

COURT WITNESS

Court witness. Prosecution is duty bound to place all available evidence likely to throw any light on the crime, before the Court. Withholding of such evidence is likely to be treated by the Court to examine such witnesses as Court witnesses. (DB) 1970 Cr.LJ 1330 Muhammad Hussain and others.

Eye-witness to be summoned as court witness u/s. 540, Cr.P.C. when the prosecution abandons him as his deposition is very important for the just and correct decision of the case. NLR 1989 Cr. 573. Imam Hanif v. Tufail etc.

Court witness. Evidence of Court witness rightly preferred by lower Courts, to evidence of prosecution witnesses. (SC) 1974 SCMR 251 Younas Qureshi v. Ghulam Sabri.

Judge to summon material witness when parties avoid to produce them. PLJ 1984 SC 192. Muhammad Azam v. Muhammad Iqbal.

Contradictions, discrepancies improvements, omissions

Trivial contradictions in statements of witnesses held, are of no consequence. (SC) 1978 SCMR 255. Aurangzeb. PLJ 1978 SC 421.

Contradictions and variations by eye-witness who had no enmity to implicate the accused would be excusable due to long lapse of time between occurrence and evidence in court. (DB) NLR 1990 Cr. 267 Faiz Muhammad.

If a witness makes any contradictions, improvements, or other factors which may adversely reflect on his credibility would not by itself be sufficient to reject his testimony as a whole. Court can rely upon a portion of his testimony if it is corroborated by other reliable evidence, or circumstance. 1992 SCMR 1983, Ch. Muhammad Yaqub.

Witness making two different statements u/s. 164 Cr.P.C; in one implicating the accused, in the other completely changing his version in statement u/s. 164 Cr.P.C. Held, statement of such person should be totally discarded. PLJ 1996 Cr.C (Pesh.) 1637; State v, Qazi Talib Mohy-ud-Din etc.

Improvements in statement made by a witness in the Court to strengthen the prosecution case such statements are not worthy of reliance. 1993 SCMR 550, Syed Saeed Muhammad Shah.

Person making contradictory statements cannot be held worthy of credence. PLJ 1981 SC 835 Muhammad Shafiq Ahmed.

Contradictions in cross-examination by themselves do not lead to result that whatever witness has stated on the salient feature of the case and which conforms to other evidence on record is to be thrown out. (SC) PLD 1977 SC 557 Roshan etc. PLJ 1977 SC 412.

Inevitable contradictions. Evidence of witnesses recorded 3 and a half years after occurrence, lengthy cross-examination lasting from 2 to 4 days for each witness, held, certain contradictions between the statements at the trial and earlier statements are inevitable. (SC) PLD 1977 SC 557. Roshan etc.

Contradiction. Impression gained that the contradiction was introduced deliberately. Such contradiction did not affect the case on merits. (DB) PLD 1968 Lah. 964 Muhammad Aslam.

Variations in the statements of prosecution witnesses which do not relate to material part of the prosecuting story or the salient important feature of the case can be ignored. PLD 1995 S.C. 46, Mushtaq alias Shaman.

Minor contradictions in the evidence of a witness are to be overlooked. Only material contradictions are to be considered. 1995 SCMR 1793, Zakir Khan etc.

Variant Statements. Doubts cannot be resolved by mere assumptions regarding the motives by which witness might have been guided in making variant statements. Benefit of such statements must go to the accused. (SC) PLD 1954 FC 197 Qutba v. Crown.

Improvements. When a witness improves his version to strengthen the prosecution case, his (improved) statements subsequently made cannot be relied upon. (DB) PLD 1963 Kar. 805 Hadi Bakhsh.

Improvement. A witness modifying initial case set up in FIR by swelling the number of culprits and modifying the story itself in Court renders discovery of truth difficult. (DB) PLD 1960 Lah. I Subhan Khan.

Witness making improvement and changing version as and when suited. Held, improvements once found deliberate and dishonest cast serious doubt on the veracity of such witnesses. (DB) 1973 P.Cr.L.J. 802 Sher Dil (DB) PLJ 1974 Cr.C. (Lah.) 199 Alam Khan.

Improvements by witnesses to make oral evidence in accord with medical evidence such evidence causes serious doubt about veracity of such witnesses. Held, evidence being of doubtful nature possibility was that the occurrence was unwitnessed. 1984 SCMR 42, Shahbaz Khan Jakhrani v. Lal Beg Jakhrani.

Improvement in evidence. Witness trying to improve his evidence at Sessions stage. No implicit reliance to be placed on the statement of such witness. (DB) PLJ 1981 Cr.C. (Lah.) 429 Ghulam Hussain etc.

When investigation is mala fide and the record shows that the police did not record the statements u/s. 161, Cr.P.C. correctly the court should ignore the contradictions with statements u/s. 161, Cr.P.C. PLD 1969 Lah. 114. Ghulam Muhammad.

Discrepancies regarding distances and direction by P.Ws. in cross-examinations, held no benefit can be given to the accused. PLJ 1988 SC 133 Rehman Gul.

Contradictions in statements of witnesses natural when they are examined after a long period from occurrence. PLJ 1988 FSC 45. Bayazeed.

Contradictions between evidence of witness in FIR and their statements u/s. 161, Cr.P.C. and evidence at the trial I.O. not confronted. Held, case seriously prejudiced. Retrial ordered. NLR 1987 Cr. 738 Abdul Karim.

Minor discrepancies in the depositions of P.Ws. give no good ground for disbelieving independent and disinterested witnesses. (SC) 1971 SCMR 462 Allah Bakhsh v. Ahmed Din.

Minor contradiction and discrepancies between testimony of eye-witnesses and that of other prosecution witness in a murder case do not materially affect the testimony of eye-witness which otherwise appear to be true and genuine. (DB) PLJ 1974 Cr.C. (Pesh.) 582 Bashir.

Minor and insignificant discrepancies in the statements of the prosecution witnesses do not make the evidence unreliable on that score. (DB) PLJ 1976 BJ 39. Allah Yar.

Exaggerations. Mere exaggerations in the statement of witness is no ground for discarding his evidence. (DB) PLD 1963 Kar. 1062 Bachal.

Exaggerated and false. When the prosecution case was held to be false in material particulars and exaggerated accused are entitled to acquittal. (FC) PLD 1955 FC 432 Bhaloo.

Small exaggerations and discrepancies are always ignored in the case of illiterate persons. (DB) 1976 P.Cr.LJ 237. Sharif.

Discrepancies. Minor discrepancies in the statement of a witness are of no importance. (DB) PLD 1959 Lah. 124 Sher Muhammad (SC) PLJ 1978 SC 18 Mokha v. Zulfiqar.

Omissions. Statement of a witness under section 167, Cr.P.C. containing material omissions as compared to his statement in Court. No reliance placed on such statement. PLD 1968 Lah. 49 Amir.

Omissions and discrepancies of not substantial nature, cannot affect the credibility of a witness. Such discrepancies are due to slip because of passage of time. PLD 1958 SC 10. Mokha v. Zulfiqar etc.

Details of injuries. The eye-witnesses are not expected to give details of each and every injury particularly when the number of injuries is very large. (SC) PLD 1976 SC 234. Taj Muhammad Yousaf.

Witness suppressing material fact in favour of the accused. Such evidence must be rejected. PLD 1960 Pesh. 50. State v. Khairur Rehman.

Witness modifying case set up in FIR. by swelling the number of culprits and modifying the story itself in his statement in the committing court, it renders the discovery of truth difficult. (DB) PLD 1960 Lah. 1 Subhan Khan.

Medical evidence conflicting with other evidence. Reliance on ocular testimony is unsafe. (SC) PLJ 1973 SC 23 Bagh Ali. PLD 1973 SC 321. (DB) PLD 1974 Lah. 306 Gharib Alam.

Medical evidence conflicting with oral evidence. Inimical witness deposing that the deceased was fired at from 4 to 10 paces of distance. medical evidence showing tattooing and blackening marks. Accused rightly acquitted by High Court. (SC) 1972 SCMR 644. Zarshad v. Bahadar Khan.

Medical evidence relied on in preference to ocular evidence. (DB) PLJ 1974 Cr.C. (Lah.) 22 Munir. Contra (DB) PLJ 1978 Cr. C. (Lah.) 441. Jafar PLD 1978 Lah. 1209.

Medical evidence in conflict. Prosecution story that each one of the two co-accused fired one shot each hitting deceased. Medical evidence showing bullet entry and one exit wound only. Benefit of doubt given to the accused and acquitted. (SC) 1972 SCMR 578 Darey Khan etc.

Ocular evidence contradicted by medical evidence. Recovery of empties and rifle not proved satisfactorily. Accused acquitted. 1990 SCMR 158 Shah Bakhsh.

Eye-witnesses contradicted by medical evidence cannot be relied upon. (DB) NLR 1990 Cr. 282. Muhammad Achar. PLD 1990 Kar. 314.

With ocular evidence at every step. Pistol recovered from the accused not matching with the crime empty. Accused acquitted. (DB) 1976 P.Cr.L.J. 280. Muhammad Ramzan etc.

Medical evidence completely belying ocular evidence to the manner and the number of injuries on the deceased, held conviction on such evidence cannot be sustained. (DB) 1976 P.Cr.LJ 234 Mangio.
