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cases of uncertainty  
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In *Sadik Husain v. Hasin Ali*, the Privy Council observed that no statement made by one man that another, who is proved to be illegitimate but where no proof of that kind is given, such a statement or acknowledgement is substantive evidence that the person so acknowledged is the legitimate child of the person who makes the statement, provided that his legitimacy is possible. The acknowledgement of paternity may be express or implied. In *Md. Azmad v. Lalli Begum*, the Privy Council opined that there need not be any proof of an express acknowledgement, but that an acknowledgement of a child by a Muslim as his child may be inferred from his having openly treated him as such. The following conditions are necessary for a valid acknowledgement: (i) The paternity of the child should be doubtful, i. e. , it should be proved nor disproved that the child is illegitimate. If the child is known to be illegitimate, it cannot be acknowledged to be legitimate. In *Md. Alladad v. Md. Ismail*, Mahmood J. said: “ The Muhammadan law of acknowledgement of parentage with its legitimating effect has no reference whatsoever to cases in which the illegitimacy of the child is proved and established, either by reason of a lawful union between the parents of the child being impossible (as in the case of an incestuous intercourse or the adulterous connection), or by reason of marriage necessary to render the child legitimate being disproved.

The doctrine relates only to cases where either the fact of the marriage itself or the exact time of its occurrence with reference to the legitimacy of the acknowledged child is not proved as distinguished from disproved. In other words, the doctrine applies only to cases of uncertainty of as to legitimacy, and in such cases acknowledgement has its effect, but that effect always

proceeds upon the assumption of a lawful union between the parents of the acknowledged child". In this case, T, a Muslim, died leaving behind three daughters A, and C, and two sons P and Q. All of them were children of the same mother, M. It was an established fact that A, B and Q were born to T and M after their marriage. But it was not certain that P was born to M when she was married to T. F brought a suit against A, B and Q for his share in properties of T. It was established that during his life time T had acknowledged P as his legitimate son, that there was no proof of paternity of P, though it was established that there was no legal impediment in the marriage between T and M, and that it was not proved that P was the offspring of zina.

On these facts court held that since P was acknowledged by T as his child, P has the status of a legitimate son. (ii) The acknowledger must acknowledge the child as his legitimate child not and just as his child. However, the ordinary rule that when one person calls another as his son or daughter, he means to call him as his legitimate son or daughter, applies.

But a casual acknowledgement of paternity not intended to confer the status or legitimacy, will not be enough. The intention to confer the status of legitimacy must be clear. (iii) The ages of the acknowledger and the acknowledged person should be such that they appear to be the father and the child. There appears to be some authority for the view that the acknowledger should be at least twelve and a half years senior to the person acknowledged. (iv) The person acknowledged must not be the offspring of adultery, fornication or incest (zina).

This is, in fact, a corollary of condition one. In all those cases, where the legal marriage between the acknowledger and the mother of the acknowledged person is not possible at the time when this child could have been conceived, then such a child is a child of zina and cannot be acknowledged as a legitimate child. Thus, in all those cases where the marriage of the acknowledger and the mother of the acknowledged person would have been void, had it taken place, the child cannot be validly acknowledged a legitimate child. In *Rashid Ahmad v. Anisa Khatun*, the child acknowledged was the issue of marriage between the divorced persons. The husband had repudiated the marriage in talak-ul-bidaa form and no intermediate marriage and divorce of the woman took place. Thus, the marriage was void. Similarly, where the acknowledger's marriage with the mother of the person acknowledged was within the prohibited degrees—prohibitions might be on the ground of consanguinity, affinity or fosterage,—the marriage being void, no valid acknowledgement can be made.

The same is true of the case where it is proved that no marriage took place between the acknowledger and the mother of the acknowledged person when the child could have been begotten; the child in such a case will be the issue of fornication, and, therefore, no valid acknowledgement can take place. But if the marriage is found to be irregular, the child will be legitimate.

(v) The paternity of the person acknowledged must not be established in anyone else (vi) The acknowledgement must not be repudiated by the acknowledged person. Under Muslim law a person who has attained the age of discretion i. e., ability to understand the transaction, has a right to repudiate the acknowledgement.

Conversely, the acknowledger, who is of the age of discretion can confirm it or acquiesce in it. But for the validity of acknowledgement of paternity, no confirmation by the person acknowledged is necessary. Once an acknowledgement of paternity is made, it cannot be revoked. When a valid acknowledgement of paternity is made, the following consequences flow from it: (a) It raises a presumption of valid marriage between the acknowledger and the mother of the person acknowledged.

(b) The acknowledger and the acknowledged person have mutual rights of inheritance; (c) The mutual rights of inheritance also arise between the acknowledger and the mother of the acknowledged person. Mere acknowledgment of plaintiff as foster son would not make him legitimate son thus giving him share in suit property.