

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 1676 of 1999

Date	Order with signature of Judge
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1. For Maintainability of suit.
2. For arguments.

05/11/2013:

Mr. Gazain Magsi, Advocate for the plaintiff.

Ms. Saima Muhammad Jamil Advocate for Mr. Shaffat Hussain, Advocate for the defendant.

The plaintiff is reported to have died. The counsel for the plaintiff has tried to inform about the pendency of this suit to the legal-heirs of the plaintiff but could not contact them. Since this is a suit for damages for filing malicious proceedings, defamation and mental torture the question raised by the Court on the last date of hearing i.e. 13.2.2013 was to the effect that whether the cause of action of a suit of malicious prosecution can be survived after the death of the plaintiff. Principally, both the learned counsel were agreed that no such cause of action is left to prosecute this case. Today learned counsel for the defendant has placed reliance on the case of A. MAJID SAMA VS. THE ASBESTOS CEMENT INDUSTRIES, LIMITED AND ANOTHER (1996 MLD 803) wherein a similar question was raised that whether a suit for damages on account of alleged defamation can be continued in the event of death of plaintiff. The question was answered in the reported judgment in affirmative that cause of action in such like cases does not survive on the death of the plaintiff and the suit stand abated. Relying on the same case law this suit is dismissed as abated.

JUDGE