

## ACCUSED

Who is? Mere lodging of information against a person does not make him an accused, nor can a person be called an accused against whom investigation is conducted by the police. (SC) PLD 1975 SC 506

Who is not a person proceeded against is not an accused till a process is issued to him under section 204, Cr.P.C. He has no locus standi to appear in Court until he is summoned. (DB) PLD 1965 Lah. 570 (573) Abdul Haleem v. Qurban Hussain.

Single accused. Substitution of an innocent person when a single accused is named in a murder case is a thing of rare occurrence. (SC) PLD 1964 SC 26 Siraj Din v. Kala etc. (SC) 1976 SCMR 528. Rahim Bakhsh. PLJ 1983 SC 19 Muhammad Ayub. (DB). PLJ 1993 Cr.C. (Pesh.) 232, Shaukat Javid.

Substitution of single accused hardly possible when witnesses belong to the place of accused. (DB) PLJ 1981 Cr.C. (Kar.) 531 Kauro.

In case of single accused and occurrence being of broad daylight, held, High Court was not justified in discarding the evidence of eye-witness who could in no case substitute the accused for real culprit. Leave granted by the Supreme Court. 1994 SCMR 944, Mst. Saeeda Begum v. Amjad Ali etc.

Substitution of real culprit for somebody else is a rare phenomenon. Normally close relatives who had witnessed the crime would not let off the real culprit without any cogent reason. NLR 1994 Cr. 411, Mumtaz Khan.

Substitution of real culprit is rare phenomenon. Plea of substitution is to be established by the accused. (DB) PLD 1976 Lah. 101, Shera etc.

False substitution of accused being extremely improbable, guilt had been brought home to the accused, the argument of accused would amount to placing burden on the accused to prove their innocence, and relieve prosecution to prove their case beyond reasonable doubt. (SC) 1976 SCMR 528. Rahim Bakhsh v. Mohd. Iqbal etc.

Large number (53) of accused involved. Offence committed ascribed to much smaller number of accused. Such "widening of scope of accusation" ordinarily creates doubt in the mind of the Court. (SC) PLD 1963 SC 109 Mst. Hamida Bano v. Ashiq Hussain etc. PLD 1963 SC 25. Wasi Ullah.

Exemption from appearing in Court granted u/S. 561-A to the accused by the High Court due to his illness. PLD 1962 Kar. 735. State v. S. Amanat Ali.

Section 353, Exemption of accused from attendance in Court can be granted when accused "incapable of remaining before the Court," under section 540-A, Exemption under this section can be granted for short terms. Under section 205, Cr.P.C. when warrants are not issued accused may be exempted from attendance. Under section 353 exemption may be granted to the accused even if warrants of arrest are issued against him. Privilege of pardanashin woman should not be refused to lady because she is not pardanashin. PLD 1973 Kar. 273 State v. Victor Henry etc.

Presence of accused cannot be dispensed with at the time of the framing of the charge and his examination u/ss. 342 and 340, Cr.P.C. PLJ 1987

Presence of accused can be exempted and charge framed in the presence of his counsel who can plead guilty or not guilty for the accused. PLJ 1988 Cr.. (Kar.) 455. State Bank of Pakistan v. Syed Nazeer Hussain Zaidi etc. Contra PLJ 1987 Cr.C. (Q) 79.

Removal of accused remanded to custody by a Magistrate for a certain period. No valid order for the removal of the prisoner from one province to another produced before Court. Removal of prisoner, held, without lawful authority. 1975 P.Cr.LJ 1413. Ch. Zahoor Elahi.

Lunatic/Insane accused on evidence was found to be suffering from mental disorder and being of unsound mind and at the time of trial was incapable of giving instructions to his counsel and also unable to defend himself. Trial Court did not try the accused as a lunatic under chapter XXXIV Cr.P.C. Conviction and sentence of the accused was set aside and he was sent to mental hospital for periodic examination and upon recovery was directed to be tried afresh in accordance with law. (D.B) PLJ 1996 Cr.C (Pesh) 2008, Afzal Khan.

Co-accused found innocent by Court, other accused ipso facto would not stand acquitted. (D.B) PLJ 1996 Cr.C. (Lah) 1129, Muhammad Akhtar.