

**Musa Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/480615](http://sooperkanoon.com/480615)

**Court :** Allahabad

**Decided On :** Mar-19-1924

**Reported in :** 81Ind.Cas.719

**Judge :** Dalal, J.

**Appellant :** Musa

**Respondent :** Emperor

**Judgement :**

**Dalal, J.**

1. After a trial had commenced on a complaint under Section 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 Cr. L.J. J17 : 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 under Section 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.

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