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Modern Practices for Remand in Civil and Criminal Disputes

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Abstract

The Constitution of Pakistan 1973 ensures the fundamental rights including civil and personnel rights of every citizen of country. In civil rights, the privilege of the reasonable trial under Article 10-A of The Constitution and protection against the property under Article 23 of the Constitution are emphasized specifically. Whereas, for regulation of the same, two procedural codes have been adopted i.e. Civil & Criminal Procedure Codes respectively. Wherefrom, former provides mechanism for redress of the civil remedies in respect of personal rights regarding properties, but it takes considerable time owing to multiple factors including remand of matters etc., Similarly, Article 9 & 10 of the Constitution, protects the liberty of the person particularly and in case of curtailing the same the remedy has been provided under the latter code to approach the court of law to ensure the presence of detained person before the Magistrate. Thus, instant paper aims to spotlight the provisions, procedure regarding remand of Civil and Criminal cases and use of the modern devices to ensure the security of the stakeholders of the justice sector vis a vis to minimize the burden on the public exchequer to meet ends of justice.

Keywords: Remand; Criminal Civil Matter; Modern Devices; Pakistan.

1. Introduction

The word “remand” denotes either to return or send back; however, such terminology has been used in legal language, mostly about criminal cases, while sending back to the accused in physical custody to a competent person e.g. investigation officer for completing investigation or to send him in prison that is called judicial remand or custody till completion of his trial or release of culprit on bail. Similarly, the same lingo being practiced in the civil matters as well, in case of sending back (remand) of the “Civil” matter by the appellate Court for retrial or re-hearing of the same mostly to the same Court or any other Court which had earlier decided the Lis, according to the observation of the appellate Court. The remand order mostly being passed either owing to non or miss application of the proper law

alongside non reading or miss reading of the facts and failed to exercise jurisdiction vested. However, keeping in view day to day innovation of modern devices the working style and manner has been reformed and modernized almost in every segment of society, therefore, the applicability of the modern *techniques* in the justice sector has also become inevitable.

2. Research Methodology

This study adopts a qualitative desk-based research approach, focusing purely on existing legal provision and procedural laws enacted both nationally and internationally, to regulate civil and criminal matters. These laws are interpreted by constitutional courts, from the core of the analysis. The methodology primarily involves an extensive review of literature of existing scholarships, including i.e. statutes, case laws, legal and scholarly in the field.

Given the time constraints the research on secondary sources as the primary data set. The analysis is further informed by the author's professional experience and insights, enabling a contextual and practical understanding of the subject matter. This combination of doctrinal legal analysis and experiential reflection provides a comprehensive perspective on the topic.

This paper is an aim to focus on the three areas of modern practices for remand in civil and criminal disputes first, remand in civil cases, remand in criminal cases, and remand & modern practices.

3. Remand in Civil Cases

The journey of a litigation under the law is prescribed as quick as possible, which rather provides commencement and conclusion of the trial without intervals and undue adjournments, but unfortunately it takes a long time in disposal of civil matters owing to multiple factors. Whereas, generally, in our country, the disposal of the civil, revenue, rent and even Arbitration matters usually takes years to years. It spends decades in some cases, wherein the parties to civil litigation even contest their suits from one generation to another. And litigator hardly able to enjoy the fruits of the decree/decision if granted or defeated to false litigation in his life time. It is a time taking exercise owing to multiple reasons, including pendency of cases before the courts beyond internationally prescribed per judge case ratio. (Harrendorf, 2010) A prime example of one of the matters has been reported in media from the recently decided cases by the Apex Court of Pakistan, whereby a hundred (100) years long-standing inheritance dispute of property finally disposed of (Geo news, 2021). The matter was firstly initiated in Rajasthan Court in the year 1918 which pertains to the bequest of 700 acres property located in Bahawalpur, a State that was considered to be part of the Rajputana States before the Partition of Indo Pak. Similarly, the number of cases takes considerable time in the decision of the same nature matters as well, due to shortages of judges and centuries-old legislation and procedural laws, which are even applicable in the 21st century as well in the shape of prevailing Civil Procedure Code formulated back in the year 1908 (Ijaz, 2018). Nonetheless, besides multiple causes of delay in final disposal of the civil matters one of the factor is remand cum sending back of the matter to the trial court or first appellate court for rewriting the judgment, instead of deciding by the appellate courts itself. Though the State has legislated the number of reformative amendments in the Code of Civil Procedure 1908, yet the provision of the "remand" of cases under Order XLI Rule 23 and 25 of C.P.C has not been given much attention. It empowers an appellate forum to "remand" qua send back the lis to the trial Court in case of omitted to frame any important issue or if framed, but the trial Court failed to substantiate material question of fact on that, which was found essential by the appellate Court to be answered to meet the ends of justice which needs to be brought on record by recording of an additional evidence. Needless to say that the

august Apex Court of the country time and again discouraged such practice of remanding cum sending back the cases and emphasized to decide the appeal or revision by the first or second appellate Courts itself, by redressing the grievances of the appellants in case of any deficiency in respect of evidence or findings on any issue depicted in the judgment of trial court, (Fateh Ali Vs Peer Muhammad, 1975). However, the practice of sending back of cases has not been curtailed and same has been continued which remained one of the major reason of delay in the final disposal of the civil cases as well (Law Commission, 2003). Since Rule 23 & 25 of Order XLI C.P.C provides that in case of the decree or dismissal of a suit either on the point of law or fact the appellate Court is empowered to send back the civil matter to the trial Court for recording of evidence. Not to mention in case of failure to adduce the evidence by the parties in the light of pleadings. Similarly in case of failure to determine the issue despite framed but not given findings on the same. Thirdly to allow the aggrieved party to bring the material fact through the oral or documentary evidence expedient for just decision of the case, with the observation to dispose of the suit or matter completely after a retrial on merits. The Apex court held that order of sending back of the case may be passed exceptionally, in case to ascertain question of fact being indispensable for the fair decision of the matter (Mst. Shahida Zareen Vs Iqrar Ahmed Siddique, 2010). It may be mentioned here, that the appellate Court itself is also empowered under Rule 24 & 27 of the Order XLI C.P.C to determine the dispute in suit finally after resettling the material issues including recording of evidence, in case found necessary to be admitted, be it documentary or witnesses related, that can be examined for deciding an appeal finally to meet the ends of justice without remanding or sending back the matter. (Habib Ullah Vs Azmat Ullah, 2007). It has also been provided that an appellate Courts have the same powers of the trial Court as well while deciding the appeal and empowered to finally adjudicate the same instead of sending back/remanding to the trial court, but the same power has hardly been exercised. Whereas, by adopting such practice and invoking Rules 24 & 27 of Order XLI Code of Civil Procedure 1908, not only the costs of litigation can be minimized, which is to be borne by the litigants, in shape of engaging the counsel second on third time etc., at every forum. It would also save the precious time of the parties as well as Courts by deciding the appeals by the appellate Court itself after adducing evidence if so required or if any deficiency being occurred during trial to remove the same. It has been observed by the Supreme Court in the case of in Muhammad Darvish Ali Gillani, 1997 that the sending back of the matter shall not be casually ordered and in case evidence on record is adequate then the appellate Court shall dispose of the lis itself instead of sending it back to the trial court. (Muhammad Darvish Ali Gillani Vs Muhammad Sharif, 1997). It is also observed that the Courts dispensing justice have to keep in mind that an order of sending back re-opens another series of litigation, which not only entails wastage of public time, but also delays disposal of the cases, involves the unnecessary expense of the parties and these vices are seriously detrimental to the justice system. (Arshad Amin V M/s Swiss Bakery 1993 SCMR 216).

It has also been observed, that if in any case in pursuance of an order of remand the subordinate Court decides the case, an appeal against the order of remand does not become infructuous which has to be decided on its own merits and the post remand decision will be subject to the final decision in the pre-remand proceedings. Although in this case the decision rendered in the post remand proceedings by the learned trial Court has been set aside and the suit was pending, yet the appeal was being decided on its merit (Habibullah Vs Azmat Ullah, 2007). Supreme Court, recently in the case Khudadad, has illuminated that the appellate court was fully empowered to compare disputed signatures in a proceeding as persistence of the trial and such authority is co-extensive with the forum of primary jurisdiction (Khudadad Vs Syed Ghazanfar Ali Shah, 2022). Meaning thereby the appellate Court may hold the appeal with it and send back the suit for recording of any piece of evidence only or giving findings on any issue, thereafter finally decide the appeal itself instead of completely remanding the

matter for decision as fresh to the trial court or re-writing of the judgment. Moreover, it is well settled principle of the civil jurisprudence that the appeal is continuation of the trial and an appellate court has almost same powers as of trial court (Mohtarma Benazir Bhutto Vs. The State, 1999). Therefore, it has never been treated separate from the original proceedings and powers of trial court. Particularly section 107 of C.P.C which provides authority to decide an appeal against the decree or appealable order by finally deciding the matter on the material available before. The appellate court may remand the matter for determination of any issue, either framed or by framing as fresh. It can also take additional evidence if so required, instead of reverting the matter to the trial court, which entails additional cost, wastage of time of court and parties. It is reinforced by the Apex Court in *Khudadad* *ibid* that presently I.T has become essential element of human life and its hard to meet everyday activities without use of gadgets i.e Smart phones, laptops, Tablets, downloaded with various applications, therefore it is impressed that the appellate forums shall decide the orders and judgments challenged at their own by use of modern technology devices and adopting e-filing, and electronically hearing through video links, could minimize unnecessary delay in disposal of the matters as prevailing in developed countries. Thusly, by adopting suggestive measures and exercising powers conferred to the appellate court itself instead of following practice of shifting of burden to trial court by sending back the case for mere taking additional evidence, or for retrial or for mere rewriting of the judgment will not only minimize lot of time but save costs to be incurred by a genuine litigator.

4. Remand in Criminal Cases

The term “remand” is well known to common people generally and to persons having legal knowledge of criminal jurisprudence or acquainted with criminal law as student, practicing lawyers, accused or complainant of criminal case particularly, which means to send back. It is basically pre-trial incarceration of the person/accused of cognizable crime, for the purpose of completion of the investigation or trial of the case as well as appeal, particularly in heinous offence which are scheduled as non-bailable and punishable more than three years, or upto death or life imprisonment (Gordian & Cloete, 2013). Generally, the prisoners or remanded accused are considered as UTP (under trial prisoners), un-punished/sentenced inmates who are awaiting, while confined, completion of investigation or commencement of his/her/their trial. Needless to emphasis, such a word i.e Remand, has not been cited specifically, either in the Article 9 of Constitution of Pakistan 1973, or Section 167 & 61 Cr. P.C, yet it is mentioned in Section 24 of the National Accountability Bureau Ordinance 1999, & Section 21-E of the Anti-Terrorism Act 1997. Nonetheless, use of word Remand is in practice since long in criminal cases as and when the culprit being arrested in pursuance of any FIR against him and produced before the Magistrate.

Moreover, the liberty of the person has always been remained a focused issue globally as well as nationally and every possible step being taken and ensured by the States to guarantee the freedom of person in the light of United Nations Declaration on Human Rights 1948 came into being after IInd World War. It includes Article 1 that is regarding status of human being as born free, equal and having dignity. Besides that, Art-3 (Read with Article 09 of the Constitution of Pakistan, 1973), provides right to liberty with life of person and security. Declaration as ensure in Article 9 (read with Article 10 of Constitution of Pakistan, 1973) that no person should be arrested arbitrary or kept in detention. It also provides vide Article 11 that if any one charged under any penal law shall be deemed to be innocent until proven otherwise after fair trial publicly. The UNDHR 1948 also envisaged that one has remedy under law before the competent forum against the lawlessness of basic rights (UN Universal Declaration of Human Rights, 1948). Similarly, European Convention on Human Rights Art: 6 (2) and European Union Charter of Fundamental Rights Art: 48 (1) provides regarding status of the person as

innocent till proved guilty. (Maier, 2004). It is therefore, to keep any person or accused even in lawful custody, without being proved guilty has also been discouraged under various treaties, yet its imperative keep peace, tranquillity and safety of the person qua victim to arrest and remand the culprit in police of judicial custody. (Berry, 2011).

It is well settled principle of the criminal jurisprudence, that every person charged under any offence is deemed to be innocent until proven guilty, yet he has to be detained until granted bail (if) arrested or completion of the trial, even in some cases till decision of appeal by Apex Court. Though pre-trial detention has been considered worst kind confinement owing to incarceration without being proven guilty, yet one has to undergo the same in case of having sufficient information or accusation against him to arrest him. Particularly the arrest of the accused become inevitable when the offence is serious or gruesome, likelihood of his abscondence and tampering with the evidence.

Whereas, the word “remand” has been used and pertain to the legality of the arrest of the person when any culprit or person being arrested U/s 61 Cr.P.C., by the police officer in a cognizable offence with or without obtaining the warrants of arrest him, nevertheless such person ought to be produced before the Magistrate having jurisdiction within twenty four hours of his apprehension U/s 167 Cr. P.C, section 24 of NAB Ordinance 1999 and section 21-E of ATA 1997 respectively.

The objective of obtaining and granting of the physical remand of the accused is only and only for the purpose of completing investigation, that too on exceptional grounds, which otherwise not achievable except in person of accused. Secondly it has been emphasised that if the grant of remand is inevitable then it shall not be for longer period. Accused may not be compelled to confess the crime or allegation against him. And in case of confession he shall not be given in Police custody, but in the prison till completion of rest of the inquiry into the crime, grant of bail or commencement of the trial. (Khalid Zafar Associates). It has also been impressed upon the Magistrates not to grant remands without presence of the culprit and his apparent physical examination to ensure his safety from torture, including mental, physical or psychological tactics in the name extracting truth from the culprit by keeping him away from family, and lawyers (Samajpati, 2022). Besides, the right of fair trial begins from his first appearance before court and in Ghulam Sarwar it has been retreated the accused must be afforded opportunity of hearing (Ghulam Sarwar Vs The State, 1984).

Nonetheless, the essence behind producing an arrested person, accused or suspect before the Magistrate firstly is to ensure his right against an illegal detention, secondly to authorize a Police officer regarding ensuring the legality of the arrest qua custody of the person arrested in a cognizable offense as contemplated Under Article 9 (2) of the Constitution of Pakistan, which provides that “every individual who is being detained or apprehended should be produced before the Magistrate within 24 hours of his detention”, discounting the period needed for the traveling from the place of detention to the nearest Magistrate and such person cannot be incarcerated in detention more than such time without the permission or order of a Magistrate. Whereas, section 167 Cr.P.C., has been enacted to regulate the constitutional provision to authorize the detention of the person which envisaged the process in case of incompleteness of investigation within stipulated period provided under the provision. It also provides that whenever any individual is detained and enslaved and it seems that the inquiry cannot be finalized within the stipulated time under Section 61 Cr.P.C, so also there are reasonable grounds for believing that the allegation or evidence is rational against the suspect, the investigation officer or SHO if he is not below the rank of sub-inspector, should immediately produce the accused before nearest Magistrate coupled with a copies of the entries in the station/case dairies (*zimani*) relating to the case.

At both the international and national levels, along with numerous principles of the criminal justice system, the fundamental principle regarding the remand of an accused is that, in the case of a cognizable and non-bailable offence, placing the person under custody and handing them over to police remand or

sending them on judicial remand is a guarantee of the credibility of the justice sector and the assurance of justice. Secondly, it ensures the protection of the community. Thirdly providing help, care and safety of the rights of the victim or complainant, after the commission of the crime. (Wendell C. et al, 2020). Otherwise there will be great apprehension of retaliation by the complainant, who may take law in own hands to take revenge in case the culprit set free. There is also apprehension of tampering of the evidence by the accused prior to commencement of trial and producing before court, if the culprit set free, or he may also repeat of the same crime if not detained soon after commission of earlier (Mehmood, 2019) see section 497 Cr.P.C.

Apart from above the term “arrest” of a person is explained U/Section 61 of the Code of Criminal Procedure, 1898 which provides that a person arrested not to be incarcerated beyond twenty-four hours. It also envisaged that no police officer shall detain in custody any person under arrest without having a warrant for a longer period stipulated under the law i.e 24 hours in all circumstances. Furthermore, the freedom of a person cannot be withheld without affording him an opportunity of hearing before Magistrate or Court at the time of dealing remand proceedings rather it has to ensure the legal rights available under the law i.e access to counsel, safeguard from torture during pre and post remand (The State VS Additional Sessions Judge, Islamabad High Court, P Cr.L.J 83, 2023).

Nonetheless, there are two types of remand i.e. physical or judicial remand. In both conditions, the accused has to be produced before the area Magistrate either for obtaining physical custody of the accused for investigation, interrogation and completion of investigation or judicial remand in case of completion of the investigation for commencement of trial or until release on bail. However, in many cases, Police do not request for the physical remand of the culprit such as in bail-able offences, recovery of the weapons, recovery of narcotics cases, or in any other crime of like nature, wherein physical custody of the accused does not require for the investigation/interrogation. However, discretion vests, with the Magistrate either to grant or refuse the physical remand of the accused keeping in mind the facts and circumstances of each and every remand request in any case, which in the present scenario cannot be granted without physical appearance of the accused before the Magistrate within 24 hours of his arrest in compliance of section 61 Cr. P.C.

Moreover, the apex and high Courts of the country have interpreted Article 09 of the Constitution of Pakistan 1973, alongside Section 61 & 167 of the Cr.P.C and given guidelines for the Courts/Magistrates to be observed by them while dealing with the remand of the accused particularly in the various reported cases that the Magistrates shall not grant remand automatically on the request of police (Farooq Badar VS Inspector General of Police West Pakistan, 1969) and (Muhammad Siddique Vs Province of Sindh, 1992). Similarly, it was also observed that the remand shall not be granted without the appearance of the accused and in case of grant of the same deemed to be illegal (Senator Asif Ali Zardari VS State, 2000). So also the Magistrate shall not pass remand orders without applying his mind and exercise the powers with due care and caution and do not mechanically exercise the jurisdiction (Abdul Majid VS Abbas Hussain Shah, 1995). Likewise, it was held that the Magistrate while passing remand order is under obligation to comprehend that either remand is to be granted or not and shall not grant the same without the appearance of the accused (The State VS Nasir Javed Rana, Civil Judge 1st Class / Magistrate Section 30 Rawalpindi, 2005). It reflects that the Constitutional Courts have emphasized upon the appearance and hearing of the accused at the time of granting remand and discouraged the practice of granting remand in a slipshod manner, without reasons and satisfying himself the grounds of the same by application of mind thus, unequivocally the physical appearance and hearing of the accused at the time of passing remand is a sine qua non, for remand proceedings and Magistrate/Court has to ensure both the significant ingredients while passing the order of the remand.

Since the society comprises on various components including men, women and children, therefore the law has also not let in vacuum the status of the weaker members of the society i.e women and children and ensured their rights and privileges to bring them at par with the dominant class of the society i.e. men. It is therefore, special care and caution being taken by the legislative authority, while framing the provision of the remand particularly to the extent of women and children as well in case of any allegation of heinous offences i.e Murder and dacoity see provision 167 of Cr.P.C. Not to mention, there are number of penal offences are scheduled as bailable in respect of women and children, which otherwise are non bailable e.g. punishable up to three years. Thusly underline ingredient of section 167 Cr.P.C provides that a woman may not be interrogated in absence of lady police official in case of investigating officer is male. She ought to be interrogated in presence of female police official by making special arrangements. She shall not be kept in prison or lockup with male accused persons. Similarly, the same kind of care being ordered in case of accused is juvenile, with provision of their separate cells and wards in the prisons in case of remand of the juvenile accused persons. There is also provision of probation enacted vide Probation of Offenders Ordinance, 1960 to release the juvenile instead of keeping in custody and if kept he ought to be tried separately and expeditiously. Apex Court in Raja Azmat Ali has enlightened recently for enforcing the probation laws regime to ensure fundamental right of a inmate as provided under Article 9, 10-A, 14 & 25 of the Constitution. (Raja Azmat Ali Vs Abu Malik Naseem, 2023).

5. Remand & Modern Practices

Since, the use of modern devices and applicability of the technology has become part and parcel of every person and department including judicial system and justice sector, in the shape of use of the computers, printers, scanners, cameras and internet etc., which were not in use previously in a conventional judicial system. More importantly, Qanun-e-Shahadat Order, 1984 under article 164 of authorizes to the Courts to take and admit the evidence, that is available through modern equipment, techniques, and devices. However, some care and caution required to be adopted by the Courts in the light of dictums laid down by the august apex court in various reported cases. As it was observed in Muhammad Shahid Sahil case that a court may allow producing any proof presented through modern techniques or devices under article 164 of Qanun e Shahadat Order 1984 (Muhammad Shahid Sahil VS The State, 2010). So also, in the recent past, the Supreme Court of Pakistan has held that in the era of technology, where everything is being communicated including the business of different types practiced online and in such age of technology emphasizing on the pattern of practicing the thing as it happens to be done in the year 1898 will tantamount to set out naught the dynamics of scientific and modern technologies prevailing which not only facilitated to human beings from consuming hard work rather also made things convenient for enhancing quality and quantity of work (Application by Hussain Nawaz Sharif, 2019) & Khudadad ibid

Moreover, the honorable Islamabad High Court has also recently permitted to take evidence online through Skype/video link and observed that the evidence of the witnesses should be recorded online who shall present in the office of High Commission London. It was further observed that the High Commissioner of Pakistan shall make sure that the persons giving evidence are not being pressurized, under influence, or under coercion, while deposing, so also High Commissioner shall verify their identities accordingly (Mian Muhammad Nawaz Sharif V.s The State, 2018). Besides foregoing case laws, Apex Court, as well as High Courts of the country, have adopted the practice of hearing of cases online, through video link particularly in the days of pandemic COVID-19. Further in case of a request by any counsel for online hearing, who unable to appear physically before the Court physically owing to his presence in any other city. In such era of use of technology, the physical

appearance of the accused at the time of obtaining remand can also be adopted/practiced online through video link/Skype/WhatsApp/Google meet/Zoom etc., to save the precious time of the parties, Courts. In order to minimize the burden on public exchequer in shape of transportation to be incurred in the production of the accused from Police Station to the court vis a vis the issues of the security of the Courts, accused, police officials and litigants can safely be ensured instead to present the accused physically before the court even where physical custody of the accused is not required to the investigation officer for interrogation.

It will be out of place to mention here, that in the recent past when the Islamabad High Court and District Courts of Islamabad in F-8 Markaz have been compelled to close for short span owing to the law and order situation that surfaced after the demolition of the Lawyer's chambers and one section of them made hostage to His lordship along with Honorable Judges of the High Court, after attacking upon the then Hon'ble Chief Justice block as well his lordship's chamber and caused damage to the District Courts and made dysfunctional to the courts for two days. Not to mention, unfortunately such kind of incidents has become routine in some cities of country by the legal fraternity. Besides during the days of the 1st and 2nd wave of the pandemic COVID-19, the courts were not functioning regularly, and work from the home policy was adopted by various departments, yet the constitutional requirement regarding the liberty of person and ensuring his human rights could not be avoided vis a vis security of the learned Magistrates, Lawyers, accused, and law enforcement agencies required to be ensured. Thusly in such an un-precedent time of history, the use of modern devices and technology has become inevitable, rather the same is an appropriate tool to ensure the applicability of the law and security of the stakeholders of the justice sector. Needless to say, that Skype and email IDs have been created for each court during the first wave of the COVID-19 in Islamabad District East Division for online hearing in cases of emergent nature. Hence, such kind of IDs can easily be created and utilized, just to examine the physical condition of the accused and affording him an opportunity of hearing along with Investigation Officer over grounds of the physical or judicial remand respectively, by producing an accused before the Magistrate through video link (Skype, Google Meet, Zoom, or WhatsApp number), and remand papers can be placed through one Naib Court (Court Assistant) or Court official before the learned Magistrate in the Courts for passing order.

Whereas, in case of a judicial remand request, the accused can be sent to judicial remand by examining and hearing him online from the ID of the Police Station concerned by ensuring his pre and post medical examination, as well as the Court by sign in from the ID of the Court/Magistrate, instead of producing to an accused or suspect in person to avoid any kind of untoward incident which often reported at the time of remand proceedings especially in high profile cases including blasphemy, religious hatred cases. Needless to say, the worthy District and sessions judges East and West have already designated E-Magistrates by establishing e-courts during pre-trial proceedings for ensuring presence of UTP in presence and authorizing the custody of the accused U/S 344 Cr.P.C. during his judicial remand till submission of their Final Report U/S 173 CrPC (challan) as provided U/s 167 (2) Cr. P.C to minimize the load on prison vans and the unnecessary appearance of the accused persons till the commencement of their trial.

Moreover, by adopting such a mode of practice to authorize custody of the accused online not only huge burden over the public exchequer in shape of transportation, will be saved, alongside the security of the stakeholders of the justice sector will be ensured as well, especially when we are passing through exceptional times of the history on both counts firstly due to pandemic COVID-19, secondly, the law and order situation surface particularly in the Metropolitan cities which are already overpopulated owing to the protest of political parties or other sectors of the societies. Besides that, the dictum of the apex courts in respect of grant and refusal of the remand and guidelines can safely be

observed by adopting modern tools to meet the ends of justice which mainly emphasize the hearing and presence of the accused without incurring additional funds. Whereas, there is no impediment appears in adopting such practice when almost everything is turning towards online including the hearing of the cases and recording of evidence in special cases through a video link by the apex Courts of Pakistan, so also permitted to the District judiciary to the extent of recording evidence only so far.

6. Conclusion

Remand, whether civil or criminal, has become a chronic source of delay in Pakistan's justice system. While the Constitution guarantees fair trial and personal liberty, outdated procedural codes invite repeated remands that prolong litigation and pre-trial detention. Civil appeals are too often sent back for re-hearing instead of being decided on the existing record, and criminal remands are granted mechanically, straining prisons and public finances. Courts have repeatedly urged appellate benches to exercise their full powers to decide cases without remand unless strictly necessary. The COVID-19 experience and recent high-court precedents show that modern technology—video hearings, e-filing, and secure digital transmission—can safely replace physical production of accused persons and paper-based re-hearings. Embracing these tools will shorten proceedings, cut costs, and better protect the rights of litigants and accused alike, aligning Pakistan's remand practices with contemporary standards of efficiency and human-rights compliance.

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