
(1924) 03 AHC CK 0033

Allahabad High Court

Case No: None

Musa

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision: March 19, 1924

Acts Referred:

- Penal Code, 1860 (IPC) - Section 323
- Probate and Administration Act, 1881 - Section 89

Citation: 81 Ind. Cas. 719

Hon'ble Judges: Dalal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Dalal, J.

After a trial had commenced on a complaint u/s 323 the complainant died. It is argued here that the prosecution ought to have abated in consequence. The learned District Magistrate has quoted a ruling of the Madras High Court [Muhammad Ibrahim Sahib v. Shaik Davood 65 Ind. Cas. 519 : 44 M. 417 : 40 M.L.J. 351 : 13 L.W. 379: (1921) M.W.N. 227 : 23 Cri. L.J. 17 : 30 M.L.T. 349, in which this point has been fully considered, and the Punjab rulings quoted by the learned Counsel for the applicant were dissented from.

2. I agree with the reasoning of the Madras High Court and hold that a criminal prosecution u/s 323 of the Indian Penal Code does not abate by reason of the death of the person injured. One of the learned Judges of the Madras High Court has exposed the absurdity of applying to criminal proceedings the provisions of Section 89 of the Probate and Administration Act. This application is dismissed.