

# Dying Declaration

Swati Thapa

Law College Dehradun, Uttranchal University

Isha

Law College Dehradun, Uttranchal University  
Dehradun, India

---

## Abstract:

Dying declaration has been a crucial evidence which cannot be neglected as at times the deceased is the sole witness hence the dying declaration is an important piece of evidence which cannot be ignored. This research extensively highlights the main aspect of a dying declaration i.e., the scope, the forms and the admissibility of such statements in the court of law and also the exceptions to the dying declaration. It argues that the veracity and trustworthiness of the dying declaration varies from fact to fact. In addition, lack of consistency makes a dying declaration vulnerable to the situation of inadmissibility

---

## I. INTRODUCTION

Dying declaration is any statement made by the deceased stating the cause of his death or stating the circumstances which resulted in the death of the victim. Dying declaration is admitted as evidence under Section 32(1) of Evidence Act, 1872. This section describes what class of statements of relevant facts made by persons which can't be called as witnesses can be proved.<sup>1</sup> The principle on which dying declaration is admitted is stipulated in the legal maxim "*Nemo moriturus praesumitur mentiri*"- man will not meet his maker with a lie in his mouth. This principle is based on the fact that a dying man would not falsely implicate an innocent person. But it to be noted, that an oath and cross-examination is not possible in such cases and so before relying on dying declaration or admitting such statement as legal evidences the court must invoke full confidence as held in the case of *K. Ramachandra Reddy vs. Public Prosecutor*,<sup>2</sup> and should not be a result of prompting, tutoring or a product of imagination.

## II. MEANING AND SCOPE OF DYING DECLARATION

A dying declaration is mostly introduced by the side of prosecution but can also be produced as legal evidence by the side of the accused. A dying declaration can be in the form of writing, oral statement, signs and gestures. In the English law a statement comes under the ambit of dying declaration only then, when the victim is expecting an imminent death and only is admissible when the victim has the full apprehension of his impending death, the admissibility of such statements are made under the principle that an impending death creates the same feeling in the mind of the victim as that of a virtuous man under oath. But the Indian

---

<sup>1</sup> C.D. Fields's, (Commentary on law of evidence" 2408 (13<sup>TH</sup> ed., Vol 5)

<sup>2</sup> 1976 (3) SCC 618

law distinguishes from the English law at this point, in Indian Law dying declaration need not be made under the expectation of one's death, as mentioned in section 32(1) *when the statement is made by a person as to the cause of the death, or as to any of the circumstances of the transaction which resulted in his death...* in the case of *Pakala Narayan Swami vs. Emperor*<sup>3</sup> it was held that the letters given by the deceased to his wife before going to the place where he was killed was relevant to his death and so comes under section 32.

### III. FORMS OF DYING DECLARATION

No specific form of dying declaration has been prescribed but it is of utmost importance that a dying declaration retains crucial factors. A dying declaration can either be oral or in writing, and that any adequate method of communication, whether the use of words, sign<sup>4</sup> or otherwise will suffice, provided that the indication is positive and definite. There is no requirement of law that a dying declaration must necessarily be made to a Magistrate and when such statement is recorded by a Magistrate there is no specified statutory form for such recording. Consequently, what evidential value or weight has to be attached to such statement necessarily depends on the facts and circumstances of each particular case. What essentially is required is that the person who records a dying declaration must be satisfied that the deceased was in a fit state of mind.

<sup>5</sup> It may be in the form of question and answer and the answers being written in the words of the person making the declaration.<sup>6</sup>

### IV. HEARSAY RULE- DYING DECLARATION AS ITS EXCEPTION

The general rule is that hearsay evidence is inadmissible. Dying declaration is an exception to the rule<sup>7</sup>. The principle of dying declaration is based on legal Maxim "*nemo moriturus proesmitur mentim*"- a man will not make his maker with a lie in his mouth.<sup>8</sup>

Lord Chief Justice Baron Eyre (*R v. Woodcock*<sup>9</sup>), expressed his view relating to dying declaration as follows:

".....that they are declarations made in extremity, when the party is at the point of death, and when every hope of this world is gone: when every motive to falsehood is silenced, and the mind is induced by the most powerful considerations to speak the truth; the situation so solemn and so awful, is considered by the law as creating an obligation equal to that which is imposed by a positive oath administered in a court of justice..."

Sec-32 is an exception to the rule of hearsay and makes admissible the statement of a person who dies,

<sup>3</sup> 1939 41 BOMLR 428

<sup>4</sup> *Queen- Empress v Abdulla* 1885 ILR 7 ALL 385

<sup>5</sup> *Laxman v State of Maharashtra* AIR 2002 SC 2973

<sup>6</sup> *Ramilaben Hasmukhbhai khristi v. State of Gujarat*, (2002) 7 S.C.C. 56 at p.68

<sup>7</sup> Ratanlal & Dhirajlal, "the Law of Evidence", 568 (23<sup>rd</sup> ed, 2011)

<sup>8</sup> C.D. Fields's, (Commentary on law of evidence" 2413 (13<sup>TH</sup> ed., Vol 5)

<sup>9</sup> (1789) 1 Lea 507

whether the death is homicide or a suicide, provided the statement relates to the cause of death, or exhibits circumstances leading to death.<sup>10</sup> However, where the hearsay statement of a witness is not covered by any of the sub-sections (1) to (3) of Sec- 32, Evidence Act such hearsay evidence can't be accepted.<sup>11</sup>

## V. INVOCATION AND APPLICATION OF SEC-32

To attract the provisions of Sec-32, the prosecution is required to prove that the statements were made by a person who is dead or who can't be found or whose attendance can't be procured without any amount of delay or expense or he is incapable of giving evidence and that such statement has been made in any of the circumstances specified in sub-section (1) to (8) of Sec-32 of the Evidence Act.<sup>12</sup>

The expression "*any circumstance of the transaction which resulted in his death*" means only such facts or series of facts which have direct or organic relation to the death. The circumstance must have some proximate relation to the actual occurrence.<sup>13</sup> Any statement made by the deceased long before the incident of murder will not be admissible.<sup>14</sup> On the other hand, where the statement disclosed the circumstances under which the deceased was seriously injured, ultimately resulting in the death, it is admissible.

Section-32 refers to two kinds of statements-

- When the statement is made by a person as to the cause of his death ; or
- When the statement is made by a person as to any of the circumstances of the transaction which resulted in his death.

The expression "any of the circumstances of the transaction which resulted in his death" is wider in scope than the expression "the cause of his death". The words "resulted in his death" doesn't mean "caused his death."<sup>15</sup>

## VI. PRINCIPLES GOVERNING DYING DECLARATION

The Apex court in the case of *Smt. Paniben v State of Gujarat*<sup>16</sup> summed up several judgments which laid down principles for dying declaration.

1. There is neither rule of law nor rule of prudence that dying declaration cannot be acted upon without corroboration<sup>17</sup>.
2. If the court is satisfied that the dying declaration is true and voluntary it can base conviction on it,

<sup>10</sup> Sharad Bhiridichand Sarda v. State of Maharashtra, A.I.R 1984 S.C. 1662

<sup>11</sup> Jugal Kishore kundu v. Narayan Chanda Kundu, A.I.R 1982 Cal. 342 at 344

<sup>12</sup> C.D. Fields's, (Commentary on law of evidence" 2416 (13<sup>TH</sup> ed., Vol 5)

<sup>13</sup> Ratanlal & Dhirajlal, "the Law of Evidence", 587 (23<sup>rd</sup> ed, 2011)

<sup>14</sup> Omkar v. State of M.P., 1974 Cr L.J. 3490 (SC); Pakalanarayana Swamy v. Emperor, AIR 2000 SC 2602

<sup>15</sup> State v. Ramaprasad Singh, AIR 1953 Pat. 354; Chinnavalayan v. State of Madras, (1959) 1 MLJ 246

<sup>16</sup> AIR 1992 SC 1817

<sup>17</sup> Munnu Raja vs. State of M. P 1976 (3) SCC 104

without corroboration<sup>18</sup>.

3. The court has to scrutinize the dying declaration carefully and must ensure that the declaration is not the result of tutoring, prompting or imagination. The deceased had an opportunity to observe and identify the assailant and was in a fit state to make the declaration<sup>19</sup>.
4. Where a dying declaration is suspicious, it should not be acted upon without corroborative evidence<sup>20</sup>.
5. Where the deceased was unconscious and could never make any dying declaration the evidence with regard to it is to be rejected<sup>21</sup>.
6. A dying declaration which suffers from infirmity cannot form the basis of conviction<sup>22</sup>.
7. Merely because a dying declaration does not contain the details as to the occurrence, it is not to be rejected<sup>23</sup>.
8. Equally, merely because it is a brief statement, it is not to be discarded. On the contrary, the shortness of the statement itself guarantees truth<sup>24</sup>.
9. Normally, the court in order to satisfy whether the deceased was in a fit mental condition to make the dying declaration looks up to medical opinion. But where the eyewitness said that the deceased was in a fit and conscious state to make the dying declaration, the medical opinion cannot prevail<sup>25</sup>.
10. Where the prosecution version differs from the version as given in the dying declaration, the said declaration cannot be acted upon<sup>26</sup>.
11. Where there are more than one statements in the nature of dying declaration, the one first in point time must be preferred. Of course, if the plurality of the dying declaration could be held to be trustworthy and reliable, it has to be accepted<sup>27</sup>

In addition, the principle “*nemo moriturus proesmitur mentim*” which governs the credibility of dying declaration, does not require serious examination.<sup>28</sup>

## VII. RECORDING OF DYING DECLARATION

The recording of dying declaration should be done with utmost care. A statement recorded as a dying

<sup>18</sup> State of U.P. vs Ram Sagar Yadav, 1985 (1) SCC 552

<sup>19</sup> K. Ramachandra Reddy vs. Public Prosecutor, 1976 (3) SCC 618

<sup>20</sup> Rasheed Beg vs. State of M. P., 1974 (4) SCC 264

<sup>21</sup> Kake Singh vs. State of M.P., 1981 (Supp) SCC 25

<sup>22</sup> Ram Manorath vs. State of U.P., 1981 (2) SCC 654

<sup>23</sup> State of Maharashtra vs. Krishnamurti Laxmipati Naidu, 1980 (Supp) SCC 455

<sup>24</sup> Surajdeo Ojha vs. State of Bihar, 1980 Supp SCC 769

<sup>25</sup> Nanhau Ram vs. State of M.P., 1988 Supp SCC 152

<sup>26</sup> State of U.P. vs. Madan Mohan, 1989 (3) SCC 390

<sup>27</sup> Mohanlal Gangaram Gehani vs. State of Maharashtra, 1982 (1) SCC 700

<sup>28</sup> Vithal Sadashiv Gaikwad v. State of Maharashtra, 1994 crLJ 2035 (PARA 16) (Bom.)

declaration must be voluntary and true to its nature. In the case of *Puran Chand vs. State of Haryana*<sup>29</sup> it was held that: the court has to examine a dying declaration scrupulously with a microscopic eye to find out whether the dying declaration is voluntary, truthful, made in a conscious state of mind and without being influenced by the relatives present or by the investigating agency who may be interested in the success of investigation or which may be negligent while recording the dying declaration.....

### 1. Competence for recording a dying declaration

A dying declaration can be recorded by anyone, but a dying declaration recorded by a competent Magistrate stands on a higher footing and if the court does not find anything contrary to the statement and invokes full confidence then such dying declaration cannot be discarded. Dying declaration can be recorded by public servants like Police officer under the Section 161 of Code of Criminal Procedure. A dying declaration recorded by a police officer cannot be deemed as invalid. In the case of *Ameer Jan v State of Karnataka*<sup>30</sup> the court held that a policeman is independent public servant and does not have any grudge against the accused. But a dying declaration recorded by the an Investing officer is stands on a weaker ground as in the case of *Munnu Raja and Anr. vs State of Madha Pradesh*<sup>31</sup> the court observed that the investing officers are naturally interested in the success of the Investing officers are naturally interested in the success of the investigation and the practice of the investing officer himself recording a dying declaration during the course of an investigation ought not to be encouraged.

### 2. Precision of words

Dying Declaration should be short, concise and to the point. Questions and answer elicited should be written. It should be in the mechanical cyclostyled form.<sup>32</sup> It is not the requirement of law that the person making the dying declaration should made an exhaustive statement so as to cover each and every aspect of the incident and narrate the whole history of the case. Detailed statement stating the minutest details could be expected from the declarant who is under a serve stress and agony.<sup>33</sup> The mere fact that the dying declaration did not contain the detailed version of the occurrence is no ground to disbelieve it.<sup>34</sup>

## VIII. VERACITY, RELIABILITY AND TRUTHFULNESS OF DYINF DECLARATION

**Test for admissibility** - It is well- settled law that the statement of a dead person to be admissible in evidence under sec-32 (1) of the Indian Evidence Act must satisfy the test *firstly* it must refer as to the cause of his death or as to any of the circumstances of the transaction which resulted into death and secondly it

<sup>29</sup> 2010 (6) SCC 566

<sup>30</sup> 2004 CrLJ 4801

<sup>31</sup> 1976 2 SCC 764

<sup>32</sup> Adevappa Nagappa Anagolkar v. State of Karnataka, 1998 CrL.J. 584

<sup>33</sup> Charipalli Shankararao v. Public Prosecutor, A.P. High Court, AIR 1995 SC 777

<sup>34</sup> Ramesh v. State (Delhi Administration), 1996 Cr. L.J. 309 (Del.)

could be admitted in evidence in those cases only in which the cause of that person's death comes into question.<sup>35</sup>

**Test of reliability-** The Court must, in order to test the reliability of a dying declaration, keep in view the circumstances like the opportunity of the dying man for observation, for example, whether there was sufficient light if the crime was committed at night, whether the capacity of the declarant to remember the facts stated at night has not been impaired at the time he was making the statement by circumstances beyond his control either due to the nature of the injuries or for any other cause and whether the statement has been made at the earliest opportunity and was not the result of tutoring by interested parties.<sup>36</sup> Also, one of the important tests of the reliability of the dying declaration is a finding arrived at by the court as to satisfaction that the deceased was in a fit state of mind and capable of making a statement at the point of time when the dying declaration purports to have been made /or recorded.<sup>37</sup>

**Test of Credibility-** Apart from the care and caution factors as noticed earlier the dying declaration ought otherwise be trustworthy.<sup>38</sup> The main test of the credibility of the dying declaration is that the person the person, who recorded it, must be satisfied that the deceased was in fit state of mind.<sup>39</sup>

## IX. CONDITION FOR ADMISSIBILITY OF DYING DECLARATION

### 1. Corroboration

A conviction based upon an uncorroborated dying declaration is legal.<sup>40</sup> There is neither any rule of law nor of prudence that a dying declaration requires to be corroborated by other evidence.<sup>41</sup>

Where the dying declaration was true and reliable, corroboration was not necessary.<sup>42</sup> Corroboration, though not essential as such, but its introduction is otherwise expedient to strengthen the evidential value of the declaration. Independent witness may not be available but there should be proper care and caution in the matter of acceptance of the dying declaration as a trust worthy piece of evidence.<sup>43</sup> Corroboration for dying declaration becomes necessary only when it suffers from infirmity.<sup>44</sup> In the event there exists any suspicion as regards correctness or otherwise of then said dying declaration, the courts in arriving at the judgment of conviction shall took for same corroborating evidence.<sup>45</sup>

<sup>35</sup> Man Mohan Singh v. State ,(1973) 13 Cur. L.J. 276

<sup>36</sup> Haren kalita v. State of Assam, 1981 Cr. L.J. 1110

<sup>37</sup> Laxmi v. Om Prakash, (2001) 6 S.C.C. 118

<sup>38</sup> Arvind Singh v. State of Bombay, A.I.R. 2001 S.C. 2124

<sup>39</sup> Kanti lal v. State of Rajasthan,(2009) 12 SCC 498

<sup>40</sup> State v. Kanchan Singh,(1955) 1 All. 642, Ulahannan v. State , 1954 TC 1308

<sup>41</sup> Harbans Singh v. State of Punjab, AIR 1962 SC 439, Tapinder Singh v. State of Punjab, AIR 1970 SC 1566

<sup>42</sup> S.k. Katkar v. State of Maharashtra, 1995 CrLJ 3579 (Bom.)

<sup>43</sup> Girdhar Shankar Tawade v. State of Maharashtra, AIR 2002 SC 2078

<sup>44</sup> State of Maharashtra v. Mehtabi, (1998) 8 SCC 618

<sup>45</sup> Ranjit Singh v. State of Punjab, (2006) 13 SCC 130

A dying declaration which portrays truthfulness can also form the sole basis of conviction. In the case of *Shakuntala v. State of Haryana*<sup>46</sup> the Supreme Court did not find any evidence against the truthfulness of the dying declaration made by the victim so the statement was relied upon and had weightage to it. Though, when dying declaration seeks full confidence of the court corroboration is not required. Further, in the case of *Munnu Raja vs State of Madhya Pradesh*<sup>47</sup>, it was laid down that there is neither rule of law nor rule of prudence that dying declaration cannot be acted upon without corroboration but it is worthwhile to note that a statement produced as declaration, a cross-examination of the same is not possible, dying declaration is an exception to hearsay evidence and so to test the reliability of a dying declaration as a legal piece of evidence corroborative evidence is an essential requirement. However, there is no absolute rule of law, not even a rule of prudence that has ripened into a rule of law that a dying declaration in order that it may sustain an order of conviction must be corroborated by, other independent evidence.<sup>48</sup>

### 2. *Fit state of mind*

A dying declaration is only admitted when it can retain confidence in itself and it is an essential need for a statement to be admitted as an evidence that, at the time of giving of the statement the deceased must be in a fit state of mind, and to satisfy this the court depends upon medical opinion. Although medical opinion is deemed to be essential it is merely a rule of caution. There is no absolute law for the presence of a medical certificate or a doctor's opinion. In the case of *Laxman vs. State of Maharashtra*<sup>49</sup> it was held "Normally, therefore, the court in order to satisfy whether the deceased was in a fit mental condition to make the dying declaration looks up to the medical opinion. But where the eye-witnesses state that the deceased was in a fit and conscious state to make the declaration, the medical opinion will not prevail, nor can it be said that there is no certification of the doctor as to the fitness of the mind of the declarant, the dying declaration is not acceptable".

Hence, a dying declaration is generally to be recorded by an Executive Magistrate with the certificate of a medical doctor about the mental fitness of the declarant to make the statement. But the court can't be too technical and in substance if it feels convinced about the trustworthiness of the statement which may inspire confidence such a dying declaration can be acted upon without any corroboration.<sup>50</sup>

### 3. *Death of declarant*

When a dying declaration is made by a person under expectation of death, who later survives the statement would not be admitted under section 32 of evidence act and the statement would be treated as a statement recorded during an investigation. Section 157 allows statement made by witness relating to the same fact

---

<sup>46</sup>AIR 2007 SC 2709

<sup>47</sup> 1976 2 SCC 764

<sup>48</sup> Haripada Dey v. The -State of West Bengal (1956) S.C.R. 639

<sup>49</sup> AIR 2002 SC 2973

<sup>50</sup> Rambilaben Hasmukhbhai khristi v. State of Gujarat, (2002) 7 S.C.C. 56 at p.68

before by any legal authority competent to investigate the fact but its use is limited for corroboration of testimony of witnesses of this kind. Though a police man legally competent to investigate but section 162 of code of criminal procedure creates prohibition as it clearly demands that any statement made to him cannot be used to corroborate the testimony of such evidences. In the case of *Maqsoodan vs. State of U.P.*<sup>51</sup> the court stated “ When a person who has made a statement, may be in expectation of death, is not dead, it is not a dying declaration and is not admissible under section 32 of Evidence Act. In the instant case, the makers of the statement Exts. Ka-22 and Ka-23, are not only alive but they deposed in the case. Their Statements, therefore, are not admissible under section 157 of the evidence Act as former statements made by them in order to corroborate their testimony in Court”. Although a statement made to a magistrate is not prohibited by the abovementioned section. A magistrate can record the statement under the section of 164 of the code which can later elevate to section 32 once when the declarant dies or can remain in the same realm of section 164. Statement made in section 164 can be used to corroborate the testimony as mentioned the section of 157 of the Evidence Act or to contradict him as provided in section 155. Hence, where dying declaration is admitted, death must be strictly proved.<sup>52</sup>

## **X. MULTIPLE DYING DECLARATIONS- PLURALITY OF DECLARATIONS**

In case of multiple dying declarations each dying declaration will have to be considered independently on its own merit as to its evidentiary value and one can't be rejected because of the contents of the other. In cases where there is more than one dying declaration, it is the duty of the court to consider each of term in its correct perspective and satisfy itself which one of them reflects the true state of affair.<sup>53</sup>

If there are more than one dying declarations, they should be read as one and differences in them on material aspects with reasonable explanation may be taken at par with omissions covered by the explanation to S. 161 of the Cr. P.C. and may be considered as a matter of fact in each case on its own strength.<sup>54</sup> It is not the number of dying declarations which will weigh with the court. Plurality of apparently consistent dying declarations themselves is not sufficient to persuade the court to act thereon.<sup>55</sup> It is not the plurality but the qualitative worth of the dying declarations that adds weight to the prosecution case. Therefore, dying declaration should be of such nature as inspires full confidence.<sup>56</sup>

In the instance of multiple dying declarations the Supreme Court held that if consistency has been maintained in the all the declarations, then they can be relied upon without corroboration. In the case of *Bhadragirivenkataravi v. Public Prosecutor High Court of Andhra Pradesh*<sup>57</sup> it was held that “ In case of

---

<sup>51</sup> AIR 1983 SC 126

<sup>52</sup> Queen v. Gozalao, 12 W.R. Cr. 80

<sup>53</sup> Nallam Veera v. Public Prosecutor, High Court of Andhra Pradesh, A.I.R. 2004 S.C. 1704

<sup>54</sup> Radhey Shyam v. State of U.P., 1993 Cr.L.J. 3702 (All)

<sup>55</sup> Laxmi v. Om Prakash, AIR 2001 SC 2383

<sup>56</sup> State of Maharashtra v. Sanjay D. Rajhans, AIR 2005 SC 97

<sup>57</sup> 2013 14 SCC 145

plural/multiple dying declaration, the court has to scrutinize the evidence cautiously and must find out whether there is consistency particularly in material particulars therein. In case there are inter-se discrepancies in the deposition of the witnesses given in support of one of the dying declaration, it would not be safe to rely upon the same". But if the two dying declarations are inconsistent to each other, then the reliability on such statements cannot be safe. In *Lella Srinivasa Rao v. State of Andhra Pradesh*<sup>58</sup>, sole basis of conviction was dying declaration. Two dying declarations were recorded which were inconsistent to each other, in absence of any other evidence the court held that it was not safe to act only on inconsistent dying declaration and convict the accused.

## **XI. EXCEPTION TO DYING DECLARATION**

A statement made by the deceased cannot always be admissible and so some exceptions to the dying declaration can be observed.

### **1. Cause of death of deceased not in question.**

If a statement made by a deceased prior to his death does not involve the cause of his death or includes anything except the cause of the death such dying declaration cannot be said to be admissible as evidence. Therefore, unless the dying declaration would fall within the scope of Sec-32(1) of the Indian Evidence Act, there is no other provision under which the same can become admissible. In order to make the statement must be as to the cause of her death or as to any of the circumstances of the transactions which resulted in her death. Succinctly, the expression "*any of the circumstances of the transaction which resulted in his death*" is wider in scope than the expression "*the cause of his death*". The words "resulted in his death" doesn't mean "caused his death."<sup>59</sup>

### **2. Declarer is not a competent witness**

A dying declaration which is admissible as evidence has to come by a competent person. In the case of *Ramanathan v Murugappa* it was observed that the deceased must have personal knowledge of the fact that he was stating. In the case of *Bhagwan Das v. State of Rajasthan*<sup>60</sup> the court held that If the court finds that the capacity of the maker of the statement to narrate the facts was impaired or the court may in the absence of corroborative evidence lending assurance to the contents of the declaration refuse to act on it. A dying declaration of a Child is also inadmissible in the court of law. A dying declaration made by an unsound mind cannot be relied upon.

### **3. Contradictory statement**

When there is a presence of multiple dying declarations and all the declarations are contradictory then it

---

<sup>58</sup> 2004 9 SCC 714

<sup>59</sup> State v. Ramaprasad Singh, AIR 1953 Pat. 354; Chinnavalayan v. State of Madaras, (1959) 1 MLJ 246

<sup>60</sup> AIR 1957 SC 589

is permissible decline evidentiary value to all the declarations. Also a lack of consistency makes a dying declaration vulnerable to the situation of inadmissibility.

## XII. CONCLUSION

With the above mentioned cases and discussion it can be concluded that dying declaration is of importance in the eyes of law and sometimes the sole evidence to bring to aggrieved. It can be concluded that a statement made under dying declaration requires precision and delicate care while noting down. A dying declaration is supposed to be true and voluntary and when this part is fulfilled a dying declaration without corroboration can be admitted. LORD EYRE, C.B., also held that “The principle on which this species of evidence is admitted is, that they are declarations made in extremity, when the party is at the point of death, and when every hope of the world is gone, when every motive to falsehood is silenced, and the mind is induced by the most powerful considerations to speak the truth. A situation so solemn and awful is considered by the law as creating an obligation equal to that which is imposed by the law as creating an obligation equal to that which is imposed by a positive oath administered in the court of justice.”

It is well-settled a dying declaration can exclusively base a conviction provided it is voluntary and truthful. It is never been a rule of prudence much less a rule of law that a dying declaration can't be acted upon unless it is corroborated. The court took out for corroboration only when it comes to conclusion that the dying declaration suffers from any infirmity by reason of which it is necessary to look out for corroboration.<sup>61</sup>

The veracity, reliability and truthfulness of the alleged dying declaration would be tested only after the evidence is recorder in the court and if on proper evaluation of such evidences, the court comes to the conclusion that dying declaration is truthful version of the deceased relating to the circumstances of his death, then there is no question of any further corroboration as the conviction can be founded only on such dying declaration. But in case the court finds that the dying declaration suffers from any inherent infirmities it is bound to be rejected.<sup>62</sup>

---

<sup>61</sup> Bomma v. State of Karnataka, (1997) 2 knt. L.J. 350

<sup>62</sup> Bansidhar Singh, (1996) 2 S.C.C. 194