

The Investigating Officer in the Criminal Case: His Role, His Limits, and the Investigation Weaknesses That Support Acquittal. A Study of the Supreme Court and the Peshawar High Court (1972–2026)

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Abstract

The Investigating Officer (IO) builds the prosecution case, and he is also the person whose lapses most often bring it down. This paper follows the reported law on his role through four phases, from the Supreme Court's early statements that a Magistrate and a court are not bound by the police opinion (1972 SCMR 335) to the recent line of cases that acquit where the chain of custody, the site plan, the registration of the FIR or the IO's own position in the case cannot be trusted (2025 and 2026 SCMR). It analyses one hundred and three reported judgments of the Supreme Court and the Peshawar High Court, all found on the Pakistan Law Site. The paper treats the IO's statutory powers and their limits, the opinion of innocence and column No. 2, the delay in recording statements under section 161, the site plan and the spot inspection, recoveries and mashirs, narcotics samples and the chain of custody, the case diary, the non-examination of the IO and the cross-examination of the IO, withheld evidence, the officer who is both complainant and investigator, and successive investigations. It also sets out the authorities that go the other way, where a lapse was held not to be fatal. Part 6 gives a practical checklist for the defence and for the prosecution. Annexure A summarises the judgments in question-and-answer form.

Keywords: investigating officer, investigation, section 169 Cr.P.C., column No. 2, section 161 Cr.P.C., site plan, chain of custody, case diary, benefit of doubt, acquittal, Peshawar High Court.

1. Introduction

A criminal trial is fought on the evidence the police collect. The IO decides which witnesses to record, whether to visit the spot, what to recover and from whom, when the samples go to the laboratory, and which version of events to put before the Magistrate. The court then tests that material. The courts say, correctly, that the IO does not decide guilt; the Supreme Court has said in terms that his job "is confined only to collection of evidence" (*Muhammad Arshad*, PLD 2011 SC 350). But the quality of what he collects decides whether the prosecution can prove its case beyond reasonable doubt.

For the defence, the IO is therefore the first place to look for doubt. For the prosecution, he is the first place where the case can be lost. This paper collects what the Supreme Court and the Peshawar High Court have said on both sides. It does not claim that every lapse in an investigation leads to acquittal. The cases show that it does not. What the cases show is which lapses the courts treat as serious, in which kinds of cases, and what a lawyer must put on the record at trial to turn a lapse into a ground of acquittal.

2. Sources and Method

All the judgments discussed were searched and read on the Pakistan Law Site, and no other source was used. The searches covered the duty of the IO, his opinion, column No. 2 of the challan, sections 161, 169, 172 and 173, the site plan, recoveries, mashirs, the chain of custody and safe custody of samples, withheld evidence, re-investigation and successive investigations, and the officer who is both complainant and IO. The Supreme Court and the Peshawar High Court were chosen because they bind, or are closest to, a practitioner in Khyber Pakhtunkhwa. Party names, benches and dates were taken from the text of each judgment, not from the site's list titles. Five limits should be stated:

- Entries marked † in Annexure A are described from the head-note and the opening of the judgment; the full reasoning was not read, and the answers say no more than the head-note.

- The site returned few reported decisions from before 2000. Part I and Part II of Annexure A are therefore shorter than Parts III and IV and reflect what the site holds, not everything decided in those years.
- Some Supreme Court decisions on narcotics and murder come from appeals against Peshawar High Court judgments; they are listed in Part III, and the appellate court is noted where the text shows it.
- One decision, *Waqar Ahmad*, appears on the site under two citations (PLD 2015 Pesh 218 and PLD 2016 Pesh 21) with the same bench and date; it is entered once.
- Where this paper states a rule of the Code or the Police Rules without citing a case, the statement is a summary of the text of the provision and should be checked against the current statute.

3. The Statutory Framework

The IO's powers come from Chapter XIV of the Code of Criminal Procedure, 1898 and the Police Rules, 1934.

- 1 **Registration and the "case".** Under section 154 an FIR is recorded on information of a cognizable offence. The Supreme Court held in *Sughran Bibi* (PLD 2018 SC 595, a seven-member Bench, 23 May 2018) that once the first information is entered in the register the matter becomes a "case" bearing one number under Police Rule 24.5, and every later step is a step in that case. A different version of the same incident does not call for a second FIR; it is a matter for the same investigation.
- 2 **Investigation.** Sections 156 and 157 give the officer in charge of the police station the power and the duty to investigate. Section 4(1) defines investigation as the collection of evidence; the Supreme Court in *Syed Muhammad Ahmed* (PLD 2006 SC 316) and *Muhammad Arshad* (PLD 2011 SC 350) used that definition to say that guilt or innocence is for the courts.
- 3 **Statements.** Section 161 allows the police to examine witnesses; section 162 limits the use of those statements at trial. The accused's main tool is the contradiction between the section 161 statement and the court testimony.
- 4 **Release.** Section 169 allows an officer to release an accused on bond if the evidence is deficient. Section 63 and Police Rule 24.7 stop the police from discharging an accused or cancelling a case without the Magistrate.
- 5 **Case diary.** Section 172 requires a daily diary. It is not evidence, but it lets the court test the method and manner of the investigation (*Muhammad Idrees*, 2021 SCMR 612).
- 6 **Report.** Section 173 requires the final report. Column No. 2 and column No. 3 of the challan record the officer's view of those he thinks innocent or guilty. Under section 190(1)(b) the Magistrate may take cognizance whatever the police have said (*Muhammad Akbar*, 1972 SCMR 335).
- 7 **Police Rule 25.2(3)** governs the conduct of the investigation. The Peshawar High Court has used it to uphold a symbolic fine on a DSP for defective investigation and has described the officer's primary duty as taking honest steps to dig out the truth (*Waqar Ahmad*, PLD 2015 Pesh 218).
- 8 **Special laws.** The Control of Narcotic Substances Act, 1997 and its Government Analysts Rules, 2001 add duties on sampling and transmission; the Qanun-e-Shahadat Article 129(g) allows an adverse inference where best evidence is withheld.

4. The Phases of the Doctrine

4.1 Phase One: 1972 to 1999. The police opinion does not bind the court

The early Supreme Court cases settle who decides. In *Muhammad Akbar* (1972 SCMR 335) the Court held that a Magistrate may take cognizance if a prima facie case appears, irrespective of the police opinion, and that the IO may file a fresh report in place of the earlier one. *Waqarul Haq* (1988 SCMR 1428) held that placing an accused in column No. 2 does not cancel the challan. *Liaqat Ali* (PLD 1994 SC 172) and *Muhammad Mansha* (PLD 1996 SC 229) refused to treat an IO's finding of innocence as a ground for bail where the FIR and eye-witnesses spoke against the

accused.

The same decades gave the defence its first lasting tools. *Muhammad Mumtaz* (1988 SCMR 1452) and *Gulzar Ahmed* (1994 SCMR 1728) granted bail where police investigation had found the accused innocent and the case showed gaps. In *State v. Bashir* (PLD 1997 SC 408) a four-member Bench held that the presence of two public mashirs under section 103 is mandatory unless the prosecution shows it was not possible, and that the officer's failure even to try makes the recovery doubtful. In the Peshawar High Court, *Iqbal Khan* (PLD 1991 Pesh 92) and *Badiuz Zaman Khan* (1985 PCrLJ 2624) treated column No. 2 as supporting a plea of further inquiry, while *Abbas Khan* (1992 PCrLJ 417) refused bail where the finding of innocence did not rest on sound material, and *Shadi Khan* (1989 PCrLJ 2253) repelled a plea of entitlement to bail as of right on the strength of column No. 2 and deprecated the tendency to advance pleas of innocence during investigation. *Rafiullah* (1998 PCrLJ 832) and *Mastan Shah* (1999 PCrLJ 469) began to draw the line on section 169.

4.2 Phase Two: 2000 to 2010. The limits of the IO are put in terms

After 2000 the Supreme Court said plainly what the IO may not do. *Safdar Ali* (2002 SCMR 63) held that the trial court can summon an accused placed in column No. 2 without first recording evidence. *Syed Muhammad Ahmed* (PLD 2006 SC 316) set aside a High Court direction not to challan accused because the IO had said they were not involved: investigation is collection of evidence, and sections 63 and 173 and Rule 24.7 keep the decision with the Magistrate. *Abdul Sattar* (2008 SCMR 684) held that the IO is not a formal witness, that his non-examination may cause prejudice, and that it is not always fatal. In the Peshawar High Court, *Muhammad Hassan Khan* (2007 PCrLJ 514) granted bail where the complainant-IO had not sent the coca-leaf sample to the laboratory for one and a half months, saying the omission was either mala fide or gross negligence. *Mehboob* (PLD 2008 Pesh 69) held that the pointing of a sniffer dog raises only a suspicion.

4.3 Phase Three: 2011 to 2017. Delay, column No. 2 and reinvestigation

Muhammad Arshad (PLD 2011 SC 350), *Hayatullah Khan* (2011 SCMR 1354) and *Muhammad Abbasi* (2011 SCMR 1606) fixed the rules on the IO's opinion: it is not binding, the IO is not an expert on medical or firearm reports, and the court forms its own view. The Peshawar High Court worked out the section 169 power in *Asad Zaman* (PLD 2010 Pesh 54), *Abdul Rashid Khan* (PLD 2012 Pesh 39) and *Attiq Ali* (PLD 2014 Pesh 116): the IO may place a name in column No. 2 but may not "release" an accused on a plea of alibi without sufficient grounds, and a station house officer who did so flagrantly misused the section. *Waqar Ahmad* (PLD 2015 Pesh 218) upheld a symbolic fine on a DSP for defective investigation under Rule 25.2(3). *Tahir Javed* (PLD 2018 Pesh 162) held that the police may re-investigate even after the challan, but not once the trial court has finally disposed of the case. *Muhammad Aslam* (2016 SCMR 1520) granted bail where three separate investigations had all concluded that the accused was not present at the spot.

4.4 Phase Four: 2018 to 2026. Chain of custody and institutional trust

Sughran Bibi (PLD 2018 SC 595) gave the IO a wide duty: he may entertain any number of versions and must report the facts he finds, not only the allegation in the FIR. Later decisions turn on specific lapses. On narcotics, the Court has acquitted where the person who carried the samples was not produced, where the entry in the register was missing or undated, or where the sample went late (*Asif Ali*, 2024 SCMR 1408; *Farman Ali*, 2025 SCMR 1730; *Abdul Haq*, 2025 SCMR 751; *Mehmood Khan*, 2026 SCMR 1606). On the IO as a person, *Abdul Raheem* (2026 SCMR 1516) held that the dual role of complainant and IO is "highly discouraged" in narcotics cases. *Sajjad* (2026 SCMR 1483) found the registration of the FIR doubtful because the IO's account of how the complaint reached him changed between examination-in-chief and cross-examination. *Muhammad Zafran* (2024 SCMR 548) acquitted where the matchbox had been inserted into the recovery memo with a different pen. At the same time the Court has refused to acquit where the chain was proved (*Hasrat Khan*, PLD 2024 SC 911) and has held that video recording of a recovery is not mandatory where no statute requires it, so that its absence is by itself no ground for bail or acquittal (*Zeeshan Khan*, 2026 SCMR 1697).

5. Thematic Analysis

5.1 What the IO may and may not do

The Supreme Court has been consistent. The IO collects evidence; the court decides guilt (*Syed Muhammad Ahmed*, PLD 2006 SC 316; *Muhammad Arshad*, PLD 2011 SC 350). His opinion of innocence has "persuasive value" only where it rests on strong and concrete material (*Amir Faraz*, 2023 SCMR 308). It carries no weight where it rests on the unsupported word of defence witnesses (*Liaqat Ali*, PLD 1994 SC 172) or on the accused's own alibi (*Muhammad Mansha*, PLD 1996 SC 229). In bail matters the High Court "was competent to ignore such opinion" (*Gustasab*, PLD 1992 Pesh 154). The IO also cannot give an opinion on the medical evidence or the firearm expert's report (*Hayatullah Khan*, 2011 SCMR 1354).

For the defence the other side of this rule is useful. If the court is not bound by the IO's opinion of guilt either, then a charge-sheet that follows the FIR mechanically adds nothing; the prosecution must prove each fact by evidence.

5.2 Section 169, column No. 2 and what it is worth

There are two questions: what the police may do, and what the court must do with the result.

On the police side, section 169 allows release on bond only if the evidence is deficient. The Peshawar High Court has held that the IO "could not act as a court" (*Asad Zaman*, PLD 2010 Pesh 54), that he may not prefer the accused's alibi over the prosecution's direct evidence (*Attiq Ali*, PLD 2014 Pesh 116; *Abdul Rashid Khan*, PLD 2012 Pesh 39), and that release after a late stage, when the accused was not even in custody, is not what the Code intends (*Afsar Khan*, 1995 PCrLJ 549; *Syed Sikandar Shah*, 2000 PCrLJ 25). An accused released under section 169 is not part of the section 173 report and the trial court cannot take cognizance against him without more (*Nasrullah*, 1997 MLD 1430).

On the court side, column No. 2 is a relevant fact but never decisive. The Supreme Court has refused to treat it as binding (*Waqarul Haq*, 1988 SCMR 1428; *Safdar Ali*, 2002 SCMR 63) and the Peshawar High Court has said the trial court may still summon the accused (*Pordil Khan*, 2016 MLD 314; *Rasool Khan*, 2021 MLD 745). But the Supreme Court has granted bail where several investigations found the accused innocent (*Gulzar Ahmed*, 1994 SCMR 1728; *Muhammad Asghar*, 2002 SCMR 1299; *Muhammad Aslam*, 2016 SCMR 1520). The point is not one-way: in *Basharat Ali* (2022 SCMR 267) bail was refused partly because the IO who favoured the accused "had not dared" to place his name in column No. 2 and had put it in column No. 3.

For the defence: column No. 2 helps when it rests on documents or independent witnesses and more than one officer reached it. It does not help when it rests on the accused's own statement.

5.3 Delay in recording statements under section 161

In *Noor Muhammad* (2020 SCMR 1049) the head-note records that belated recording of a section 161 statement "reduced its value to nil", citing *Abdul Khaliq* (1996 SCMR 1553). In *Abbas Khan* (1992 PCrLJ 417) the Peshawar High Court counted against an alibi that the alibi witnesses had been recorded by the police 26 days after the occurrence. The same logic can be put to the court where the prosecution's own witnesses were recorded late; the reported cases on that point are in the Supreme Court. The Supreme Court has also said that a statement noted in the case diary instead of being recorded separately is "at best a procedural lapse" and still a section 161 statement (*Muhammad Ramzan*, 2021 SCMR 1914), so the objection must be to the delay and to the identity of the witness, not to the form.

5.4 The site plan and the spot inspection

A site plan is evidence of what the IO saw, and it fixes the positions the witnesses must then keep. In *Sabran Bibi* (2026 SCMR 703) the site plan showed an open and visible place, and the Supreme Court held the arrest and recovery inherently improbable, noting that no weighing scale or customer was shown and that the plan did not show the seizing officer's position. In *Ashraf Ali* (2016 PCrLJN 63) the site plan showed no source of light for a midnight occurrence and the IO had taken no bulb into possession. In *Khair Muhammad* (2025 SCMR 1599) the Court tested a night-time identification by the light of a bulb and found the complainant's own cross-examination contradicted it. In *Matiul Haq*

(1983 PCrLJ 429) the IO had recovered only one empty from a scene where hundreds of shots were said to have been fired, and the Peshawar High Court acquitted. In *Muhammad Idrees* (2021 SCMR 612) the Court said the purpose of the diary is to let the court check the method of investigation.

For the defence: read the site plan against each witness's cross-examination: distances, light, line of sight, number of empties, blood, the place of each recovery. A mismatch is a fact the IO himself drew.

5.5 Recoveries, mashirs and empties

State v. Bashir (PLD 1997 SC 408) states the rule: two public mashirs are mandatory under section 103 unless the prosecution shows it was not possible; if the officer made no effort, the recovery is doubtful. The Peshawar High Court said in *Muhammad Akram* (1995 MLD 1532) that the section cannot be ignored on "whim and caprice". The rule is not absolute. In narcotics cases section 25 of the 1997 Act excludes section 103 (*Jana Gul*, 2002 PCrLJ 1490), and police witnesses may be relied on if they are unimpeached (*Sardar Khan*, PLD 2005 Pesh 166). Physical evidence from the spot is tested in the same way. In *Irfan Ali* (2022 PCrLJ 1222) the Peshawar High Court held that an IO who had foot-prints taken at a place where hundreds of people stood, and did not have the others compared, had shown a "lack of interest" that undermined the evidence, and acquitted.

5.6 Narcotics: sampling, safe custody and chain of custody

This is where the recent Supreme Court law is the strongest for the defence. The prosecution must prove each step: recovery, sealing of the sample parcels, safe custody in the malkhana and safe transmission to the laboratory. A missing link entitles the accused to the benefit (*Asif Ali*, 2024 SCMR 1408). The cases show what counts as a missing link:

- the person who took the samples to the laboratory was not produced (*Farman Ali*, 2025 SCMR 1730; *Asif Ali*);
- the moharrar or malkhana in-charge was not produced, or the register entries were absent or undated (*Mehmood Khan*, 2026 SCMR 1606; *Tariq Sajjad Khan*, 2026 SCMR 1215);
- the samples went after the 72 hours of Rule 4(2) of the 2001 Rules without explanation (*Asif Ali*; *Sagheer Ahmed*, 2024 SCMR 913, in the context of bail);
- one consolidated sample was taken from many packets (*Hasrat Khan*, PLD 2024 SC 911, where the conviction stood but was limited to the weight of the sample);
- the colour or weight changed between the recovery memo and the laboratory (*Tariq Sajjad Khan*);
- the investigator did not secure available CCTV footage (*Tariq Sajjad Khan*).

The Peshawar High Court applies the same rule under the Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2019 (*Mehboob Ali*, 2023 YLR 2579). On the other side, the Supreme Court has upheld convictions where the chain was proved by consistent official witnesses (*Hasrat Khan*), and the Peshawar High Court has held that non-observance of section 20 of the 1997 Act is not fatal but makes the IO liable to departmental action (*Aziz Khan*, 2006 MLD 1501).

5.7 The case diary

Section 172 makes the diary a record of the investigation, not evidence. In *Muhammad Idrees* (2021 SCMR 612) the Supreme Court explained why: it is meant to let the court check the honesty and method of the officer. In *Kalimullah* (2018 PCrLJ 553) the Peshawar High Court held that if the IO consults the police file before he testifies, the defence may cross-examine him on it and see the relevant part. In *Mohibullah* (PLD 2023 Pesh 160) it held that a witness may refresh his memory from police record only on the foundation Article 155 of the Qanun-e-Shahadat requires.

For the defence: ask for the diary at trial. Compare the time entries, the places visited and the sequence of recording with the IO's testimony.

5.8 Non-examination of the IO and his cross-examination

Abdul Sattar (2008 SCMR 684) states both halves: the IO is not a formal witness, his evidence is tested like any other, his non-examination may prejudice the accused, and it is not always fatal. In that case it did not matter, because the case rested on documents and the accused had cross-examined the official witness. The practical rule is that the defence should show the specific prejudice: a contradiction that only the IO could explain, a recovery he alone made, a site plan he alone drew. Where the IO is examined, his admissions are the best source of doubt. In *Sajjad* (2026 SCMR 1483), *Khair Muhammad* (2025 SCMR 1599) and *Abdul Raheem* (2026 SCMR 1516) the IO's own cross-examination, and not the complainant's, undid the prosecution.

5.9 Withheld evidence and evidence not collected

Two ideas should be kept apart. Withholding is the choice to leave out a witness or document that would be expected: Article 129(g) allows the inference that it would not have supported the prosecution (*Ashraf Ali*, 2016 PCrLJN 63, where two impartial witnesses present at the dinner were abandoned; *Muhammad Ijaz alias Billa*, 2024 SCMR 1507, where an independent eye-witness was not produced; *Sikandar Ali Lashari*, 2026 SCMR 1261). Not collecting is the failure to secure evidence that was there to take: the bulb (*Ashraf Ali*), the CCTV (*Tariq Sajjad Khan*), a call data record that bore no authorised officer's signature (*Asmat Ullah Khan*, PLD 2024 SC 1119, where the Court re-appraised the evidence), the other footprints (*Irfan Ali*), any evidence of the curfew or lack of transport said to explain an 18-hour delay (*State v. Wali Ullah*, 2025 MLD 438, where the IO had collected none). Both can be used. The second needs the IO to admit in cross-examination that the material was available and was not taken.

5.10 The officer who is both complainant and IO

State v. Bashir (PLD 1997 SC 408) allowed a police officer to be both complainant and IO if the accused is not prejudiced. The Peshawar High Court followed it in *Sardar Khan* (PLD 2005 Pesh 166). The Supreme Court has now tightened the position. In *Abdul Raheem* (2026 SCMR 1516) it held that a complainant "was interested in supporting the allegations made by him" and that it was unsafe to presume he could investigate his own complaint "with the open-minded objectivity required by law", and called the dual role "highly discouraged" in narcotics cases, acquitting the accused. The same decision noted that the IO's statement about who authorised him contradicted the FIR.

5.11 Successive investigations

A case can be investigated more than once. The Supreme Court has granted bail where three investigations found the accused absent from the scene (*Muhammad Aslam*, 2016 SCMR 1520) or doubtful (*Noor Muhammad*, 2020 SCMR 1049), and the Peshawar High Court has held that the police may re-investigate after a challan but not once the trial court has finally disposed of the case (*Tahir Javed*, PLD 2018 Pesh 162). The Peshawar High Court has also said that the High Court will not interfere while an investigation is under way (*Pordil Khan*, 2016 MLD 314). The Supreme Court in *Hayatullah Khan* (2011 SCMR 1354) held that the High Court may, under Article 199, entrust a case to an impartial IO, though not under section 561-A.

5.12 When a lapse does not help

The defence must know where the authorities stop.

- A positive laboratory report with a proved chain stands (*Hasrat Khan*, PLD 2024 SC 911; *Sardar Khan*, PLD 2005 Pesh 166).
- Section 103 does not apply to narcotics cases (*Jana Gul*, 2002 PCrLJ 1490), and non-observance of section 20 is not fatal (*Aziz Khan*, 2006 MLD 1501).
- Failure to send a weapon to an expert is an omission by the IO, but not fatal where the ocular and recovery evidence is consistent (*Shaukatullah*, 2005 PCrLJ 376, on the head-note).
- Where the ocular account, the medical evidence and the motive agree, defects in the IO's work do not break the case. In *Nazr ul Islam* (2022 YLR 1429) the Peshawar High Court dismissed the appeal where police eye-witnesses were reliable and the motive was proved.

- A report made without delay and a daylight murder with an effective role will not give bail merely because the site plan or the IO's note could be challenged (*Azim Khan*, 1998 PCrLJ 752).
- An IO's finding of innocence will not help where it rests on the accused's own witnesses (*Liaqat Ali*, PLD 1994 SC 172; *Muhammad Mansha*, PLD 1996 SC 229; *Qayyum Khan*, 2022 SCMR 273, where the SP told the Court that the IO's opinion was not based on credible evidence).
- Video recording of a recovery is not required unless a statute requires it (*Zeeshan Khan*, 2026 SCMR 1697).
- An appellate court sitting in an appeal against acquittal interferes only for "compelling and substantial reasons" (*State v. Subhan Ali*, 2020 MLD 1901).

6. A Practical Guide

6.1 For the defence

- 1 **Start with the FIR and the first version.** Check the time, the distance to the police station and who wrote it. Delay with no explanation is a recurring ground (*State v. Wali Ullah*, 2025 MLD 438; *Sajjad*, 2026 SCMR 1483). Ask whether another version exists and what the IO did about it (*Sughran Bibi*).
- 2 **Fix the dates of the section 161 statements.** List each witness, the date of occurrence, and the date the police recorded him. Late recording is a ground (*Noor Muhammad*).
- 3 **Read the site plan with the cross-examination.** Mark the light, the distances, the number of empties, the place of each recovery.
- 4 **Check every recovery.** Were two public mashirs sought and named? Is the memo consistent in ink and content? Was the weapon sent to an expert? (*Bashir*; *Zafran*; *Shaukatullah*).
- 5 **In narcotics cases, build the chain on a sheet.** Date and time of seizure; who sealed; who held; the malkhana entry; who carried; the date of receipt; the weight and colour at each stage; the 72-hour rule. Ask for the register and, if the prosecution does not produce the carrier or the moharrar, say so (*Asif Ali*; *Farman Ali*; *Mehmood Khan*).
- 6 **Ask for the diary and for the IO.** Seek the case diary when the IO refreshes memory; cross-examine on the time of arrival, the order of recording and any admissions about material not collected (*Kalimullah*; *Muhammad Idrees*).
- 7 **Identify who the IO is.** Complainant? Junior? Authorised by whom? (*Abdul Raheem*).
- 8 **List what was not collected.** CCTV, call data records, bulb, medical records, other footprints, evidence of the reason given for the delay.
- 9 **If the IO is not produced, show prejudice.** Name the point only he could answer (*Abdul Sattar*).
- 10 **At the bail stage, use column No. 2 only with its basis.** Show who the witnesses were and how many officers reached that view (*Gulzar Ahmed*; *Muhammad Aslam*; *Iqbal Khan*).

6.2 For the prosecution

- 1 Record the FIR and the section 161 statements without delay; explain any delay in the file.
- 2 Associate two public mashirs, or record why it was not possible.
- 3 Keep the sample chain complete: sealed parcels, malkhana entry, register, date, carrier, and be ready to produce the moharrar and the carrier.
- 4 Prepare the site plan with the witnesses' positions, the light and the empties.
- 5 Collect the available CCTV, call records and other objective material.
- 6 Avoid the same officer as complainant and IO in serious cases.
- 7 Do not release or exonerate on a bare alibi; place the material before the court.

7. Open Questions

- The Supreme Court has said that the dual role of complainant and IO is "highly discouraged" (*Abdul Raheem*). Is it now a ground of acquittal in every case, or only where the narcotics or other facts show prejudice?
- The Supreme Court has made safe custody and transmission a condition of conviction under the 1997 Act. Does the same rule apply with equal force under the Khyber Pakhtunkhwa Act of 2019, which the Peshawar High Court has applied (*Mehboob Ali*)?
- Is a late section 161 statement of a prosecution witness worth "nil" in every case, or only where there is no explanation and the witness is the sole link?
- Where the IO says in cross-examination that he did not collect material that was available, what is the standard for treating that as a failure of the prosecution rather than a defence argument?
- How far does *Sughran Bibi* allow an IO to adopt the accused's version against the FIR when a court later finds the first version to be correct?

8. Conclusion

The law on the IO has not changed in its centre: he collects evidence, the court decides, and the police opinion binds no one. What has changed is how closely the Supreme Court and the Peshawar High Court test the work. The earlier cases asked whether the police opinion could be set aside. The recent ones ask whether each step can be shown on paper and by a witness: the FIR, the statement, the site plan, the recovery, the sample, the register, the carrier. A defence lawyer who knows where the courts have found the chain broken will cross-examine the IO on those steps, and will know where the authorities stop.

Annexure A: One Hundred and Three Judgments in Question-and-Answer Form

Each entry gives the citation with bench and date, a short question and its answer. Entries are in date order within each part. A dagger (†) means the answer is based on the head-note and the opening of the judgment only.

Part I: Before 2000, Supreme Court

No.	Citation	Question	Answer
1	Muhammad Akbar v. The State, 1972 SCMR 335 (Hamoodur Rahman CJ, Muhammad Yaquab Ali, Waheeduddin Ahmad, Salahuddin Ahmed JJ; 22.6.1972)	Can a Magistrate take cognizance when the police opinion does not support the charge? Can the IO replace his earlier report?	Yes to both. A Magistrate may, irrespective of the IO's opinion, take cognizance under section 190(1)(b) if the material before him shows a prima facie case (following Falak Sher, PLD 1967 SC 425). Nothing in the Code stops the IO from submitting a fresh report in supersession of the earlier one, on his own initiative or on the direction of a senior police officer (sections 173 and 551). The appeal arose from a refusal to quash a case under section 376 P.P.C.
2	Mukhtar v. Mohsin Ali Shah, 1987 SCMR 1721 (Aslam Riaz Hussain, Saad Saood Jan JJ; 17.6.1987) †	Is bail granted to an accused whom the IO placed in column No. 2 easily cancelled?	No. The respondent had been placed in column No. 2 by the IO and had not been summoned as an accused by the trial Judge. The High Court refused to cancel his bail and the Supreme Court declined to interfere with that discretionary order. Leave was refused.
3	Waqarul Haq alias Nithoo v. The State, 1988 SCMR 1428 (Muhammad Afzal Zullah, Javid Iqbal JJ; 2.5.1988) †	Does placing an accused in column No. 2 end the case against him?	No. Per the head-note, the challan against the petitioners was not cancelled by placing them in column No. 2; it meant only that on the police investigation they were found innocent. The petitioners, charged under section 302/34 P.P.C., had been discharged by the Illaqa Magistrate and were then summoned by the Sessions Court, and they objected that they could not be summoned mechanically before evidence. The case is cited in Safdar Ali (2002 SCMR 63) for the rule that the trial court may summon an accused placed in column No. 2 without first recording evidence.
4	Muhammad Mumtaz v. The State, 1988 SCMR 1452 (Shafiur Rahman, Javid Iqbal, Saad Saood Jan JJ; 2.8.1987) †	Where police found the accused innocent and the High Court still refused bail, will the Supreme Court interfere?	Yes, on the facts. The accused, charged under sections 302/307/148/149/109 P.P.C., were found innocent by the police and placed in column No. 2, but the High Court refused bail. They pleaded that the High Court had substituted its own opinion for the police's and had been influenced by persons who made statements on oath for the complainant although none was an eye-witness. The Supreme Court held the pleas substantial, found infirmities in the order, converted the petitions into appeals and granted bail.
5	Muhammad Ilyas v. Ijaz Ahmad Butt, 1992 SCMR 1857 (Saad Saood Jan, Abdul Shakurul Salam, Sajjad Ali Shah JJ; 28.6.1992) †	Can a complainant challenge bail granted to a person placed in column No. 2?	Not while the prosecution has not treated the person as an accused. The Supreme Court declined to interfere because the prosecution had not so far treated the respondent as an accused, and held that the question whether the High Court's bail order was valid would arise only when the prosecution took steps to treat him as one.
6	Gulzar Ahmed v. The State, 1994 SCMR 1728 (Muhammad Rafiq Tarar, Manzoor Hussain Sial JJ; 27.2.1994) †	Does a finding of innocence in repeated investigations support bail?	Yes, with other gaps. The FIR said the deceased had ten fire-arm injuries but the post-mortem showed six, the injury attributed to the accused was simple, and the accused had been found innocent in more than one investigation including the last, which placed him in column No. 2. The Supreme Court converted the petition into an appeal and admitted him to bail.
7	Liaqat Ali v. The State, PLD 1994 SC 172 (Shafiur Rahman, Saleem Akhtar JJ; 21.11.1993)	Must a court follow two IOs who found the accused innocent?	No. Two IOs had found the accused innocent, apparently on the testimony of defence witnesses, but the FIR gave him a specific role supported by two injured eye-witnesses. The Supreme Court held that the High Court was justified in not relying on the IOs' opinion and refusing bail; leave was refused.
8	Muhammad Mansha v. The State, PLD 1996 SC 229 (Saleem Akhtar, Fazal Karim, Mamoon Kazi JJ; heard 27.11.1995)	Can the IO's earlier opinion of alibi be considered for bail?	Not where it rests on the ocular statements of witnesses and no reliable evidence supports it. The accused was named in the FIR with a specific role in a fatal injury; non-recovery from him did not detract from the prima facie case, and the IO's alibi opinion could not be taken into consideration. Leave was refused.

No.	Citation	Question	Answer
9	The State v. Bashir, PLD 1997 SC 408 (Ajmal Mian, Saleem Akhtar, Saiduzzaman Siddiqui, Nasir Aslam Zahid JJ; 18.2.1997) †	May a police officer who is the complainant also investigate? Are two public mashirs required for a recovery?	A police officer is not prohibited from being complainant and IO so long as the accused is not prejudiced (Aksar Khan, 1995 MLD 1237, not approved). Section 103 requires two members of the public as mashirs; the requirement is mandatory unless the prosecution shows it was not possible in the circumstances, and if the police officer's statement shows he made no effort to get two public mashirs, the recoveries are doubtful.
10	Muhammad Yousuf v. The State, 1998 SCMR 583 (Sajjad Ali Shah CJ, Fazal Karim, Muhammad Bashir Jehangiri JJ; 1.4.1996) †	Is a finding of innocence in column No. 2 a ground for leave to appeal in a murder conviction?	It was one of the grounds on which leave was granted. The contentions were that section 302/149 P.P.C. was not attracted, that the accused had been found innocent in the police investigation and placed in column No. 2, that medical evidence contradicted the ocular evidence of interested eye-witnesses, and that the recovery evidence was not credible. Leave was granted to re-appraise the evidence.

Part II: Before 2000, Peshawar High Court

No.	Citation	Question	Answer
11	Matiul Haq v. The State, 1983 PCrLJ 429 (Allah Bakhsh, Abdur Rehman Khan Kaif JJ; 8.9.1982) †	What follows when the IO finds a single empty at a scene where hundreds of shots were said to be fired?	Doubt. At a polling station with hundreds of people and hundreds of shots, the prosecution produced only two closely related witnesses (one inimical); a Magistrate on duty said he hid himself; the IO recovered only one empty from the spot; the medical evidence did not support the eye-witnesses. The Peshawar High Court held the eye-witnesses were not shown to be present and acquitted on benefit of doubt. It also held that the section 161 statements, proved through the IO who recorded them, were not lost because copies were accidentally left off the record.
12	Badiuz Zaman Khan v. The State, 1985 PCrLJ 2624 (Abdul Karim Khan Kundi J; 2.6.1985) †	What is the effect of exoneration in the challan where another person later confesses?	Where, on completion of investigation, the accused were exonerated and placed in column No. 2 and another person who confessed to the murder in a different manner and at a different time was arraigned in column No. 3, the innocence of the accused stood confirmed and they were entitled to bail. The Court added that pre-arrest and after-arrest bail proceed on different principles.
13	Shadi Khan v. Matiullah, 1989 PCrLJ 2253 (Muhammad Bashir Khan Jehangiri J; 11.6.1989) †	Does column No. 2 give a right to bail?	No. The plea that the accused, found innocent and placed in column No. 2, was entitled to bail as of right was repelled. Statements recorded long after the occurrence were not enough to bring him within Badiuzzaman (1985 PCrLJ 2624); the FIR gave him an effective role supported by statements under section 161, and he had absconded for over eight months. The Court deprecated the tendency to advance pleas of innocence during investigation.
14	Nazir v. Muhammad Aslam Khan, 1990 MLD 53 (Muhammad Bashir Khan Jehangiri J; 13.9.1989) †	What weight does an IO's finding of innocence carry in a bail cancellation petition?	It is not binding on the court but is a relevant consideration. The Sessions Court had noticed the documentary evidence and the statements of all concerned on the plea of alibi, and the accused had been placed in column No. 2. The High Court saw no reason to interfere with the discretion and dismissed the cancellation petition.
15	Abbas Khan v. The State, 1992 PCrLJ 417 (Muhammad Bashir Khan Jehangiri J; 21.5.1990)	Is bail available because the IO exonerated one accused and another's alibi was accepted?	No. The opinion of innocence of one accused was not based on sound material, so column No. 2 did not entitle him to bail. The alibi of the other was not weighty because the statements of the alibi witnesses were recorded by the police 26 days after the occurrence; both accused absconded for over a year and a half. Reasonable grounds existed to believe both had committed the offence, and bail was cancelled.
16	Iqbal Khan v. The State, PLD 1991 Pesh 92 (single Judge; 20.1.1991) †	What must a court check when an accused is in column No. 2?	Whether the IO's opinion of innocence is supported by the material. There, the co-accused who confessed before the Magistrate named other persons but said nothing against Iqbal, whose name was shown in column No. 2. The Court held the plea for bail was supported by the material that had led to column No. 2, the case was of further inquiry, and bail was granted.

No.	Citation	Question	Answer
17	Gustasab v. The State, PLD 1992 Pesh 154 (single Judge; 3.7.1991) †	Is the IO entitled to express an opinion of innocence, and is the High Court bound by it?	The IO is entitled to express an opinion on the innocence of an accused on the material collected, but the High Court, on evaluating the material before it, is competent to ignore that opinion and form a contrary view. On a tentative assessment there were reasonable grounds for believing the accused were connected with a non-bailable offence punishable with death or life imprisonment, and bail was refused.
18	Afsar Khan v. Nawab Khan, 1995 PCrLJ 549 (Sardar Muhammad Raza Khan J; 3.7.1994) †	Can the police release accused under section 169 late in the day, and may the Magistrate simply endorse it?	No. Two accused were released by the Magistrate on the IO's report when they were not even in police custody. The Court held that the Magistrate had not applied his mind, that release solely by the police was not in line with the Code, and set the order aside under section 561-A.
19	Muhammad Akram v. The State, 1995 MLD 1532 (Saleem Dil Khan J; 9.8.1994) †	Is section 103 binding on the IO in an arms recovery?	Yes. In an arms case the recovery is an important piece of evidence and must be established by independent, disinterested and respectable persons of the locality; the mandatory provision of section 103 cannot be ignored or brushed aside on the whim and caprice of the IO except on well-founded grounds in exceptional cases.
20	Nasrullah v. The State, 1997 MLD 1430 (Sardar Muhammad Raza J; 20.10.1996) †	Can the Sessions Court take cognizance against a person released under section 169?	No. A person released under section 169 is never included in the section 173 report; if his name is in neither column No. 2 nor column No. 3, the trial court cannot take cognizance against him in the case sent to it under section 193. Only the Magistrate can take cognizance under section 190, and the Court of Session takes only the case sent to it (Afsar Khan, 1995 PCrLJ 549, referred to).
21	Muhammad Sharif v. Inam Ullah Khan, PLD 1998 Pesh 78 (Shah Jehan Khan J; 10.11.1997) †	Is column No. 2 by itself enough to grant bail?	No. Bail had been granted simply because the accused was in column No. 2, without a tentative assessment of the evidence. The High Court held that a tentative assessment is required, and that in a case punishable by ten years or more the court must see whether a prima facie case exists; if the prosecution brings reasonable evidence connecting the accused, bail cannot be granted.
22	Azim Khan v. The State, 1998 PCrLJ 752 (Tariq Parvez J; 6.8.1997) †	Can the accused rely on column No. 2 and on the site plan at bail stage?	Not where the record is against him. Column No. 2 is the prerogative of the police but cannot be treated as the final word on innocence; culpability is for the court. The site plan and medical evidence did not appear to be at variance, any point for the defence could be taken at trial, and the occurrence was a daylight murder reported within the shortest time. Bail was dismissed.
23	Rafiullah v. Muhammad Ismail, 1998 PCrLJ 832 (Shah Jehan Khan J; 22.9.1997) †	Can the IO leave an accused out of the challan on the strength of defence evidence?	No. The IO had named the accused in neither column and discharged him under section 169 although the ocular evidence was corroborated by recoveries from the spot and circumstantial evidence. Without a deep appraisal of the prosecution case or the defence plea, the IO could not exclude the accused from the challan; at most he could place the accused in column No. 2 if satisfied about the alibi.
24	Mastan Shah v. Additional Sessions Judge/Special Judge, Bannu, 1999 PCrLJ 469 (Malik Hamid Saeed, Shah Jehan Khan JJ; 18.12.1997) †	Does a special court statute remove the IO's powers under section 169?	No. The Suppression of Terrorist Activities (Special Courts) Act, 1975 did not expressly or by implication oust the powers given to the IO by Chapter XIV of the Code, and no separate machinery was provided for investigating scheduled offences. The IO has the discretionary power under section 169 to release an accused on bond during investigation where the evidence is deficient.
25	Syed Sikandar Shah v. Inspector-General of Police, N.-W.F.P., 2000 PCrLJ 25 (Mian Muhammad Ajmal, Mrs. Khalida Rachid JJ; 7.7.1999) †	Can an inquiry panel recommend discharge under section 169 for an absconding accused?	No. The accused had gone into hiding after the occurrence and obtained transit pre-arrest bail four times from different courts without disclosing earlier proceedings. The Range Inquiry Panel had no authority to recommend discharge under section 169; the section can be exercised by the police during investigation only if the accused has been in their custody, which is a condition precedent.

Part III: 2000 onwards, Supreme Court

No.	Citation	Question	Answer
26	Safdar Ali v. Zafar Iqbal, 2002 SCMR 63 (Sh. Riaz Ahmad, Qazi Muhammad Farooq, Javed Iqbal JJ; 18.6.2001) †	Can the trial court summon an accused who is in column No. 2 without first recording evidence?	Yes. A Magistrate can take cognizance even on a negative police report, and the trial court can summon an accused placed in column No. 2 to face trial; there is no legal bar to doing so without first recording evidence to see whether a prima facie case exists (Muhammad Sharif, 1997 SCMR 304, Waqarul Haq, 1988 SCMR 1428 and Falak Sher referred to).
27	Muhammad Asghar v. The State, 2002 SCMR 1299 (Muhammad Bashir Jehangiri CJ, Tanvir Ahmed Khan J; 24.1.2002) †	Is bail available where successive investigations declared the accused innocent?	Yes on those facts. After successive investigations the police declared the accused innocent and placed him in column No. 2; the only allegation was that he drove the car in which the accused party reached the spot; he had been in jail for about 14 months. Bail was granted.
28	Ashiq Hussain v. The State, 2003 SCMR 698 (Iftikhar Muhammad Chaudhry Actg. CJ, Abdul Hameed Dogar, Sardar Muhammad Raza Khan JJ; 20.1.2003) †	May a court acquit because the IO exonerated the accused?	No. Once an accused has been challaned under section 173 and the prosecution has produced evidence against him, the court must decide on the material on record and is not to follow the IO's report, which is tentative. An acquittal influenced by the IO's report was not sustainable; the case was remanded for fresh decision. The Court also held that a revision court cannot convert an acquittal into a conviction.
29	Syed Muhammad Ahmed v. The State, PLD 2006 SC 316 (Khalil-ur-Rehman Ramday, Raja Fayyaz Ahmed JJ; 8.3.2006)	Can the IO's report that the accused are not involved be a basis for ordering that they not be challaned?	No. The High Court had directed that the petitioners be not treated as accused or challaned only because the IO told it their involvement could not be established. The Supreme Court held that investigation under section 4(1) means only collection of evidence, that determining guilt or innocence is for the courts and cannot be delegated to the police, that section 63 prohibits discharge except by the Magistrate's order, and that Rule 24.7 of the Police Rules prohibits cancelling FIRs without the Magistrate's orders.
30	Abdul Sattar v. The State, 2008 SCMR 684 (Abdul Hameed Dogar, Muhammad Nawaz Abbasi JJ; 13.7.2005)	Is non-examination of the IO fatal to the prosecution?	Not always. The IO is not a formal witness, and his evidence, subject to the test of belief, is on a par with any other prosecution witness; his non-examination may cause prejudice to the accused, but its importance depends on the facts. On the facts it caused none, because the case rested on official documents and the accused had full opportunity to cross-examine the department's witness (appeal from the Peshawar High Court).
31	Aman Ullah v. The State, PLD 2009 SC 542 (Khalil-ur-Rehman Ramday, Faqir Muhammad Khokhar, Mahmood Akhtar Shahid Siddiqui JJ; 29.5.2009) †	Is bail available because the IO found the accused innocent and recommended discharge?	Not here. The police file showed the accused was declared innocent only because a DNA test found the semen traces in the vaginal swabs were not his. The Court held such expert reports are corroborative and needed only when the ocular testimony is doubtful, no reason was offered for the alleged substitution of the accused, and bail was refused.
32	Muhammad Ahmad (Mahmood Ahmed) v. The State, 2010 SCMR 660 (Khalil-ur-Rehman Ramday, Nasir-ul-Mulk, Anwar Zaheer Jamali JJ; 1.10.2009) †	Who decides guilt or innocence: the investigator or the court?	The court. Under the head-note on sections 155, 156, 157 and 174, determination of the guilt or innocence of an accused is the exclusive domain of the courts. The Supreme Court in the same judgment appraised the evidence of a raid in which the accused, not residents of the village, had given a reasonable explanation of their presence.
33	Muhammad Arshad v. The State, PLD 2011 SC 350 (Iftikhar Muhammad Chaudhry CJ, Ghulam Rabbani, Khalil-ur-Rehman Ramday JJ; 10.2.2011)	What is the IO's job under sections 156 and 157?	It is confined to collection of evidence, which the court then weighs; he does not hold the accused guilty or innocent. In the same appeal the Court altered four death sentences to life imprisonment because doubt arose on who was in possession of the land where the occurrence took place, as the Halqa Patwari and another witness admitted.
34	Muhammad Abbasi v. The State, 2011 SCMR 1606 (Iftikhar Muhammad Chaudhry CJ, Khilji Arif Hussain, Amir Hani Muslim JJ; 13.7.2011) †	Is the IO's opinion binding in a bail petition?	No. The opinion of the IO is not binding on the court, which has to form its own opinion independently after examining the record. The Court also held that the mere possibility of further inquiry, which exists in almost every case, is no ground for treating the matter as one under section 497(2).

No.	Citation	Question	Answer
35	Hayatullah Khan v. Muhammad Khan, 2011 SCMR 1354 (Javed Iqbal, Muhammad Sair Ali, Anwar Zaheer Jamali JJ; 10.8.2010)	Can the trial court discharge on an IO's report under section 169? Can the IO opine on medical and firearm evidence?	No to both. Where sufficient incriminating material connecting the accused prima facie with the offence is on record, the trial court has no power to endorse the IO's view; guilt or innocence falls within its jurisdiction. The IO is not a skilled person to give an opinion on the medical evidence or the firearm expert's report. A plea of alibi must be proved by cogent evidence. The High Court has no power under section 561-A to interfere with investigation but its order under Article 199 entrusting the case to an impartial IO was upheld.
36	Muhammad Aslam v. The State, 2016 SCMR 1520 (Asif Saeed Khan Khosa, Manzoor Ahmad Malik JJ; 2.2.2016) †	Is bail available where three investigations found the accused absent from the spot?	Yes. Three IOs had concurred that the accused was not present at the spot and was merely a facilitator or abettor; the section 173 report imputed abetment and opined guilt under section 109 only. The Court held that the complainant's shifting stands on his role made it a case of further inquiry under section 497(2), and admitted the accused to bail.
37	Fayyaz Ahmad v. The State, 2017 SCMR 2026 (Mushir Alam, Dost Muhammad Khan JJ; 13.9.2017) †	What follows when two co-accused were declared innocent and three successive investigations formed no definite opinion on guilt?	Acquittal. In an un-witnessed murder case, two co-accused were declared innocent and not charge-sheeted, and three successive IOs formed no definite opinion on the accused's guilt; the recovered knife was not shown to be blood-stained; the autopsy time negated the prosecution story, and the case was full of improbabilities. The appeal was allowed. The Court also stated that recovery of the weapon and the expert's opinion must be carried out in a transparent and fair manner.
38	Mst. Sughran Bibi v. The State, PLD 2018 SC 595 (Asif Saeed Khan Khosa ACJ, Mushir Alam, Maqbool Baqar, Manzoor Ahmad Malik, Sardar Tariq Masood, Mazhar Alam Khan Miankhel, Sajjad Ali Shah JJ; 23.5.2018)	Must a second FIR be registered for a new version of the same incident? What must the IO do with different versions?	No. After an FIR is registered the matter becomes a 'case' with one number (Police Rule 24.5), and every later step is a step in that case. The IO may record any number of versions of the same incident under section 161 in the same case; investigation is not restricted to the version in the FIR, and the duty of the IO under Rule 25.2(3) and sections 154, 156, 160 and 173 is to find out the truth.
39	Noor Muhammad v. The State, 2020 SCMR 1049 (Sajjad Ali Shah, Sayyed Mazhar Ali Akbar Naqvi JJ; 7.5.2020) †	What is the value of a belated section 161 statement? Can bail follow doubtful investigations?	The head-note records that belated recording of a witness's section 161 statement reduces its value to nil (Abdul Khaliq, 1996 SCMR 1553). On the facts the local police found the accused's involvement suspicious and deferred his arrest under section 169, a second investigation again found it doubtful, and the IO gave no definite opinion on his culpability, so the case was one of further inquiry.
40	Muhammad Idrees v. The State, 2021 SCMR 612 (Manzoor Ahmad Malik, Syed Mansoor Ali Shah JJ; 21.1.2021)	What is the case diary for and who can use it?	Section 172(1) requires the IO to record each day the time information reached him, the time he began and closed investigation, the places visited and the circumstances ascertained. The object is to let the courts check the method and manner of investigation, and the court may use it under section 172(2) to aid inquiry. The diary is not evidence.
41	Muhammad Ramzan v. The State, 2021 SCMR 1914 (Syed Mansoor Ali Shah, Muhammad Ali Mazhar JJ; 8.10.2021)	Is a witness's statement noted in the case diary instead of being recorded separately still a statement under section 161?	Yes. The IO should record each person's statement separately under section 161(3), but if it is embodied in the case diary it is at best a procedural lapse by the IO; it remains a section 161 statement and does not become part of the diary under section 172.
42	Resham Khan v. The State, 2021 SCMR 2011 (Syed Mansoor Ali Shah, Muhammad Ali Mazhar JJ; 7.10.2021) †	Does a mismatch between the FIR and the post-mortem support bail?	Yes, here. The complainant claimed to have arrived as the accused were escaping, so he was not an eye-witness; the FIR said the injuries were on the front of the abdomen but the post-mortem showed no entry wound there, only exits. The Court held the case was one of further inquiry and benefit of doubt can be extended at bail stage.
43	Qayyum Khan v. The State, 2022 SCMR 273 (Sardar Tariq Masood, Amin-ud-Din Khan, Muhammad Ali Mazhar JJ; 12.11.2021) †	Is bail available because the IO found the nominated accused empty-handed at the scene?	No. The only ground was that the accused was found empty-handed by the IO. The Superintendent of Police appeared before the Court and said the IO's opinion was not based on any credible evidence. Bail was refused.

No.	Citation	Question	Answer
44	Basharat Ali v. The State, 2022 SCMR 267 (Umar Ata Bandial, Amin-ud-Din Khan, Sayyed Mazahar Ali Akbar Naqvi JJ; 15.11.2021) †	Does an IO's favourable opinion help if he does not act on it?	Not here. The occurrence took place within a police station premises among known persons, and the accused was ascribed a fire-arm injury. The IO who gave an opinion in favour of the accused had not dared to place his name in column No. 2 and had placed it in column No. 3. Bail was refused.
45	Chaudhry Nadeem Sultan v. The State, 2022 SCMR 663 (Maqbool Baqar, Sayyed Mazahar Ali Akbar Naqvi JJ; 12.11.2021) †	Does an alibi verified during investigation support bail?	Yes, where verified. The FIR was lodged after more than 5 hours at 6 km distance without explanation, and the accused's alibi was found correct in investigation: the IO relied on the call detail record showing his phone away from the scene, and about 100 persons appeared, 18 with verified affidavits that he was at a chehloom, including the deceased's son. The accused was placed in column No. 2, and the Court held the case was one of further inquiry.
46	Amir Faraz v. The State, 2023 SCMR 308 (Sardar Tariq Masood, Amin-ud-Din Khan, Syed Hasan Azhar Rizvi JJ; 9.1.2023)	What weight does the IO's opinion carry on cancellation of bail?	It has some persuasive value only if based on a strong and concrete foundation; an opinion given without cogent material is of no value. The FIR was lodged within one hour and twenty minutes, the accused was alleged to have caused a fatal injury supported by the medical evidence, and the Court cancelled the bail granted.
47	Muhammad Umar Waqas v. The State, 2023 SCMR 330 (Ijaz ul Ahsan, Munib Akhtar, Sayyed Mazahar Ali Akbar Naqvi JJ; 23.11.2022) †	How is the IO's opinion on an accused's overt act to be treated in a cross-version case?	In a case of cross-versions, which falls within section 497(2), the IO's opinion on the accused's overt act is to be evaluated after evidence is recorded, as an abundance of caution. Pre-arrest bail was confirmed.
48	Syed Qamber Ali Shah v. Province of Sindh, 2024 SCMR 1123 (Muhammad Ali Mazhar, Irfan Saadat Khan JJ; 2.4.2024)	Does the IO have a duty to investigate beyond the complaint? What is the Justice of the Peace's role?	The head-note on section 156 states that the IO plays a crucial role in the criminal justice system. The Court held also that a Justice of the Peace under section 22-A only ensures that a cognizable case is made out and cannot assume the role of an investigating agency.
49	Muhammad Zafran v. The State, 2024 SCMR 548 (Manzoor Ahmad Malik, Yahya Afridi JJ; decided 3.4.2019, reported 2024)	Does a serious lapse by the IO justify acquittal?	Yes. A matchbox (machis) was said to have been recovered in a section 295-B case but it appeared in neither the written complaint nor the body of the recovery memo, and the word had been written on the heading with a different pen; the verses were never described. For a serious offence the investigation was not at par with what the offence and punishment required. The conviction was set aside and the accused acquitted.
50	Asif Ali v. The State, 2024 SCMR 1408 (Jamal Khan Mandokhail, Syed Hasan Azhar Rizvi, Naeem Akhtar Afghan JJ; 31.5.2024)	What must the prosecution prove on samples in a narcotics case?	Every step from recovery to the laboratory: making of the sample parcels, safe custody and safe transmission. If any link is missing the accused gets the benefit. Seven sample parcels were handed to a Sub-Inspector for the laboratory beyond 72 hours of seizure (Rule 4(2), Government Analysts Rules, 2001) without explanation, the Sub-Inspector was not produced, and the register entry was undated.
51	Sagheer Ahmed v. The State, 2024 SCMR 913 (Jamal Khan Mandokhail, Syed Hasan Azhar Rizvi, Musarrat Hilali JJ; 13.3.2024) †	Does delay in sending samples support bail?	Yes. Charas of 1,420 grams was recovered, the Punjab Forensic Science Agency report showed the samples were received after a delay of more than a month, against the 72-hour limit in Rule 4(2) of the 2001 Rules, and safe custody of the samples with the police was not established. The Court granted bail after arrest.
52	Hasrat Khan v. The State, PLD 2024 SC 911 (Yahya Afridi, Jamal Khan Mandokhail, Malik Shahzad Ahmad Khan JJ; 1.8.2024)	Does a proper chain save the conviction even when sampling was careless?	In part. Safe custody and transmission were proved and the conviction was upheld on reliable official witnesses. But a single consolidated sample of 3.200 kg had been taken from 320 packets, which the Court called gross negligence and callous attitude, and only 3.200 kg was considered for the conviction; the sentence was reduced.
53	Asmat Ullah Khan v. The State, PLD 2024 SC 1119 (Jamal Khan Mandokhail, Syed Hasan Azhar Rizvi, Musarrat Hilali JJ; 15.5.2024) †	How does the Court treat a call data record not signed by an authorised officer?	The head-note records that the CDR did not bear the signature of any authorised officer, and a police witness said the IO directed him to collect the CDR from the RPO's office. The Court re-appraised the evidence in a ransom case in which the kidnapping was found not reasonable on the complainant's account.

No.	Citation	Question	Answer
54	Saeed Ahmed v. The State, PLD 2024 SC 1241 (Amin-ud-Din Khan, Naeem Akhtar Afghan JJ; 23.8.2024) †	Is an alibi verified during investigation a ground for pre-arrest bail?	Yes, on those facts. The accused showed they were at a hospital in another city and had drawn cash from an ATM inside it at the time of the occurrence, and the IO had collected and verified the hospital laboratory slips; the Court held the case required further inquiry.
55	Muhammad Ijaz alias Billa v. The State, 2024 SCMR 1507 (Jamal Khan Mandokhail, Syed Hasan Azhar Rizvi, Naeem Akhtar Afghan JJ; 22.5.2024) †	What follows when an independent eye-witness is not produced?	Under Article 129(g), withholding of the best evidence undermines the credibility of the prosecution account. There were material contradictions between the two eye-witnesses, the alleged motive was not proved, the prosecution had an independent eye-witness whom it did not produce, and no one from the populated locality supported the story.
56	Muhammad Iqbal v. The State, 2025 SCMR 704 (Musarrat Hilali, Salahuddin Panhwar, Ishtiaq Ibrahim JJ; 17.2.2025) †	What happens if the chain of custody remains unverified?	The prosecution fails. For 1,400 grams of charas the chain of custody remained unverified, safe transmission was not conclusively established, handling of the case property was contradictory and key witnesses were not produced.
57	Abdul Haq v. The State, 2025 SCMR 751 (Muhammad Hashim Khan Kakar, Muhammad Shafi Siddiqui, Ishtiaq Ibrahim JJ; 4.3.2025) †	What is the standard for the chain of custody under the Khyber Pakhtunkhwa Act of 2019?	The prosecution must prove that the chain from seizure to police station to Chemical Examiner was safe and secure; any rupture or inconsistency strikes at the root of the case, and the benefit goes to the accused. The case concerned 16,215 grams of opium and a life sentence, on appeal from the Peshawar High Court, Mingora Bench.
58	Zakir Ali v. The State, 2025 SCMR 1644 (Muhammad Hashim Khan Kakar, Salahuddin Panhwar, Ishtiaq Ibrahim JJ; 24.4.2025) †	Do gaps in the testimony on custody and transmission defeat a narcotics conviction?	Yes. The testimonies showed material gaps and contradictions on safe custody and transmission from the spot to the police station and then the samples to the laboratory. The police official who took the murasila and case property to the station was neither cited nor examined, the moharrir received the parcels from the IO without a receipt and did not produce Register No. 19, and the IO did not name the person who carried the samples (1,800 grams of methamphetamine).
59	Farman Ali v. The State, 2025 SCMR 1730 (Athar Minallah, Irfan Saadat Khan, Malik Shahzad Ahmad Khan JJ; 26.5.2025) †	What if the constable who carried the samples is not produced?	The chain is broken. The constable through whom 1,640 sample parcels were sent to the laboratory was not produced and no reason was given; his name was not in the calendar of witnesses in the section 173 report, so the laboratory report could not be relied on (appeal from the Peshawar High Court).
60	Shah Hussain v. The State, 2025 SCMR 967 (Athar Minallah, Irfan Saadat Khan, Malik Shahzad Ahmad Khan JJ; 14.2.2025) †	Does safe custody matter in an explosives recovery case?	Yes. In an appeal from the Peshawar High Court the Court dealt with safe custody and transportation of case property under the Anti-Terrorism Act and the Explosive Substances Act; the prosecution also failed to prove the accused owned the motorcycle on which the explosive was recovered, and the benefit of doubt applied.
61	Khair Muhammad v. The State, 2025 SCMR 1599 (Athar Minallah, Irfan Saadat Khan, Malik Shahzad Ahmad Khan JJ; 30.4.2025) †	Is night-time identification safe when the source of light is not proved?	No. In a murder at 11:48 p.m. the witnesses said they saw the accused flee by the light of a bulb, but the complainant's own cross-examination contradicted it, and the head-note also records contradictions in the IO's statement. The benefit of doubt was given.
62	Tariq Sajjad Khan v. The State, 2026 SCMR 1215 (Muhammad Hashim Khan Kakar, Ishtiaq Ibrahim, Ali Baqar Najafi JJ; 23.10.2025) †	What do the register, the weight and the CCTV show?	The moharrir admitted that no entry was made in the Roznamcha about receipt of the case property; the weight of each packet belied the alleged 1,200 grams; the colour changed from brown to black; and the IO did not take available CCTV footage of the police station building into possession. The standard under the Act must be of the highest degree and the benefit of doubt applied.
63	Raham Gul v. The State, 2026 SCMR 584 (Muhammad Hashim Khan Kakar, Ishtiaq Ibrahim, Ali Baqar Najafi JJ; 19.8.2025) †	What if proceedings were shifted to the police station and the Form-19 entry time is missing?	The chain was broken. For 42 kilograms of charas the most important evidentiary chain was broken owing to lack of safe custody and transmission, with no record of when the Form-19 entry was made, and the proceedings were not conducted on the spot but were shifted to the police station (appeal from the Peshawar High Court, Abbottabad Bench).

No.	Citation	Question	Answer
64	Mehmood Khan v. The State, 2026 SCMR 1606 (Muhammad Hashim Khan Kakar, Salahuddin Panhwar, Ishtiaq Ibrahim JJ; 11.5.2026) †	What if the moharrir is not produced?	The prosecution failed to produce the Moharrar or malkhana in-charge in whose custody the 26 kilograms of charas remained, and the register entries establishing safe custody were also missing; safe custody and transmission were not proved.
65	Muhammad Nasir v. The State, 2026 SCMR 224 (Muhammad Hashim Khan Kakar, Ishtiaq Ibrahim, Ali Baqar Najafi JJ; 15.10.2025) †	Does an unproved recovery and unproved safe custody lead to acquittal?	Yes. The recovery of the narcotic from the petitioner's vehicle was not proved, safe custody of the recovered substance and sample was not established, and the complainant admitted he had not named the petitioner as the driver; the petition was converted into an appeal and the accused acquitted (from the Peshawar High Court).
66	Attique Ullah v. The State, 2026 SCMR 937 (Muhammad Hashim Khan Kakar, Salahuddin Panhwar, Ishtiaq Ibrahim JJ; 23.1.2026) †	Does the chain rule apply under the Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2019?	Yes. In a case under sections 9(d) and 11(c) of the 2019 Act, contradictions in the witnesses' statements and the failure to establish safe custody and transmission led the Court to convert the petition into an appeal and allow it (from the Peshawar High Court).
67	Abdul Raheem v. The State, 2026 SCMR 1516 (Jamal Khan Mandokhail, Shahid Waheed, Muhammad Shafi Siddiqui JJ; 10.2.2026) †	Can the complainant also be the IO?	Highly discouraged, particularly in narcotics cases. The IO's duty is to discover the truth and collect evidence both for and against; a complainant is interested in supporting his allegations and it is unsafe to presume he could investigate his own complaint with open-minded objectivity. Here his testimony on who authorised the investigation also contradicted the FIR. The accused were acquitted.
68	Mst. Sabran Bibi v. The State, 2026 SCMR 703 (Muhammad Hashim Khan Kakar, Ishtiaq Ibrahim, Ali Baqar Najafi JJ; 30.5.2025) †	What can the site plan show about a narcotics recovery?	That it is improbable. The site plan showed an open place visible from a long distance, yet the accused was easily arrested with 2,360 grams of charas; no scale or sachets were recovered, no customer was arrested or cited, and the plan did not show the seizing officer's position. The accused was acquitted.
69	Sajjad v. The State, 2026 SCMR 1483 (Athar Minallah, Irfan Saadat Khan, Malik Shahzad Ahmad Khan JJ; 15.9.2025) †	What if the registration of the FIR itself is doubtful?	The conviction fails. The complainant had a draft complaint prepared after consultation with a relative; the IO said it was 'produced' before him and he 'endorsed' it, then in cross-examination said he recorded the complainant's statement himself; no record of that statement existed. The Court held the registration of the FIR doubtful and allowed the appeal.
70	Sikandar Ali Lashari v. The State, 2026 SCMR 1261 (Athar Minallah, Irfan Saadat Khan, Malik Shahzad Ahmad Khan JJ; 10.9.2025) †	How does withholding of best evidence work with a police-custody confession?	The phones through which messages were said to have been exchanged to prove motive were not taken into possession by the IO or produced, and no telephone-company employee proved the messages; the alleged confession before police had no evidentiary value because the accused was in custody. The Court set aside the death sentences and acquitted both accused.
71	Wazir v. The State, 2026 SCMR 1209 (Athar Minallah, Irfan Saadat Khan, Malik Shahzad Ahmad Khan JJ; 17.9.2025) †	Does missing medical corroboration help the defence?	Yes. The Medical Officer assessed that 'a firearm weapon was used' but recovered no pellet from the body, which dented the prosecution case; the evidence was tainted with doubts and contradictions, and the benefit of doubt was given.
72	Munir Ahmad v. The State, 2026 SCMR 1498 (Muhammad Hashim Khan Kakar, Salahuddin Panhwar, Ishtiaq Ibrahim JJ; 7.1.2026) †	What are the effects of dishonest improvements by eye-witnesses?	The complainant and the deceased's uncle gave the ocular account, and the Court found glaring and material contradictions and dishonest improvements in their testimonies, which led to the benefit of doubt.
73	Zeeshan Khan v. The State, 2026 SCMR 1697 (Malik Shahzad Ahmad Khan, Muhammad Shafi Siddiqui, Shakeel Ahmad JJ; 27.4.2026) †	Is video recording of a recovery mandatory?	No. Where no statute requires it, non-recording of a video is by itself no ground for bail or acquittal. In that case the recovery witnesses were reliable and safe custody and transmission were established (3,600 grams of charas).

Part IV: 2000 onwards, Peshawar High Court

No.	Citation	Question	Answer
74	Muhammad Nawaz v. The State, 2001 PCrLJ 1014 (Tariq Parvez, Muhammad Qaim Jan Khan JJ; 18.1.2001) †	Does a report by an injured man to the police lose value if Police Rule 25.21 was not followed?	The report was not recorded in line with Rule 25.21 of the Police Rules, but its evidentiary value as a dying declaration was determined on all the surrounding circumstances: it was a straightforward version naming a single accused with a previous and immediate motive.

No.	Citation	Question	Answer
75	Inamullah Khan v. The State, 2001 YLR 2051 (Tariq Parvez J; 2.7.2001) †	Is bail available where the IO and superior officers placed the accused in column No. 2 on the strength of many statements?	Yes, on these facts. The IO and superior officers placed the accused in column No. 2 on the statements of thirteen witnesses under section 161 with attested affidavits from which they had not resiled; two sets of witnesses gave different versions. The trial court retains an option whether or not to issue process, and bail was granted (1998 PCrLJ 752 distinguished).
76	Jana Gul v. The State, 2002 PCrLJ 1490 (Tariq Pervez Khan, Ijaz-ul-Hassan JJ; 30.5.2002) †	Does non-compliance with section 103 defeat a narcotics case?	Not under the 1997 Act. Section 25 of the Control of Narcotic Substances Act, 1997 excludes section 103 of the Code, so non-compliance was not fatal; the accused failed to show that the charas was foisted on him.
77	Shaukatullah v. The State, 2005 PCrLJ 376 (Ijaz-ul-Hassan Khan J; 23.11.2004) †	Is it fatal that the IO did not send the arms to an expert?	Not here. The IO's non-sending of the Kalashnikov to an expert was an omission, but the witnesses to apprehension and recovery were unanimous and withstood lengthy cross-examination, and the appeal against conviction was dismissed.
78	Sardar Khan v. The State, PLD 2005 Pesh 166 (Ijaz-ul-Hassan Khan, Shahzad Akbar Khan JJ; 19.4.2005) †	Can a police officer who witnessed the offence be both complainant and IO?	Yes, a police officer who witnessed the offence is not legally debarred from being complainant and IO. The head-note records that the recovery witnesses were consistent, the discrepancies were minor and no ill-will was shown, in an appeal under section 9(c) of the 1997 Act.
79	Aziz Khan v. The State, 2006 MLD 1501 (Salim Khan, Hamid Farooq Darrani JJ; 9.6.2006) †	Is non-observance of section 20 of the 1997 Act fatal?	No. Obtaining a warrant or sending a report to superiors is the responsibility of the police officer, but non-observance of section 20 is not fatal to the prosecution; it makes the IO liable to disciplinary action. The presence of a lady constable at the raid was a mere irregularity.
80	Muhammad Hassan Khan v. The State, 2007 PCrLJ 514 (Fazl-ur-Rehman Khan J; 12.9.2006) †	What follows when the complainant-IO does not send the sample to the laboratory?	The accused got bail. The complainant-IO had failed for more than one and a half months to take a sample of the coca-leaf and send it to the laboratory; samples were to be sent within 72 hours. The Court said the omission was either mala fide or gross negligence, and the case was one of further inquiry.
81	Mehboob v. Sajjad Ahmad, PLD 2008 Pesh 69 (Syed Yahya Zahid Gilani J; 26.2.2008) †	Can a sniffer dog's pointing be the basis for nominating an accused?	Only for suspicion. The accused had been named after a detective sniffer dog pointed to his house; the pointing raised only a suspicion and created at most a ground for the IO to investigate further and collect more evidence (an identification parade through the dog under a Judicial Magistrate was suggested). The IO had not collected substantive corroborative evidence, so the case needed further inquiry and bail was granted.
82	Asad Zaman v. Muhammad Sareer, PLD 2010 Pesh 54 (Liaqat Ali Shah J; 19.2.2010) †	Can the IO release an accused under section 169 when there is material for and against, and who decides column No. 2?	The IO cannot act as a court and cannot release an accused under section 169 when there is material for and against. But he may prepare a final report, give his opinion on culpability and place the accused in column No. 2 or 3; that is his prerogative and cannot be undone by a judicial forum or superior officer, only by re-investigation before the challan is submitted. The Magistrate is not bound to discharge a person released under section 169.
83	Abdul Rashid Khan v. The State, PLD 2012 Pesh 39 (Attaullah Khan J; 2.6.2011) †	May the IO release on a bare plea of alibi?	No. Section 169 turns on deficient evidence. If the only evidence on alibi was the accused's own statements believed without further inquiry, release was improper; whether an alibi is true is for the trial court, not the police.
84	Abdul Ghafar v. Ishtiaq Ahmad, Judicial Magistrate-I, Tank, 2012 PCrLJ 1451 (Qaiser Rashid Khan J; 16.2.2012) †	Is a Magistrate bound to accept a final report seeking cancellation of an FIR against police officials?	No. Police officials were accused of killing the deceased and showing it as an encounter; the Magistrate did not agree with the section 173 report asking for cancellation and directed a complete challan. The Court dismissed the quashing application and criticised the practice of police lagging behind when the accused is a police official.
85	Attiq Ali v. The State, PLD 2014 Pesh 116 (Rooh-ul-Amin Khan J; 11.7.2013) †	Can the SHO release a directly charged accused without arrest and delete his name from the challan?	No. Section 169 allows release on bond where evidence is deficient; it does not allow the IO to weigh the accused's defence evidence against the prosecution's direct evidence. Here the SHO exonerated the accused on affidavits supporting an alibi, and the Court called it highly deplorable and a flagrant misuse of section 169.

No.	Citation	Question	Answer
86	Shafiq Ahmad, ASI v. Sher Alam, PLD 2015 Pesh 76 (Ikramullah Khan, Musarrat Hilali JJ; 7.8.2014) †	Is the police bound to register a cognizable case, and must they arrest the nominated accused at once?	Every police official is bound to register a cognizable case under section 154. But it is not mandatory to arrest nominated accused forthwith where there is no likelihood of absconding or tampering with evidence; two versions of an incident cannot be scrutinised in constitutional jurisdiction without evidence.
87	Waqar Ahmad v. The State, PLD 2015 Pesh 218 (Nisar Hussain Khan, Qalandar Ali Khan JJ; 24.12.2014) †	Can a DSP be fined for defective investigation?	Yes. A symbolic fine of Rs 4,000 imposed on a DSP under section 27 of the Anti-Terrorism Act for defective and improper investigation (Police Rule 25.2(3)) was upheld; the abductee later exonerating the accused was no answer, as the officer had failed to take honest steps to dig out the truth. (The same decision is also reported at PLD 2016 Pesh 21.)
88	Pordil Khan v. The State, 2016 MLD 314 (Abdul Latif Khan, Syed Afsar Shah JJ; 22.1.2015) †	Can the High Court interfere with a column No. 2 entry during investigation?	No. The High Court had no jurisdiction to intervene while the case was in the investigation phase. Placing names in column No. 2 does not exonerate; the trial court has the power to summon the accused notwithstanding that they were declared innocent on re-investigation.
89	Ashraf Ali v. Ayaz Ali, 2016 PCrLJN 63 (Assadullah Khan Chamkani J; 15.9.2014) †	What follows when the site plan shows no light for a night attack and impartial witnesses are not examined?	The benefit of doubt. The site plan showed no source of light for a mid-night occurrence, the IO took no bulb into possession, the witnesses did not explain how they identified the accused, and the owner of the house and his friend, who were impartial witnesses, were abandoned. Article 129(g) allowed the adverse inference that they would not have supported the prosecution, and the forensic report was negative.
90	Ghulam Ali v. The State, 2018 YLR 1042 (Ishtiaq Ibrahim J; 31.5.2017) †	Does column No. 2 oblige the Court to grant bail?	No, but it supports further inquiry. Several persons from the locality, including the eye-witness and the persons with whom the accused was present, told the IO of false implication, and he placed the accused in column No. 2; the opinion is not binding on the court, but the material required further inquiry under section 497(2) and bail was granted.
91	Kashif Khan v. Government of Khyber Pakhtunkhwa, 2018 YLR 2239 (Ishtiaq Ibrahim, Ijaz Anwar JJ; 26.4.2017) †	What is a section 173 report on guilt or innocence worth?	A mere opinion of the IO, not binding on the court, and not to be relied on blindly without judicial application of mind and reasons (Arif Ali Khan, 1993 SCMR 187). With two FIRs for one occurrence the Magistrate has three courses: agree and cancel, disagree and order further investigation, or take cognizance under section 190(1)(b); he must give reasons.
92	Tahir Javed v. The State, PLD 2018 Pesh 162 (Syed Afsar Shah, Syed Muhammad Attique Shah JJ; 3.7.2017) †	Can the police re-investigate after the challan has been filed?	Yes. The police have the power to re-investigate if facts require, even after the final report under section 173; re-investigation cannot be allowed when the trial court has finally disposed of the case.
93	Kalimullah v. The State, 2018 PCrLJ 553 (Ishtiaq Ibrahim J; 9.6.2017) †	May the defence cross-examine the IO on the case diary?	Yes, once he has refreshed his memory from the police file. The IO is not a formal witness; he may refresh his memory before testifying, but the accused then has the right to cross-examine him and see the relevant portion of the diary. The revision was disposed of with directions on the IO's examination.
94	Sajid Khan v. District Police Officer, Bannu, 2019 YLR 1838 (Muhammad Nasir Mahfooz J; 4.2.2019) †	May the IO entertain a different version of the incident?	Yes. The IO is free to entertain any number of versions and cannot prematurely commit to any view; he must collect every possible information and report according to the facts found, not merely the FIR allegation. A nominated accused is not arrested as a matter of course.
95	Nasir Khan v. Director, Anti-Corruption Establishment, Khyber Pakhtunkhwa, PLD 2020 Pesh 15 (Ijaz Anwar, Shakeel Ahmad JJ; 8.10.2019) †	Can the Anti-Corruption Establishment drop a case without the Magistrate?	No. The Anti-Corruption Establishment Ordinance and Rules operate in addition to the Code and the Police Rules; for matters not expressly provided, an FIR cannot be cancelled nor a case closed without recourse to the Code. The section 173 procedure applies and it is for the trial court to agree or disagree. The orders dropping the cases were struck down.

No.	Citation	Question	Answer
96	The State v. Subhan Ali, 2020 MLD 1901 (Musarrat Hilali, Sahibzada Asadullah JJ; 27.4.2020) †	When does an appeal against acquittal succeed on weak investigation points?	Not unless there are compelling reasons. The complainant was a chance witness with unnatural conduct, the record was silent about why the accused came, and the Forensic Science Laboratory found the empties fired from one weapon, which belied the claim that two accused fired. The appeal against acquittal was dismissed.
97	Rasool Khan v. Saif ur Rehman, 2021 MLD 745 (Ikramullah Khan, Ijaz Anwar JJ; 25.6.2020) †	What is the position where the police placed accused in column No. 2 for deficient evidence without discharging them under section 169?	The police had placed the names of the accused in column No. 2 on account of deficient evidence but did not discharge them under section 169; the section 173 report went to the Magistrate, who has his own power under section 190(2) to proceed. The complainant's grievance was against the column No. 2 entry in a qatl-i-amd case.
98	Abdur Razzaq v. Irfan Ahmed, 2022 YLRN 108 (Shakeel Ahmad, Ahmad Ali JJ; 19.2.2020) †	Does an unexplained source of information weaken an eye-witness case?	Yes. The complainant was not an eye-witness, did not say who told him of the murder, two persons first charged became eye-witnesses, and the eye-witnesses contradicted each other. The Court held the prosecution had not proved its case and dismissed the appeal against acquittal.
99	Irfan Ali v. The State, 2022 PCrLJ 1222 (S. M. Attique Shah, Sahibzada Asadullah JJ; 27.9.2021) †	What follows when foot-prints are taken at a crowded scene and others are not compared?	Doubt. The tracer separated the foot-print that matched the accused although hundreds of people were present; the IO should have invited the others to compare theirs and did not. The Court held this lack of interest reacted on the veracity of the evidence and allowed the appeal against conviction.
100	Nazr ul Islam v. The State, 2022 YLR 1429 (Ishtiaq Ibrahim, Wiqar Ahmad JJ; 18.5.2021) †	When do defects in the investigation not save the accused?	When the rest of the case is strong. In the murder of an SHO and an ASI, the police eye-witnesses and the owner of the hujra were reliable, the motive (transfer) was proved and not seriously challenged, and the appeal against conviction was dismissed.
101	Mohibullah v. The State, PLD 2023 Pesh 160 (Ishtiaq Ibrahim J; 12.12.2022) †	May a witness read the police record to refresh his memory without laying the foundation?	No. The witness had not said he had a memory lapse or needed a document, and no request was made to lay the foundation under Article 155 of the Qanun-e-Shahadat; the trial court did not follow the acceptable procedure.
102	Mehboob Ali v. The State, 2023 YLR 2579 (Muhammad Naeem Anwar J; 27.2.2023) †	Does the chain rule apply under the 2019 Khyber Pakhtunkhwa Act?	Yes. Under sections 9(d) and 11(c), completeness of the chain is of utmost importance and any break creates doubt about safe custody and transmission, so the positive laboratory report loses its value. No witness said who brought the samples to the police station, when, or to whom they were handed.
103	The State v. Wali Ullah alias Qismat Ullah, 2025 MLD 438 (Fazal Subhan, Dr. Khurshid Iqbal JJ; 18.5.2023) †	What follows when delay is explained in two different ways and the IO does not check?	The delay of about 18 hours was not plausibly explained: the murasila said no transport was available, but in cross-examination the complainant said a curfew was imposed. The IO collected no evidence of either, and the police station was within half an hour's reach. The Court noted the lapse in this appeal against acquittal.

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