788 (Muhammad Naeem Anwar, Muhammad Ijaz Khan JJ; 1.3.2022) †	When is it premature to quash an FIR registered on the order of the Justice of Peace?	Provisions: ss. 22-A, 22-B and 154, Cr.P.C.; Art. 199, Constitution. After registration an FIR passes through several phases of investigation in which the authenticity of the allegation, the accused's innocence or any mala fide of the complainant can be checked by the investigating officer, so it is premature to quash it soon after registration. The High Court can quash an FIR when on the face of the record there is a jurisdictional defect, a question of the legal authority of the person registering it, or some grave violation of law, for example where the law requires the court to take cognizance on a complaint but an FIR was registered, or where the allegations, even if believed, would not constitute an offence. The Court cited Dr. Ghulam Mustafa (2010 SCMR 624 was also noted) and 2016 SCMR 447, and dismissed the petition in limine.
168	Peshawar High Court Bar v. The State and others, PLD 2022 Pesh 248 (Musarrat Hilali, Abdul Shakoor JJ; 15.9.2022) †	What distinguishes cognizable from non-cognizable offences for police powers, and what follows if the police investigate a non-cognizable offence without the Magistrate?	Provisions: ss. 155(2) and 156(1), Cr.P.C.; s. 220, P.P.C. For cognizable offences the police can investigate without the Magistrate's formal permission and arrest without warrant under s. 156. For non-cognizable offences s. 155(2) gives no such authority; a police officer who arrests or investigates without the court's permission violates a mandatory provision and exposes himself to penal consequences. The petition, with the connected Writ Petition No. 2207-P of 2022, was allowed and the impugned FIR was quashed.
169	Badshah Jan Wazeer v. State through Assistant Commissioner Khanpur and 3 others, 2023 YLR 1288 (Mohammad Ibrahim Khan, Shakeel Ahmad JJ; 3.11.2021) †	Is an FIR under s. 188 quashed where the alleged violation of the Deputy Commissioner's office order does not exist?	Provisions: s. 188, P.P.C.; Art. 199, Constitution. The Assistant Commissioner had gone to check the petitioner's house at 17:40 hours, and it was beyond understanding how in a mountainous region any construction could be under way at dark. Even if renovation was in progress, it was not a violation of the Deputy Commissioner's office order, since mere renovation did not amount to the prohibited construction and needed no NOC. The Court held that the FIR amounted to an abuse of process, allowed the petition and quashed FIR No. 182 dated 24.10.2021 of Police Station Khanpur, District Haripur.
170	Ajmal and 5 others v. The State through Advocate General, Khyber Pakhtunkhwa, and 4 others, 2023 PCrLJ 1768 (Qaiser Rashid Khan CJ, Fazal Subhan J; 18.7.2022) †	When the complainant's injury report proves false and he is charged with forgery, can the accused named in his FIR have it quashed?	Provisions: ss. 156, 249-A, 265-K and 561-A, Cr.P.C.; ss. 148, 149 and 324, P.P.C.; Art. 199, Constitution. The complainant had registered an FIR on the basis of an injury to his hand, but the final medical report proved the injury fake, and he was then charged with forgery and using fake documents as genuine. The petitioners, all nominated in the FIR with one attributed the role of firing, sought quashment because of the change in legal and factual aspects. The Court held that a legal remedy under s. 249-A or 265-K could be availed at an appropriate forum, and dismissed the petition in limine.
171	Muhammad Sohail v. Station House Officer, Police Station PESCO, Peshawar, and 2 others, 2024 PCrLJ 722 (Lal Jan Khattak, S M Attique Shah, Syed Arshad Ali JJ; 1.2.2022) †	Is an FIR for electricity theft invalid because s. 462-O of the P.P.C. says cognizance is taken on a complaint?	Provisions: ss. 154, 173 and 190, Cr.P.C.; ss. 462-I and 462-O, P.P.C. (inserted by the Criminal Law (Amendment) Act, 2016). The petitioner argued that the offence was non-cognizable, so the court could take cognizance only on a complaint under s. 462-O, and the FIR by a DISCO should be quashed. The Court held that the word 'shall' in s. 154 shows the provision is mandatory and the police must register an FIR on information of a cognizable offence; it then examined the effect of the insertion of s. 462-O. Relying on Brig. Imtiaz Ahmad (1994 SCMR 2142) and Dr. Ghulam Mustafa (2008 SCMR 76), it found no merit and dismissed the petition.
172	Balqiaz Ali Shah alias Atta Ullah Jan v. Wrashem Gul and 6 others, PLD 2025 Pesh 36 (Kamran Hayat Miankhel, Dr. Khurshid Iqbal JJ; 30.5.2024) †	What recourse has an accused who says he is innocent when an FIR for murder is challenged in a writ petition?	Provisions: ss. 154 and 561-A, Cr.P.C.; ss. 302 and 34, P.P.C.; Art. 199, Constitution. The allegations on their face disclosed a cognizable offence, and the petitioner's contentions concerned factual controversy which could be determined only after recording pro and contra evidence, which could not be done in constitutional jurisdiction. The accused had the right to put his defence before the investigating officer, who, if he found the complainant's allegations false, could act accordingly. The petition was dismissed in limine.

No.	Citation	Question	Answer
173	Sardar Faraaz Hussain and 2 others v. The State and another, 2025 PCrLJ 1715 (also reported as 2025 CLD 1193) (Muhammad Ijaz Khan, Sadiq Ali JJ; 12.2.2025) †	Can a criminal case for cheating a company be sustained where the Companies Act, 2017 lays down its own procedure?	Provisions: ss. 154 and 561-A, Cr.P.C.; ss. 408, 409, 419, 420, 468, 471 and 498, P.P.C.; ss. 476, 477 and 497, Companies Act, 2017; Art. 199, Constitution. The petitioners, a coordinator and a servant of a registered company, were alleged to have prepared a fake rent deed, wrongfully obtained possession of the company's outlets and dispossessed its servants. The head-note records that the company, as a registered company, fell entirely within the four corners of the Companies Act. The petition was allowed and FIR No. 184 dated 18.12.2023 under ss. 419/420/468/471/408/409, P.P.C., Police Station Sikandarabad, Abbottabad, was quashed.
174	Sher Zaman and others v. The State through Additional Advocate General and others, 2025 PCrLJ 1963 (S M Attique Shah, Muhammad Naeem Anwar JJ; 28.10.2024) †	Can an FIR under s. 188 be sustained after the Sessions Court has set aside the s. 145 attachment on which it depends?	Provisions: ss. 145 and 561-A, Cr.P.C.; ss. 154 and 188, P.P.C. The FIR had its roots in the s. 145 proceedings and the alleged violation of the attachment order. After the Sessions Court accepted the criminal revision on 2.11.2016, neither the attachment order was in force nor were the main s. 145 proceedings pending before the Sub-Divisional Magistrate for any apprehension of breach of peace. The petition was allowed and the FIR with all subsequent proceedings was quashed.
175	Zeeshan v. The State and others, 2025 PCrLJ 983 (Muhammad Ijaz Khan, Muhammad Faheem Wali JJ; 23.10.2024) †	When must a Justice of Peace's order for registration be set aside because no cognizable offence is disclosed?	Provisions: ss. 22-A, 155 and 561-A, Cr.P.C.; Art. 199, Constitution. The petitioner, a Naib Court in the court of an Additional Sessions Judge, was accused by a litigant present in the court premises. The s. 22-A application did not disclose any cognizable offence, and the allegations were refuted by other personnel in the court, including the in-charge of security, while five other court officials filed affidavits that no such incident had happened. The Justice of Peace had wrongly ordered registration of an FIR. His order dated 2.3.2024 was set aside, but the complainant was left at liberty to approach the proper forum by an appropriate remedy.
176	Lady Doctor Getman Alla alias Aliya Wahab v. The State and others, PLD 2026 Pesh 23 (Muhammad Naeem Anwar, Shahid Khan JJ; 28.2.2024) †	Can an FIR for medical negligence against a doctor be quashed where the special health-care law provides its own forum?	Provisions: s. 154, Cr.P.C.; Art. 199, Constitution; Khyber Pakhtunkhwa Health Care Commission Conduct of Business Regulations, 2016. The complainant alleged that the doctor negligently attended his wife during delivery, so that she died and the baby she carried was lost. The complainant had alleged medical negligence and a special law applied to it, which has overriding effect. The petition was allowed and the FIR registered at Police Station Munda, District Dir Lower, was quashed, but the complainant, if so advised, was left at liberty to seek his remedy from the proper forum in accordance with law.
177	Ghulam Mustafa v. The State and 2 others, 2026 PCrLJ 1308 (Muhammad Naeem Anwar, Dr. Khurshid Iqbal JJ; 26.1.2023) †	Can an FIR for a dishonoured cheque of Rs. one crore be quashed because of an agreement and other pending cases?	Provisions: s. 561-A, Cr.P.C.; s. 489-F, P.P.C.; Art. 199, Constitution. The cheque was said to be part of a total amount of Rs. three and a half crore. The respondent had registered three other cases for the same offence, and the petitioner had been acquitted in one. A photocopy of an agreement dated 2.3.2017 on the record showed that the petitioner owed the respondent a debt. The Court found no ground for interference under Art. 199 read with s. 561-A and dismissed the writ petition in limine.

Annexure B: 134 Practical Points on Quashing an FIR

These points are meant to be taken to the court room. They are grouped by stage. Where a point rests on a reported judgment, the case is named in brackets and can be found in Annexure A or in the paper. Points are written for whichever side can use them.

A. First decide whether to attack the FIR at all

1. Read the FIR as the High Court will: do the allegations, taken at face value, disclose a cognizable offence by this accused? If they do, a quashment petition is likely to be dismissed in limine. (Chaudhry Mohammad Khan, PLD 2025 SC 254; Balqiaz Ali Shah, PLD 2025 Pesh. 36.)
2. List your grounds in two columns: grounds of law apparent on the record, and grounds of fact. Only the first column can succeed in a writ. (Col. Shah Sadiq, 2006 SCMR 276.)
3. If your best ground is that the FIR is false or the complainant has enmity, do not file for quashing; give your version to the investigating officer and plan for bail. (Ahmad Saeed, 1996 SCMR 186.)
4. A counter-FIR is not a ground to quash. (Sajjad, 2019 PCrLJ 1205.)
5. Delay in lodging the FIR is for the trial court, and so is mala fides, which needs evidence. (Rafique Bibi, 2006 SCMR 512.)
6. Check the stage. Before the challan, the route is Article 199. After cognizance, the route is the trial court under 249-A or 265-K, or section 561-A against the court's order. (Hamid Ali Shah, PLD 2023 SC 265; Gulzar Muhammad, 1998 SCMR 873.)
7. Ask whether a quashment order would really help you. A quashed FIR can be followed by a proper complaint or a fresh, lawful FIR, as the Court left open in Qaiser Amin Khawaja (2003 YLR 2578), where the complainant was left free to file a proper complaint.
8. Be ready for the answer that your client has the alternate remedy of investigation, discharge and bail. Say why it is not adequate if that is your case. (Zahoor Khan, 2021 PCrLJ 446.)

B. Choosing the provision

9. Section 561-A does not reach an FIR or an investigation. A petition under it for that purpose is not maintainable. (Hamid Ali Shah, PLD 2023 SC 265.)
10. Frame a challenge to the FIR or the investigation under Article 199, and plead lack of lawful authority. (Chaudhry Mohammad Khan, PLD 2025 SC 254.)
11. Use section 561-A for court proceedings: a summoning order, cognizance, framing of charge, or an order of a Magistrate on a police report. (Hamid Ali Shah.)
12. If the Magistrate has already taken cognizance on the challan, check whether revision under section 439 is the first remedy. (Farooq, PLD 2016 SC 55.)
13. Do not combine inconsistent prayers; ask for quashing under Article 199 and, in the alternative, for a direction to the investigating officer to decide the matter on merits.
14. Where the old cases refer to quashing an FIR under section 561-A (Raza Ali Mustafa; Mahmood Khan), cite them only for the refusal.
15. Cite Miraj Khan (2000 SCMR 122) and Rana Shahid Ahmad Khan (2011 SCMR 1937) only for court proceedings or admitted facts, and expect the State to answer with Hamid Ali Shah.
16. Do not ask the High Court to convert a bail application into a quashment petition unless the grounds are fully pleaded; the Supreme Court has set such conversions aside. (State v. Muhammad Saleem Khan, 2011 SCMR 863.)

C. Want of lawful authority: the strongest grounds

17. Check whether the offence is cognizable. For a non-cognizable offence, police may investigate only with the Magistrate's permission under section 155(2). (Peshawar High Court Bar, PLD 2022 Pesh. 248.)
18. If the police investigated or arrested in a non-cognizable case without permission, plead breach of a mandatory provision and ask for the FIR to be quashed on that ground alone. (Peshawar High Court Bar.)
19. For an offence under section 188 P.P.C., see whether the public servant who made the order filed the written complaint. (Ikram, 2000 PCrLJ 297.)
20. For offences under sections 153-A, 295-A and 298 P.P.C., see whether there was a complaint or sanction under section 196. A challan without it is defective. (Atta Muhammad Deshani, 2019 PCrLJ 275.)
21. In a gambling case, check who entered and who authorised the raid under the Prevention of Gambling Ordinance, 1978. (Qayyum Nawaz, PLD 2002 Pesh. 34; Abdul Ahad, 2013 PCrLJ 1391.)
22. If the FIR is by the FIA, read the Schedule to the FIA Act and the notification in force; a purely private dispute outside it is not for the FIA. (Kamran Iqbal, 2016 SCMR 447.)
23. If the case is by the Anti-Corruption Establishment or NAB, check the agency's jurisdiction and whether the FIR is the same act already prosecuted. (Nigah Hussain, PLD 2014 Pesh. 116; Noorshad, 2017 PCrLJ.)
24. If a special statute vests prosecution in a named authority (Companies Act, 2017; Financial Institutions Ordinance), plead that the FIR disregards it. (Sardar Faraaz Hussain, 2025 PCrLJ 1715.)
25. Remember that a condition on cognizance is not always a bar on registration; do not argue that the FIR is void where only cognizance is restricted without reading the statute. (IDBP, 2006 SCMR 483.)
26. Where the police are accused of acting beyond their powers, plead that police functionaries are persons within Article 199. (Byram D. Avari, PLD 1989 Pesh. 145.)
27. Where the same facts have been tried or are barred by a special law's one-reference rule, plead it with the s. 265-K route as well. (Noorshad.)
28. For double jeopardy under section 403 and Article 13(a) you need a prior conviction or acquittal; a pending prosecution is not enough. (Masood Anwar, 2017 PCrLJ 1466; Ghufraan Shah, 2019 PCrLJ 1346.)

D. Disputed facts and civil disputes

29. The High Court will not resolve disputed facts in the writ jurisdiction. If you rely on a document, show that it is undisputed and decisive. (Col. Shah Sadiq; Muhammad Saleem Bhatti, 2006 SCMR 1957.)
30. A pending civil suit does not stop a criminal case. Do not rest the petition on it. (Haji Sardar Khalid Saleem, 2006 SCMR 1192; Chaudhry Mohammad Khan.)
31. An act does not lose its criminal character because it also gives rise to civil liability. (Muhammad Ali v. Samina Qasim Tarar, 2022 SCMR 2001.)
32. In a breach of trust FIR, test entrustment: a loan is not an entrustment. (Ayesha Tayyab, 2025 SCMR 1117; Shaukat Zaman, 2012 MLD 1306.)
33. In a breach of trust FIR the complainant should plead entrustment 'with the property or with any domain over the property'. (Muhammad Ali v. Samina Qasim Tarar.)
34. If the complainant's own pleading shows a loan or a civil dealing, quote it. (Miraj Khan, 2000 SCMR 122, where the application said the money was given as qarz-e-hasna.)
35. An inquiry report or an arbitrator's finding for you does not end the FIR. A finding against you may, in a cheque case, strengthen it. (Dr. Sikandar Ali, 2021 SCMR 1486; Nisabullah, 2018 MLD 1571.)
36. In a cheque case under section 489-F, if the cheque was issued by you and dishonoured, a plea of later payment is a question of fact. (Haji Zeri Gul, 2014 PCrLJ 1361; Ghulam Mustafa, 2026 PCrLJ 1308.)

37. In a cheque case, show that you have no link with the transaction or cheque if that is the fact. (Fauzia Bibi, 2014 YLR 2058.)

38. In a cheque case once the trial has begun, the remedy is 265-K or 249-A, not quashing. (Sami-ud-Din, 2013 YLR 2218.)

39. For a land fraud FIR, do not plead that the dispute is civil if the FIR alleges forgery of a revenue record. (Rafique Bibi; Dr. Sikandar Ali.)

40. Where the contract was between companies and the dispute has gone to arbitration, an arbitration clause does not by itself remove a criminal complaint. (M. Aslam Zaheer, 2003 SCMR 1691.)

E. Showing that no offence is made out on the face of the record

41. Quote the FIR, not your story. The test is whether, on the allegations taken as true, no offence is made out. (Chaudhry Mohammad Khan; Miraj Khan.)

42. Use the complainant's own documents against him when they are on the record and undisputed. (Muhammad Aslam Khan, 1990 SCMR 211.)

43. Take each ingredient of each section charged and show which one is missing. (Shaukat Zaman; Ayesha Tayyab.)

44. Show that the complainant has no locus standi where the transaction was not with him or with you. (Fauzia Bibi.)

45. If sections have been added that do not fit the facts, say so to the investigating officer first; the Supreme Court set aside the quashing of an investigation into added sections after a road-accident death. (Dr. Sher Afgan Khan Niazi, 2011 SCMR 1813.)

46. Do not rely on the police finding that you are innocent; the report under section 173 is not binding on the court. (Javed Khan, 2019 PCrLJ 1756.)

47. Where the accused is not named in the FIR and not required by the police, he may not be an 'aggrieved person' for Article 199. (Muhammad Waseem Khan, 1996 SCMR 975.)

F. Investigation stage

48. File your version with the investigating officer in writing and keep a receiving copy. (Balqiaz Ali Shah; Naseem Khan, 2019 PCrLJ 154.)

49. Ask for discharge under section 169 where evidence is insufficient or there is no reasonable ground of suspicion. (Naseem Khan.)

50. Ask for the matter to be referred to the Magistrate under section 63 where the allegations are found incorrect. (Naseem Khan.)

51. Ask for an investigation by a different officer or agency if the officer is partisan; a High Court may direct a fresh investigation by an upright officer. (Rana Shahid Ahmad Khan; Mahmood Khan, 1999 YLR 1604.)

52. Do not complain to the High Court about torture or misconduct of the investigating officer inside a quashment petition; use a Magistrate or departmental action. (Ghulam Sarwar Zardari, 2010 SCMR 624.)

53. Press the investigating officer to complete the investigation promptly. Where it is not completed within 14 days an interim report must go to the court. (Abbas Khan, 2019 PCrLJ 259.)

54. For a second FIR on the same incident, check whether the versions conflict and whether the first investigation is collusive. (Ali Muhammad, PLD 2016 SC 484.)

55. If you are a public servant or police officer accused, keep the daily diary and official orders; they may show action in the discharge of duty.

56. If you fear arrest, seek pre-arrest bail; the High Court will not decide mala fides and disputed transactions in a s. 561-A petition filed on the strength of interim bail. (Allah Bakhsh, PLD 2013 Pesh. 117.)

57. Do not seek quashing and bail in the same petition without separate prayers and grounds. (State v. Muhammad Saleem Khan, 2011 SCMR 863.)

G. After the challan: trial court first

58. Apply to the trial court under section 249-A (Magistrate) or 265-K (Sessions) once the case is before it. The Supreme Court says the accused should ordinarily go there first. (Gulzar Muhammad, 1998 SCMR 873; Kausar Ali Shah, PLD 2020 Pesh. 170.)

59. A 265-K application must be decided on its merits and not treated as dismissed by delay. (Tariq Mohsin, 2004 SCMR 1892.)

60. The trial court can acquit at any stage; remind the court of this when the other side says the High Court should decide. (Zahoor Khan.)

61. At the stage of charge, rely on the material in the challan, not on your defence. (Muhammad Shafique, 2018 PCrLJ 352.)

62. Where a Magistrate declines to cancel on a cancellation report and takes cognizance, the High Court will not interfere without illegality. (Javed Khan.)

63. Where the challan discloses a different offence from the FIR, see whether the FIR sections are still alive.

64. The High Court cannot dictate the content of the investigation report or the finding that only a bailable offence is made out; those are for the SHO and the Magistrate. (Muhammad Nasir Cheema, PLD 2007 SC 31.)

65. If the case is a complaint case, remember that orders under sections 203 and 204 are judicial, and remedy is revision or the powers under 249-A and 265-K. (Farooq.)

H. Compromise and marriage

66. A compromise does not quash a non-compoundable offence; the Supreme Court set aside such an order. (Dr. Ghulam Mustafa, 2008 SCMR 76.)

67. If the offence is compoundable, compound it before the competent court under section 345, not in the High Court.

68. In an abduction/zina case where the woman is sui juris, bring her before the court with the Nikahnama and her statement. (Muhammad Bashir, 2003 SCMR 1339; Malik Wajid, 2020 PCrLJ 1416; Rizwana Bibi, 2012 SCMR 94.)

69. Where the marriage itself is disputed, expect the court to leave it for trial. (Izzat Khan, 2010 PCrLJ 558.)

70. Where the wife files the FIR, do not argue that it is false and frivolous in a writ; that needs evidence. (Mehboob Ahmed, 2018 PCrLJN 227.)

71. For protection of a couple, ask for police protection as well as quashing. (Rizwana Bibi.)

I. The Justice of Peace and the FIR it directed

72. An FIR registered on the Justice of Peace's order is attacked by a writ petition; allege that the offence was non-cognizable or that the Justice acted without material. (Firdous Aziz, 2018 PCrLJ 392.)

73. If the Justice passed an order properly on a cognizable offence, a civil-suit plea will not undo it. (Firdous Aziz.)

74. For the details of section 22-A practice see the separate paper; do not repeat them here.

75. If the complaint to the Justice is a counterblast, say so and show the earlier FIR against the applicant.

J. For the complainant and the State

76. Open with the statutory duty to register and investigate under sections 154 and 156. (Zahoor Khan; Ajmeel Khan, PLD 2009 SC 102.)

77. Say that the points raised are factual and need evidence. (Col. Shah Sadiq; Balqiaz Ali Shah.)
78. Cite the 249-A and 265-K remedy as the adequate alternate remedy. (Kausar Ali Shah.)
79. Quote Hamid Ali Shah on section 561-A and Chaudhry Mohammad Khan on Article 199.
80. Put the ingredients of each offence in the FIR in plain words so that it survives the face-of-the-record test.
81. In a cheque case, annex the cheque, the memo of dishonour and any agreement. (Ghulam Mustafa, 2026 PCrLJ 1308.)
82. In a breach of trust case, plead the entrustment and the manner of the dominion. (Muhammad Ali v. Samina Qasim Tarar.)
83. Check the statutory bars before the accused does: sections 195-196, special laws and agency jurisdiction.
84. Ask for costs where the petition is an abuse. (Gul Ghameer, 1999 PCrLJ 262, where special costs were imposed.)
85. If the police discharge the accused in a serious case, challenge it at once before the Magistrate; the High Court will set aside a discharge designed to circumvent the process. (Abbas Khan.)
86. If the Magistrate accepts a cancellation report, challenge it within the time allowed; Gul Ghameer shows that finality is taken seriously.
87. Where the accused is a government servant or company official, be sure the correct law is invoked. (Sardar Faraaz Hussain.)
88. Be ready to meet the Rana Shahid Ahmad Khan argument (unrebutted allegations) with a pleaded counter-account.
89. Ask that the High Court direct the investigation to be completed within a fixed time rather than dismissing without more. (Tarah Dad Khan, 2014 YLR 2632; Mahmood Khan.)

K. Drafting the petition

90. Title the petition under Article 199 and state in the first paragraph that the FIR is challenged for lack of lawful authority or for disclosing no offence.
91. Annex a certified copy of the FIR, the application that led to it, and any order of the Justice of Peace or Magistrate.
92. Plead that there is no other adequate remedy and why 249-A and 265-K are not available at this stage.
93. State the stage of the investigation honestly: whether the challan has been submitted. (Muhammad Nasir Cheema.)
94. Do not plead facts that need evidence as if they were admitted.
95. Cite the leading authorities for your own proposition, not the rule against you, but be ready for the rule.
96. Ask for an interim order restraining arrest only if the petition shows a clear want of jurisdiction.
97. Include a prayer in the alternative for a direction that the investigating officer consider your documents and decide under section 169.
98. Keep the petition short: grounds of law first, facts second.
99. Verify every citation from the full report before filing; many entries in Annexure A rest on the head-note only.

L. Arguing the petition

100. Begin with the single ground of law: no authority, no cognizable offence, or a statutory bar.
101. Hand up the FIR and read the operative lines to the bench.
102. Explain why the matter is not one of disputed facts.
103. If the bench says 'go to the trial court', ask what the 'adequate' remedy is at this point and what harm continuing would cause. (Miraj Khan: futile proceedings and abuse of process.)

104. If the bench is moved by the cheque or the contract, take it to the ingredients of the offence charged.

105. Be ready to answer: 'Is not the investigation the proper forum?' (Ajmeel Khan.)

106. Ask for a short order stating the ground, so that the Supreme Court has reasons to look at. (Muhammad Sarwar, PLD 1985 SC 240.)

107. If the court dismisses in limine, ask whether the order leaves the accused free to apply under 249-A and 265-K, and say so in the order.

108. If you represent the State, ask for a direction on the time within which the investigation is to end where the court is inclined to give some relief. (Abbas Khan.)

109. Where there is a connected petition, ask for hearing together. (Peshawar High Court Bar, PLD 2022 Pesh. 248, with connected petition.)

M. After the order

110. If the FIR is quashed, tell the client the complainant may take the matter to the Supreme Court or file a proper complaint; keep the file.

111. If the FIR is quashed for want of authority, check whether the authority can lawfully start again, for example by a proper complaint under section 196. (Atta Muhammad Deshani.)

112. If the petition is dismissed in limine, record the liberty to approach the trial court. (Sami-ud-Din.)

113. Appeal to the Supreme Court is by leave under Article 185(3); the Supreme Court has repeatedly converted such petitions into appeals and decided them. (Dr. Ghulam Mustafa; Muhammad Saleem Bhatti.)

114. If the High Court quashed, and the State appeals, expect the Supreme Court to look at whether factual controversy was entered. (Rafique Bibi; Dr. Sikandar Ali.)

115. Send the order to the investigating officer and the trial court at once; a pending trial is not stopped by an order you have not served.

116. Keep a note of the date of the order and the date of the FIR; the limitation for further steps depends on them.

117. Remember that observations in a quashment order are tentative; the trial court decides independently. (Muhammad Saleem Bhatti; Tariq Mohsin.)

N. Special situations

118. Police officials accused in a death case cannot be discharged by their own colleagues; the court will order challan and trial. (Abbas Khan.)

119. A Sessions Judge cannot take cognizance of a private complaint in the first instance without the report of an inquiry under s. 202; check this in a complaint case. (Muhammad Saeed, PLD 1984 SC 29.)

120. Where a woman claims she was deprived of property by manipulation of the revenue record, the delay of years is not fatal. (Rafique Bibi.)

121. Where a mining accident is charged under sections 322 and 427 P.P.C., the plea that the Mines Act also applies does not bar the P.P.C. trial that has not yet begun. (Ghufran Shah, 2019 PCrLJ 1346.)

122. Where a company's own affairs are in issue, check which Act covers them. (Sardar Faraaz Hussain.)

123. Offences under the Khyber Pakhtunkhwa Prohibition of Interest on Private Loans Act, 2016 are cognizable under s. 9, so the SHO may register and arrest without a warrant. (Seyar Zeb, 2018 PCrLJ 1207.)

124. Where the argument is that a newly inserted offence is non-cognizable and needs a complaint (s. 462-O P.P.C.), remember that s. 154 is mandatory; the argument failed in Muhammad Sohail, 2024 PCrLJ 722.

O. Common errors to avoid

- 125.** Do not file under section 561-A to quash an FIR after PLD 2023 SC 265.
 - 126.** Do not argue mala fides as a ground without evidence.
 - 127.** Do not assume that a civil suit gives immunity.
 - 128.** Do not attach documents that the other side disputes and then call them admitted.
 - 129.** Do not treat a cancellation report as final; the Magistrate decides.
 - 130.** Do not delay in challenging a discharge or cancellation order.
 - 131.** Do not cite a head-note as if it were the judgment.
 - 132.** Do not ask for quashing and then argue the facts at length.
 - 133.** Do not confuse registration with cognizance. (IDBP.)
 - 134.** Do not rely on a settlement for a non-compoundable offence.
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