Determination Of Guilt & Innocence By Police

By

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• **Criminal Procedure Code (V of 1898)**---
  ----Ss. 4(1)(1), 156 & 157--- Investigation---
  Holding guilty/innocent---Powers of Investigating Officer---Scope---Job of a police officer conducting investigation is confide only to collection of evidence which evidence, when collected, has to be placed by him before competent court---Court had the authority and obligation to form an opinion about guilt or innocence of accused person and to adjudicate accordingly---Conceding formation of such an opinion to a police officer would be a grave illegality which could lead to grave injustice and serious consequences.
• Allowing questions eliciting the opinion of an Investigating Officer about the guilt or innocence of an accused person which opinion he was not legally authorized or even allowed to form, was an illegality which could not be permitted.
Qanun-e-Shahdat (10 of 1984)

• Arts. 18, 59, 60, 61, 62, 63, 64, & 65---Fact---Exceptions---Opinion of Investigating Officer---Scope---Evidence at trial or in other proceedings can be led only about facts. Such rule like other rules is not without exceptions and one such exception is envisaged by Arts.59 to 65 Qanun-e-Shahadat, 1984, which accepts even some ‘opinions’ as evidence---Such opinions have to be of persons who are ‘Experts’.
• Investigating officer cannot be accepted as an expert nor investigation, which is conduct able even by an ordinary private person, can qualify as science or even as art--
-Even under the law, opinion of Investigating Officer is not admissible as evidence---
• Neither criminal Procedure Code, 1898, authorizes or allow Investigating Officer to form opinions about guilt or innocence of accused person which is a purely judicial function performable only by a court of law nor Qanun-e-Shahadat, 1984, recognizes opinions of investigating officers as admissible in evidence.
“Investigation”. “Investigation” includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf;
SECTION – 156

• Investigation into cognizable case.

(1) Any officer Incharge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.
(2) No proceedings of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above mentioned.
(4) Notwithstanding anything contained in sub-sections (1) (2) or (3), no police-officer shall investigate an offence under section 497 or section 498 of the Pakistan Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, by some person who had the care of such woman on his behalf at the time when such offence was committed.
SECTION – 202(3)

- If any inquiry or investigation under this section is made by a person not being a Magistrate or Justice of the Peace or a police-officer, such person shall exercise all the powers conferred by this Code on an officer-in-charge of a police-station, except that he shall not have power to arrest without warrant.