

Abatement

Actio personalis moritur cum persona. Maxim does not apply in non-cognizable offences. Trying magistrate has discretion in proper cases to allow the complaint to continue by a proper and fit complainant if the latter is willing. **(DB) AIR 1926 Bom. 178 = 93 IC 891=27 Cr.L.J. 491.**

Death of injured person or complainant does not terminate or cause to abate criminal proceedings once legally instituted whether upon a complaint or **otherwise (DB) AIR 1922 Lah. 227=2 Lah. 27=59 IC 918=22 Cr.L.J. 166.**

Case under section 323, PPC does not abate by death of injured person. AIR 1924 All. 666 = 81 IC 719 = 25 Cr.L.J. 1007. Musa v. Emp. Contra. A.I.R. 1917 Lah. 403 = 26 P R 1917 = 40 I.C. 1008 = 18 Cr.L.J. 688. Rama Nand v. Emp.

Complainant's death in summons cases at the stage of arguments, complainant's brother equally interested in the matter, he can be allowed to carry on the case. (DB) I L R (1947) I Cal. 99. Munir-ud-Din v. Kasam-ud-Din. AIR 1943 Pat. 379 Panchu Swami v. Emp.

Appellant acquitted after his death for offence under section 161, PPC. Held, the appeal did not abate under section 431, Cr.P.C. as the appellant had been sentenced to fine of Rs. 200/- NLR 1985, Cr. 557 Saeed Ahmad.

Criminal revision. The same principle applies as in appeals. 20 Cr.L J 214 in re Daulat Ram.

Imprisonment and fine. Accused appellant sentenced to imprisonment and fine dying during the pendency of appeal. Held, appeal did not abate, legal heirs could challenge conviction on merits (SC) 1971 SCMR 35 Dr. Ghulam Hussain.

DEATH OF ACCUSED

S. 431---Penal Code (XLV of 1860), Ss.409/420/467/468---Prevention of Corruption Act (II of 1947), S.5(2)---Upon death of accused, his appeal to the extent of a portion of sentence of an imprisonment, would abate, whereas the appeal to the extent of sentence of fine,

affecting the property of accused, would not abate---(2011 PLD 40 QUETTA-HIGH-COURT-BALUCHISTAN) MUHAMMAD SALEEM vs State

-Any "action" might abate on the death of a party but cause of action might survive his death---"Death" in such context did not mean a civil death---Irrespective of the nature of proceedings whether criminal or civil, it was the nature of cause of action which could determine its survival---Predecessor-in-interest of petitioners was seeking enforcement of his service/civil rights—(2006 SCMR 1287 SUPREME-COURT) Mst. ITRAT ZAHIDA and others Vs PRESIDENT, A.B.L.