

EVIDENCE OF DOCTOR

Medico-legal report is covered by term statement is section 32, E. Act (Art. 46) 1975 P.Cr.LJ 957 Muhammad Khan.

Medical evidence transferred to trial Court under section 509, Cr.P.C. Opinion of doctor referring to medical evidence alone is admissible (at the trial when the statement is made before a Magistrate) and none other. Evidence of dying declaration made by deceased before doctor, brought on record of trial Court held, NOT admissible. (DB) 1972 P.Cr.LJ 416 Mohabat etc. (DB) PLD 1978 Kar. 710 Bachal.

Doctor not produced at trial to prove medico-legal report though on file, held, incumbent on prosecution to prove cause of death. Case remanded for doctor's evidence. 1975 P.Cr.LJ 952. Amanat Ali.

Radiologist not examined. Injury declared grievous by the doctor but Radiologist not examined to prove the X-ray report of the injury. Held, accused could not be convicted u/S. 326, PPC. Conviction altered to Section 324, PPC and sentence reduced to already undergone. (DB) PLJ 1985 Cr.C. (Lah.) 140. Zafar etc.

Radiologist not examined in Court about grievous hurt, held, prosecution failed to prove nature of injuries sustained by the complainant, whether grievous or simple. Sentence reduced from 10 years to 5 years R.I. and fine from Rs. 5000 to Rs. 500/- PLJ 1996 Cr.C. (Kar) 1019, Aziz Ullah and another.

to determine whether bone had been fractured. X-ray not proved. Conviction u/S. 325, PPC not maintainable. NLR 1985 Cr. 31. Muhammad Ramzan.

Secondary evidence of doctors having gone abroad, their medico-legal reports proved by head-clerk. No attempt made by prosecution to examine police official entrusted with service of summons issued in the names of the doctors to prove their absence from country. Evidence not considered. (Evidence Act, section 65, Art. 76). 1974 P.Cr.LJ 180 Muhammad Siddiq etc.

Medico-legal report proved by secondary evidence without proving that the doctor making the examination was not available at the time. Held, such medico-legal reports not proved, and not relied upon. 1992 SCMR 408, Sajid Ahmed etc.

Doctor not in country and P.M. report. (Sections 32 (1) (2) and 35, (Evidence Act). Doctor preparing injury report and post-mortem report resigning and going out of Pakistan and not

traceable. Another doctor proving report in handwriting of that doctor. Document prepared in ordinary course of business and discharge of professional duties. Held, admissible as substantive evidence. (DB) PLD 1969 Pesh. 335. State v. Bakhmir etc. (DB) PLD 1970 Lah. 735. Shera etc. (DB) 1973 P.Cr.LJ 1066. Muhammad Shafi.

Medical certificate about illness of accused is not relating to any fact of which it is by law admissible in evidence. Hence conviction under sections 197-198, Penal Code not sustainable. (DB) 1973 P.Cr.LJ 292. Profulia.

Failure to place on record medical evidence; regarding injuries of the appellant cannot deter Court from coming to a correct conclusion as to what might have happened. PLJ 1993 S.C. 292, Irshad Ahmed.

Medical certificate is not a substantive piece of evidence, at best it can be regarded as corroborative, held, the Court had erred in relying on medical certificate without examining the medical officer. PLJ 1992 Cr. C. (Kar.) 233, Sarwar Shakir.

Post-mortem report admissible in evidence, under section 32 (2) of Evidence Act, being a memorandum made in discharge of professional duty. Held, no requirement of such statement being on oath. PLD 1977 SC 14 Siraj-ud-Din v. Misbahul Islam. PLJ 1977 SC 28.

Doctor gone abroad not likely to return in near future. Post-mortem report proved by dispenser conversant with doctor's handwriting. Dispenser not questioned to cast doubt on his statement whether doctor had not gone abroad. Post-mortem report held proved (SC) PLD 1977 SC 14 Siraj-ud-Din v. Misbahul Islam. PLJ 1977 SC 28 = PLD 1958 SC 290 Allah Ditta distinguished.