

Form No:HCJD/C-121

ORDER SHEET

LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Case No. Writ Petition No.55471 of 2024

Sagheer Ahmad **Versus** Sessions Judge, Kasur & others

S.No. of order/ Proceedings	Date of order/ Proceedings	Order with signature of Judge and that of Parties of counsel, where necessary.
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22.11.2024 Mr. Muhammad Kamran-u-Rasheed Mayo, Advocate
for petitioner.
Mr. Muhammad Nasir Chohan, Addl. Advocate
General.
Mr. Abdul Wahid Ayub Mayo, Advocate for
respondent No.7.

Through this constitutional petition, petitioner has
assailed the orders dated 08.08.2024 and 06.09.2024
passed by the learned Judicial Magistrate 1st Class, Kasur
and learned Sessions Judge, Kasur, respectively, whereby
application moved by the petitioner for re-medico legal
examination of complainant/injured by the District
Standing Medical Board stands dismissed.

2. Heard. Record perused.
3. It has straightaway been observed that according to
the contents of FIR No.576/2024 dated 27.06.2024 for
offences under Sections 337-F (v), 354, 506 & 34 of
Pakistan Penal Code, 1860, registered at Police Station
Theh Shekhum, District Kasur, petitioner/accused caused
iron rod blow on the head of complainant lady that hit her

hand raised to save herself. Perusal of description of given by the Women Medical Officer of MLC No.1188 of 2024 reveals that she was having a sole injury on the back of her left hand and the Medical Officer could observe the availability of swelling without contusion, abrasion or laceration at the given seat of injury. Perusal of the order impugned dated 08.08.2024 passed by the learned Magistrate reveals that reasons which prevailed to decline the application moved by the petitioner for re-medico legal examination are that application was not carrying specific allegation regarding fabrication of injury and mainly that the application was to be moved within twenty-one days. In view of this Court, description of the injury given by the medical Officer, prima-facie, requires re-medico legal examination as according to the contents of crime report the injury was caused with a forceful blow of iron rod, a heavy blunt object but surprisingly injured was not having any contusion, abrasion or laceration on or around the given seat of injury. So far as the ground taken by the learned Magistrate to the effect that the application was to be moved within twenty-one days is concerned, in this regard two letters issued by Government of the Punjab, Health Department, being relevant are being reproduced hereunder:-

“NO. SO(H&D)6-1/90
GOVERNMENT OF THE PUNJAB

HEALTH DEPARTMENT

Dated Lahore the 12th February, 1990

To

The All District Magistrates
in the Punjab.

SUBJECT: CONSTITUTION OF SPECIAL MEDICAL BOARD
FOR RE-EXAMINATION/RE- POST-MORTEM

Government has been constituting various medical boards for 2nd opinion from time to time. It has been noticed that this practice not only consumes lengthy procedures but also leads to unnecessary litigation.

It has, therefore, been decided to constitute the following permanent District Boards for re-examination/re-post-mortem for 2nd medical opinion. The judicial officers may be advised to approach the relevant Boards whenever required. However, such orders may be passed within three weeks of the first examination. The opinion of the respective Boards shall be final. The Board shall only examine such cases on the judicial orders of the District Magistrate.

DISTRICT LEVEL(1)

	Medical Superintendent, D.H.Q. Hospital (concerned District).	Chairman
(2)	District Health Officer (concerned District)	Member
(3)	Surgeon (D.H.Q) (concerned District)	Member

FOR LAHORE

(1)	Surgeon Medico-Legal Punjab	Chairman
(2)	Senior Assistant Professor of Forensic Medicine, King Edward Medical College, Lahore	Member
(3)	District Health Officer, Lahore	Member

(Sd.)
Dr. Abdul Raouf,
Section Officer (H&D)
for Secretary Health.

NO. AND DATE EVEN

A copy is forwarded for information and necessary action to:--

- (1) The Director-General Health Services, Punjab.
- (2) All Directors, Health Services in the Punjab.

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| (3) | All Medical Superintendents,)
Teaching/D.H.Q. Hospitals in)
the Punjab) | A copy of the opinion
be sent to this |
| (4) | The Surgeon Medico-Legal,)
Punjab, Lahore.) | Department for information |

(Sd.)
Dr. Adul Raouf,
Section Officer (H&D).

“NO.SO(H&D)6-/90
GOVERNMENT OF THE PUNJAB
HEALTH DEPARTMENT
Dated Lahore, the 8th February, 1992.

To

All the District Magistrates
in the Punjab.

SUBJECT: CONSTITUTION OF SPECIAL MEDICAL BOARD
FOR RE-EXAMINATION/RE- POST MORTEM.

In continuation to this department letter of even number
dated 12-2-1990 on the above subject.

It is clarified that if the re-examination orders have been
passed by the District Magistrate concerned as a Judicial
Officer after three weeks of first examination they will
supersede instructions issued by Health Department.

(Sd.)
Section Officer (H&D)
for Secretary Health.

NO. AND DATE EVEN

A copy is forwarded for information and necessary action
to:--

- (1) The Director-General Health Services, Punjab.
- (2) All Directors, Health Services in the Punjab.
- (3) All Medical Superintendents, Teaching/D.H.Q. Hospitals in
the Punjab.
- (4) Surgeon Medico-Legal, Punjab, Lahore.

(Sd.)
Dr. Adul Raouf,
Section Officer (H&D).”

In the light of above mentioned two letters, this Court in a case titled Muhammad Anwar v. Dr. Ghulam Murtaza and 5 others reported as (PLD 1998 Lahore 223) has observed as under:-

“4. In the aforesaid letter dated 12-2-1990 the maximum period for medical re-examination was fixed as three weeks which stands enhanced to indefinite period vide letter dated 8-2-1992. The wisdom behind the issuance passed by the District Magistrate as a Judicial Officer for medical re-examination and in this regard he has to hear the adverse party interested in the matter and issue/pass the order containing the facts of the dispute, his reasons and his final decision thereof. The permanent District Medical Boards for re-examination/re-post-mortem for second medical opinion have been constituted in all the Districts in the Province of the Punjab and indulgence of this Court through the issuance of the writ for proposed relief is uncalled for. The petitioner can invoke the assistance of the District Magistrate, Kasur on the judicial side. It shall not be out of place to express that even though the time of three weeks from first medical examination stands enhanced vide aforesaid policy letter dated 8-2-1992 I would observe and hold that the same should be reasonable according to the discretion of the District Magistrate keeping in view the fact that the injuries on the person of injured to be medically re-examined are healed with the passage of time.”

Further reference can also be made to the cases reported as Muhammad Rizwan v. The State & others (2017 MLD 1828) and Maratab Mukhtar v. Government of The Punjab & others (2022 P.Cr.L.J 1293). In consideration of the facts mentioned above, this petition is allowed and

Medical Superintendent, District Headquarter Hospital, Kasur, is directed to ensure a meeting of District Standing Medical Board earliest for re-medico legal examination of injured Mst. Akhtari Bibi, complainant of subject FIR.

Signed on 28.11.2024.

(Syed Shahbaz Ali Rizvi)
Judge

Approved for reporting.

Judge

Nazir