



# Evidentiary Value Of Dying Declarations: Reliability, Admissibility, And Judicial Interpretation

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## Abstract:

A dying declaration holds a unique position in the realm of criminal law, particularly in cases of homicide or grievous injury, where the victim's statement about the circumstances of their impending death is considered crucial evidence. Under Section 32(1) of the Indian Evidence Act, a dying declaration is an exception to the hearsay rule, based on the belief that a person on the verge of death is unlikely to lie, as "truth sits upon the lips of a dying man." The declaration is admissible in court even if it is the only evidence available, provided it meets certain criteria regarding its reliability and voluntariness.

This article explores the evidentiary value of dying declarations, focusing on their reliability, admissibility, and judicial interpretation in Indian courts. It delves into the legal framework governing such statements and examines key judicial rulings that have shaped the courts' approach. While the Indian legal system has allowed convictions solely based on dying declarations, the courts remain cautious about their use, ensuring that the statement is free from influence, coherent, and credible.

Challenges such as improper recording, inconsistencies, and the mental state of the declarant are addressed, making it imperative for judicial scrutiny to maintain a balance between upholding justice and ensuring fair trial standards. This analysis also highlights the ongoing relevance of dying declarations in modern criminal trials and their potential future implications within the Indian legal framework.

## Keywords:

Dying Declaration, Indian Evidence Act, Admissibility, Reliability, Judicial Interpretation, Section 32(1), Criminal Trials, Legal Precedents

## Introduction:

A dying declaration is a critical piece of evidence in criminal trials, particularly in cases involving murder or grievous bodily harm. The legal basis for admitting a dying declaration into evidence is rooted in the principle that when a person is at the brink of death, their focus is on truth, as there is little reason to lie when facing imminent mortality. This exception to the hearsay rule is codified in Section 32(1) of the Indian Evidence Act, which allows the statement of a person, who believes they are about to die, to be admissible in court regarding the cause of their death.

Dying declarations are often viewed as the last words of the victim, providing key details about the assailant and the circumstances surrounding the crime. Unlike other forms of evidence, a dying declaration can be admitted without requiring the declarant to be cross-examined, which makes it a powerful tool in the courtroom. However, its admissibility and reliability are contingent on several factors, such as the declarant's mental and physical condition, the voluntariness of the statement, and the manner in which it was recorded.

Indian courts have long held that a dying declaration, if found reliable, can form the sole basis for a conviction. Yet, the judiciary has also set stringent standards for assessing the authenticity and veracity of such statements, particularly when there is no corroborative evidence. This has led to a rich body of case law exploring how dying declarations should be evaluated to ensure they contribute to a fair trial process.

In this article, we examine the evidentiary value of dying declarations in the Indian legal system, analysing how courts determine their reliability, the conditions for admissibility, and how they are interpreted judicially. We also explore the limitations and challenges posed by relying on dying declarations, offering insights into their impact on both legal practice and the pursuit of justice.

### **Provision of Dying Declaration in Different Countries:**

The concept of dying declarations is recognized in many legal systems around the world, though its provisions and admissibility standards vary by jurisdiction. Below is an overview of the provisions for dying declarations in different countries:

#### **1. India**

**Legal Basis:** Under Section 32(1) of the Indian Evidence Act, 1872, a dying declaration is an exception to the hearsay rule. It allows the admission of statements made by a person who believes their death is imminent, concerning the cause of their death or circumstances leading to it.

**Admissibility:** The statement is admissible even without corroborative evidence and can be the sole basis for conviction. However, the court must be satisfied that the statement was made voluntarily and under a genuine belief of impending death.

#### **2. United States**

**Legal Basis:** In the U.S., dying declarations are admitted under an exception to the hearsay rule, provided for in Rule 804(b)(2) of the Federal Rules of Evidence.

**Admissibility:** The declarant must believe their death is imminent and have no hope of recovery. The statement must relate to the cause or circumstances of the impending death. It is limited to criminal prosecutions for homicide or civil cases.

**Scope:** Dying declarations are admissible in both civil and criminal cases, though they are most commonly used in homicide trials.

#### **3. United Kingdom**

**Legal Basis:** In the UK, the concept of dying declarations is rooted in common law, with principles similar to India and the U.S.

**Admissibility:** A dying declaration is admissible in cases of homicide if the declarant had an unshakable belief in their impending death and if the statement pertains to the cause of death. It is not applicable in cases involving civil matters or lesser criminal offenses.

**Limitations:** Dying declarations are limited to cases of murder and manslaughter, and courts are cautious in relying on such evidence without supporting proof.

#### 4. Canada

**Legal Basis:** In Canada, dying declarations are considered an exception to the hearsay rule under common law principles.

**Admissibility:** The declaration is admissible in homicide cases, provided the declarant believed they were going to die, had no hope of recovery, and the statement relates to the cause of death. Courts apply stringent scrutiny to ensure the reliability of the statement.

**Scope:** It applies specifically to criminal cases, especially murder and manslaughter, and not to civil matters.

#### 5. Australia

**Legal Basis:** In Australia, dying declarations are admissible under common law and are also recognized under state-based legislation like the Evidence Act 1995 (Cth).

**Admissibility:** The declarant must have had a genuine belief that their death was imminent. The statement must directly relate to the circumstances or cause of death. It is primarily used in homicide cases.

**Scope:** As in the UK, dying declarations are generally restricted to criminal cases involving the death of the declarant.

#### 6. South Africa

**Legal Basis:** In South Africa, dying declarations are recognized under common law, similar to other Commonwealth jurisdictions.

**Admissibility:** For a dying declaration to be admissible, the declarant must have had an expectation of imminent death, and the statement must relate to the cause or circumstances of the death. South African courts also emphasize voluntariness and reliability.

#### 7. New Zealand

**Legal Basis:** In New Zealand, dying declarations are admissible under the Evidence Act 2006.

**Admissibility:** Similar to other common law countries, the statement must be made when the person believes they are facing imminent death and it must relate to the cause or circumstances of death. Courts apply caution and require that the statement is free from coercion.

#### 8. Germany

**Legal Basis:** In Germany, dying declarations are admissible under the broader category of hearsay exceptions in criminal trials.

**Admissibility:** The German legal system requires strict proof of the declarant's expectation of death and relevance to the case. The use of dying declarations is relatively rare, and courts place heavy emphasis on corroborating evidence.

#### 9. France

**Legal Basis:** In France, dying declarations are admissible under the Code of Criminal Procedure, but they are treated with skepticism and are not as commonly used as in common law jurisdictions.

**Admissibility:** The declaration is admissible if the person was near death and made a statement concerning the cause of death. However, French courts tend to rely more on forensic evidence and witness testimony than on dying declarations.

Each jurisdiction applies its own set of legal principles to govern the admissibility, reliability, and weight of dying declarations. Despite variations in procedural and substantive laws, the general premise of dying declarations remains rooted in the belief that truth is more likely to be told in the face of impending death.

## Legal Framework for Dying Declarations

The legal framework for dying declarations in India is primarily governed by **Section 32(1) of the Indian Evidence Act, 1872**. This provision lays out the circumstances under which a statement made by a person who believes they are about to die can be admitted as evidence in court, even though such a statement would ordinarily be considered hearsay.

### 1. Section 32(1) of the Indian Evidence Act, 1872

- **Text of the Law:** Section 32(1) allows for the admissibility of a statement made by a person regarding the cause of their death or the circumstances leading to it, provided the person making the statement has died. The key aspect of this provision is that it allows for a dying declaration to be admitted in both civil and criminal proceedings.
- **Exception to the Hearsay Rule:** Under ordinary circumstances, a statement made by someone not available for cross-examination would be considered hearsay and inadmissible. However, dying declarations are an exception to this rule due to the belief that a person on the brink of death is unlikely to lie.

### 2. Conditions for Admissibility

- **Imminent Death:** The person making the dying declaration must have believed they were near death and had no hope of recovery. This belief gives the statement its weight and credibility.
- **Statement Relating to Cause of Death:** The statement must directly concern the cause of the declarant's death or the circumstances leading up to it. If the statement concerns irrelevant matters, it cannot be admitted under this provision.
- **Voluntariness:** The statement must be made voluntarily, without any coercion, prompting, or influence from others. The courts scrutinize the circumstances to ensure that the declarant was not pressured into making a false statement.

### 3. Mode of Recording Dying Declarations

- **Oral or Written:** A dying declaration can be either oral or written. While written declarations, usually recorded by a magistrate, are preferred for their accuracy, oral declarations are also admissible if they can be reliably proven.
- **By Magistrate or Any Person:** Ideally, a dying declaration is recorded by a magistrate to ensure that proper procedure is followed, but it can also be recorded by a doctor, police officer, or even a family member. The key factor is the credibility of the person recording it.
- **Medical Certification:** In many cases, the courts require that a doctor certify that the declarant was mentally and physically capable of making a reliable statement. This certification is important for the admissibility of the dying declaration.

### 4. Judicial Interpretation and Precedents

- **Sole Basis for Conviction:** Indian courts have consistently held that a **dying declaration** can be the sole basis for conviction in a case, provided it is found to be credible and free from doubt. In the case of **Ram Nath v. State of Madhya Pradesh<sup>1</sup> (1953)**, the Supreme Court upheld a conviction based solely on a dying declaration, emphasizing that it must inspire full confidence in the court.
- **No Requirement of Corroboration:** In **K. Ramachandra Reddy v. Public Prosecutor<sup>2</sup> (1976)**, the Supreme Court stated that a dying declaration does not need corroboration as long as it is trustworthy. However, if there are doubts about its reliability, corroborating evidence may be required.

<sup>1</sup> AIR1953SC420, AIR 1953 SUPREME COURT 420

<sup>2</sup> 1976 AIR 1994, 1976 SCR 542, AIR 1976 SUPREME COURT 1994, (1976) 3 SCC 618, 1976 SC CRI R 366, 1976 CRI APP R (SC) 278, 1976 SCC(CRI) 473, 1977 (1) SCJ 36

- **Multiple Dying Declarations:** In cases where there are multiple dying declarations, the court will examine them for consistency. If there are contradictions, the courts will analyze which statement appears more reliable, as seen in **State of Uttar Pradesh v. Shishupal Singh<sup>3</sup> (1994)**.

## 5. Reliability of Dying Declarations

- **Mental and Physical Condition:** The courts place significant importance on the mental and physical condition of the declarant at the time of making the statement. The person must be conscious, coherent, and aware of their surroundings for the declaration to be considered reliable.
- **Time of Statement:** The timing of the statement also plays a role in its admissibility. If the declarant was unconscious or in severe pain, their statement may be considered unreliable. Courts rely heavily on medical testimony to determine whether the declarant was in a fit state of mind.

## 6. Limitations

- **Influence or Tutoring:** If there is evidence that the declarant was influenced or coached by others, the dying declaration may be rejected by the court. The voluntariness of the statement is crucial for its admissibility.
- **Partial or Incomplete Statements:** In some cases, if a dying declaration is only partially recorded or is ambiguous, it may lose its evidentiary value. Courts prefer clear and complete statements that leave no room for misinterpretation.
- **Inconsistent Dying Declarations:** When the declarant makes multiple dying declarations that contradict one another, the court must assess the credibility of each one. Consistency plays a critical role in determining which statement, if any, to rely on.

## 7. Important Case Laws

- **Ram Bihari Yadav v. State of Bihar<sup>4</sup> (1998):** The Supreme Court reiterated that the dying declaration must be subjected to a careful judicial assessment and can be relied upon only if it passes the test of credibility.
- **Pakalapati Narayana Gajapati Raju v. Bonapalli Peda Appadu<sup>5</sup> (1975):** The Supreme Court ruled that a dying declaration should not be disbelieved solely because it was not recorded by a magistrate, provided it meets the criteria for reliability.

The Indian legal framework provides for the admissibility of dying declarations based on the belief in their inherent truthfulness, subject to strict judicial scrutiny. While a dying declaration can be a powerful tool in securing convictions, it must be reliable, voluntary, and made under genuine circumstances of impending death. The courts ensure that these statements are carefully evaluated to maintain fairness and justice in criminal proceedings.

## Reliability of Dying Declarations: Legal and Practical Considerations

Dying declarations occupy a critical place in criminal trials, especially in cases of murder or grievous bodily harm, as they allow for the inclusion of statements from individuals who can no longer testify. However, the reliability of dying declarations is a subject of constant scrutiny within the legal system. Courts must assess these statements with caution to ensure that they serve the interests of justice. Below are the key legal and practical considerations surrounding the reliability of dying declarations:

<sup>3</sup> AIR1994SC129, (1992)94BOMLR427, 1994CRILJ617, 1992SUPP(3)SCC60, AIR 1994 SUPREME COURT 129, 1993 AIR SCW 4041, 1994 CRI. L. J. 617, 1993 ALL. L. J. 1358, 1994 APLJ(CRI) 13.1, 1992 (3) SCC(SUPP) 60, (1993) 1 MAHLR 431, (1994) 1 APLJ 19, 1992 SCC (CRI) 957

<sup>4</sup> AIR 1998 SUPREME COURT 1850, 1998 AIR SCW 1647, 1998 SCC(CRI) 1085, 1998 (3) SCALE 200, 1998 (4) ADSC 154, 1998 CRIAPPR(SC) 324, 1998 (4) SCC 517, 1998 CRILR(SC&MP) 562, 1998 ADSC 4 154, 1998 (2) BLJR 989, (1998) 3 JT 290 (SC), 1998 BLJR 2 989, (1998) 2 SCR 1097 (SC), 1998 CRILR(SC MAH GUJ) 562, 1998 (3) JT 290, (1998) 37 ALLCRIC 116, (1998) 1 ALLCRILR 612, (1998) SC CR R 562, (1998) 2 CHANDCRIC 176, (1998) 23 ALLCRIR 1178, (1998) 2 CURCRIR 234, 1998 CALCRILR 7, (1998) 2 EASTCRIC 56, (1998) 2 PAT LJ 169, (1998) 3 RAJ LW 289, (1998) 2 RECCRIR 403, (1998) 2 SCJ 253, (1998) 4 SUPREME 178, (1998) 3 SCALE 200, (1999) 1 BLJ 714, (1998) 2 ALLCRILR 1, 1998 (2) ANDHLT(CRI) 21 SC

<sup>5</sup> AIR1975SC1854, (1975)4SCC477, 1975(7)UJ580(SC), AIR 1975 SUPREME COURT 1854, (1975) 4 SCC 477, 1976 SC CRI R 23, 1976 3 CRI LT 35, 1976 78 PUN LR 12, 1975 2 SCWR 210, 1975 ALLCRIC 281, 1975 SCC(CRI) 543, ILR 1976 KANT 233

## 1. Belief of Impending Death

- **Legal Principle:** The reliability of a dying declaration heavily relies on the declarant's belief that death is imminent. Courts assume that a person aware of their impending death is unlikely to lie or misrepresent the facts. The **Indian Evidence Act, 1872**, under **Section 32(1)**, upholds this belief as a key criterion for admissibility.
- **Practical Consideration:** Determining whether the declarant genuinely believed they were going to die requires careful consideration of the circumstances. Courts often depend on medical testimony to verify the declarant's condition and mental state. However, practical challenges arise if the declarant was under medication or unconscious at the time of the statement, leading to questions about their state of mind.

## 2. Voluntariness of the Declaration

- **Legal Principle:** A dying declaration must be made voluntarily, without coercion, influence, or manipulation. Any indication of tutoring or prompting can render the declaration inadmissible. Courts are particularly sensitive to the possibility of others influencing a dying person, as seen in various judgments such as **Ravi Chander v. State of Punjab**<sup>6</sup> (1998).
- **Practical Consideration:** The circumstances in which the dying declaration is recorded are crucial. If it is taken by a police officer, family member, or a person with vested interests, the possibility of coercion increases. To mitigate this, courts prefer declarations recorded by neutral parties such as magistrates or doctors. However, practical issues like the unavailability of such officials in emergency situations may affect the declaration's reliability.

## 3. Condition of the Declarant

- **Legal Principle:** The physical and mental condition of the declarant is a key factor in determining the reliability of the statement. Courts require that the declarant be conscious, mentally alert, and capable of making a coherent statement.
- **Practical Consideration:** In real-world scenarios, dying individuals may be in extreme pain, under heavy sedation, or in shock, which can compromise their ability to provide an accurate and reliable statement. Medical testimony often becomes crucial in establishing whether the declarant was in a fit condition to make the declaration. In **Ram Manorath v. State of Uttar Pradesh**<sup>7</sup> (1981), the Supreme Court emphasized that the mental and physical fitness of the declarant is of utmost importance in assessing reliability.

## 4. Method of Recording

- **Legal Principle:** Courts place significant importance on the manner in which a dying declaration is recorded. It is preferable that a magistrate records the statement to ensure neutrality, accuracy, and adherence to legal procedure. However, if a magistrate is unavailable, statements recorded by other persons are admissible but subject to greater scrutiny.
- **Practical Consideration:** In urgent or rural settings, it may not be feasible to have a magistrate present, leading to statements being recorded by police officers, doctors, or even bystanders. These circumstances can introduce questions about the accuracy or influence in recording the statement. Courts must balance the urgency of the situation with the need for credibility, as demonstrated in **Laxman v. State of Maharashtra**<sup>8</sup> (2002), where the Supreme Court ruled that the absence of a magistrate does not automatically render a dying declaration unreliable.

<sup>6</sup> JT1998(8)SC211, RLW1999(2)SC210, (1998)9SCC303, AIRONLINE 1996 SC 728

<sup>7</sup> 1981 SCR (3) 195, 1981 SCC (2) 654, AIRONLINE 1981 SC 2, 1981 (2) SCC 654, (1981) ALL WC 334, 1981 SCC (CRI) 581

<sup>8</sup> Appeal (crl.) 608 of 2001 SC

## 5. Inconsistencies in Multiple Declarations

- **Legal Principle:** If a person makes multiple dying declarations, the court will examine each one for consistency. Inconsistent or contradictory statements undermine the reliability of the dying declarations, and the court may dismiss them or favour the most credible version.
- **Practical Consideration:** In situations where a declarant survives for some time after the incident, they may give multiple declarations to different people, possibly under different conditions. Variations in these declarations can arise due to stress, pain, or external influence, complicating the court's evaluation. In **K. Ramachandra Reddy v. Public Prosecutor**<sup>9</sup> (1976), the court stressed the importance of consistency in multiple declarations.

## 6. Lack of Corroboration

- **Legal Principle:** A dying declaration can be the sole basis for conviction if it is found to be reliable and trustworthy. The courts do not require corroboration if the statement passes all the tests of reliability, as ruled in **Khushal Rao v. State of Bombay**<sup>10</sup> (1958). However, in cases of doubt, courts prefer corroborative evidence.
- **Practical Consideration:** When there is no supporting evidence, the courts must rely solely on the dying declaration. This situation increases the burden on the judiciary to ensure that the declaration is credible. If there is other circumstantial evidence or eyewitness testimony that supports the dying declaration, its reliability is strengthened.

## 7. Language and Communication Barriers

- **Legal Principle:** The dying declaration must be clear and unambiguous. Courts require that the statement be in a language understood by both the declarant and the person recording it, with an accurate translation if necessary.
- **Practical Consideration:** Language barriers or the declarant's inability to communicate clearly due to physical injuries or other impairments can introduce errors or ambiguities. If the declaration is conveyed through gestures, nods, or written notes, courts may question its accuracy, as seen in **Koli Chunilal Savji v. State of Gujarat**<sup>11</sup> (1999), where the declarant's gesture-based declaration was treated cautiously.

## 8. Judicial Caution in Evaluating Dying Declarations

- **Legal Principle:** Courts are required to exercise caution and apply strict scrutiny when evaluating dying declarations. The statement must inspire full confidence in the judge for it to be relied upon, particularly when it is the sole piece of evidence in the case.
- **Practical Consideration:** In practice, judicial officers must weigh various factors such as the declarant's condition, the method of recording, and the presence of any undue influence before accepting a dying declaration as reliable. This cautious approach is necessary to avoid wrongful convictions based on potentially unreliable evidence.

The reliability of dying declarations hinges on various legal and practical factors, including the declarant's belief in imminent death, voluntariness, mental and physical condition, and the method of recording the statement. Courts in India exercise stringent scrutiny when assessing the admissibility and reliability of these statements, balancing the need for justice with the protection of the accused's rights. The practical challenges of dying declarations—such as improper recording, inconsistencies, or the declarant's compromised

<sup>9</sup> 1976 AIR 1994, 1976 SCR 542, AIR 1976 SUPREME COURT 1994, (1976) 3 SCC 618, 1976 SC CRI R 366, 1976 CRI APP R (SC) 278, 1976 SCC(CRI) 473, 1977 (1) SCJ 36

<sup>10</sup> 1958 AIR 22, 1958 SCR 552, AIR 1958 SUPREME COURT 22, 1958 SCC 28, 1958 ALL. L. J. 91, 1958 JABLI 175, 1958 MADLI(CRI) 100, 1958 SCJ 198, 1958 ALLCRIR 43

<sup>11</sup> AIR 1999 SUPREME COURT 3695, 1999 (9) SCC 562, 1999 AIR SCW 3727, 1999 (10) SRJ 156, 1999 CRILR(SC MAH GUJ) 773, 2000 (1) UJ (SC) 437, 2000 UJ(SC) 1 437, 1999 (6) SCALE 267, 2000 (3) LRI 134, 2000 SCC(CRI) 432, 1999 (8) ADSC 426, 1999 CRIAPPR(SC) 513, 1999 CRILR(SC&MP) 773, 1999 ADSC 8 426, (1999) 7 JT 568 (SC), (1999) 4 CURCRIR 74, (1999) 3 CHANDCRIC 24, (2000) MATLR 70, (1999) 4 RECCRIR 594, (1999) SC CR R 926, (2000) 4 GUJ LR 3298, (1999) 2 GUJ LH 859, (1999) 3 SCJ 437, (1999) 8 SUPREME 717, (1999) 26 ALLCRIR 2231, (1999) 6 SCALE 267, (1999) 39 ALLCRIC 835, (2000) 1 ALLCRILR 696, (1999) 4 CRIMES 280, AIRONLINE 1999 SC 705

condition—require a careful and cautious judicial approach to ensure that only credible and trustworthy declarations are relied upon.

### Admissibility of Dying Declarations: Legal Requirements and Challenges

The Supreme Court of India has delivered several landmark judgments on the admissibility of dying declarations, outlining key legal principles that guide their use in criminal trials. The Court has emphasized caution, reliability, and fairness when evaluating dying declarations, considering various factors such as voluntariness, the declarant's mental state, and whether the declaration is corroborated by other evidence. Below are the Supreme Court's observations on various key points regarding the admissibility of dying declarations:

#### 1. Dying Declaration as Sole Basis for Conviction

- In **Khushal Rao v. State of Bombay**<sup>12</sup> (1958), the Supreme Court ruled that a dying declaration can be the sole basis for conviction if it is found to be trustworthy and free from doubt. The Court rejected the need for corroboration as a strict rule, stating that a reliable and clear dying declaration, by itself, can be sufficient to convict an accused. The credibility of the statement is the most important criterion.

**Observation:** A conviction based solely on a dying declaration is valid if the court finds it reliable and truthful. No additional evidence is necessary, provided the statement inspires confidence in its truthfulness.

#### 2. Requirement of Corroboration

- In **Ram Nath Madhoprasad v. State of Madhya Pradesh**<sup>13</sup> (1953), the Supreme Court held that while a dying declaration can be the sole basis for conviction, courts should generally seek corroboration if the statement appears doubtful or incomplete. If the declaration is vague or lacking in detail, corroborative evidence is preferred.

**Observation:** Corroboration is not always mandatory, but if there is any doubt about the dying declaration's authenticity or completeness, it is prudent to seek supporting evidence.

#### 3. Voluntariness and Absence of Tutoring

- In **K. Ramachandra Reddy v. Public Prosecutor**<sup>14</sup> (1976), the Court emphasized that the dying declaration must be made voluntarily and without any external influence. If there is evidence of tutoring or prompting by relatives or law enforcement officers, the statement loses its reliability.

**Observation:** The voluntariness of the dying declaration is crucial. Any sign of coercion, tutoring, or influence will result in the statement being discredited by the court.

#### 4. Mental and Physical Fitness of the Declarant

- In **Laxman v. State of Maharashtra**<sup>15</sup> (2002), the Supreme Court held that a dying declaration cannot be rejected solely because it was not certified by a doctor at the time of its recording. The court emphasized that the crucial test is whether the declarant was in a fit state of mind and capable of making a coherent and reliable statement. Medical certification of fitness is desirable, but not mandatory.

**Observation:** The absence of medical certification does not automatically disqualify a dying declaration. Courts can rely on other evidence, such as the testimony of witnesses, to determine whether the declarant was fit to make the statement.

#### 5. Mode of Recording the Declaration

- In **Pakala Narayana Swami v. Emperor**<sup>16</sup> (1939), the Privy Council, and later the Indian Supreme Court in several cases, held that a dying declaration need not be recorded by a magistrate to be

<sup>12</sup> AIR 1958 SC 22

<sup>13</sup> AIR 1953 SC 420, AIR 1953 SUPREME COURT 420

<sup>14</sup> 1976 AIR 1994, 1976 SCR 542, AIR 1976 SUPREME COURT 1994, (1976) 3 SCC 618, 1976 SC CRI R 366, 1976 CRI APP R (SC) 278, 1976 SCC(CRI) 473, 1977 (1) SCJ 36

<sup>15</sup> Appeal (crl.) 608 of 2001 SC

<sup>16</sup> [1939] 1 MLJ 59

admissible. However, if a magistrate records the declaration, it lends additional weight to the statement's reliability.

- In **Ravikumar v. State of Tamil Nadu**<sup>17</sup> (2006), the Court reiterated that even if a dying declaration is recorded by a police officer, it can be admissible, provided the circumstances are clear and the statement is found to be trustworthy.

**Observation:** While it is preferable for a dying declaration to be recorded by a magistrate, it is not mandatory. Statements recorded by police officers or other individuals can still be admitted if they meet the standards of reliability.

## 6. Multiple Dying Declarations

- In **State of Uttar Pradesh v. Shishupal Singh**<sup>18</sup> (1994), the Supreme Court observed that when there are multiple dying declarations, consistency between them is a key factor. If the statements contradict one another, the court must carefully evaluate which declaration is more reliable or credible.

**Observation:** In cases of multiple dying declarations, courts must assess the consistency and truthfulness of each statement. Inconsistent declarations weaken the evidentiary value unless clear reasons for the discrepancies are established.

## 7. Gestural or Non-verbal Dying Declarations

- In **Koli Chunilal Savji v. State of Gujarat**<sup>19</sup> (1999), the Supreme Court admitted a dying declaration conveyed through gestures by the declarant, as long as the gestures were clear and intelligible to the person recording the statement. The court held that non-verbal declarations, such as nodding or pointing, are admissible if they unequivocally indicate the intent of the declarant.

**Observation:** Non-verbal declarations, such as gestures or written notes, are admissible provided they clearly communicate the intent of the declarant and are accurately interpreted by witnesses or the person recording the statement.

## 8. Belief in Imminent Death

- In **Tapinder Singh v. State of Punjab**<sup>20</sup> (1970), the Supreme Court emphasized that the declarant must have been under the genuine belief that death was imminent at the time of making the statement. The Court observed that such a belief imparts reliability to the declaration.

**Observation:** The court must be convinced that the declarant believed they were on the verge of death. This belief is essential to the reliability and admissibility of the dying declaration.

## 9. Partial and Incomplete Dying Declarations

- In **Uka Ram v. State of Rajasthan**<sup>21</sup> (2001), the Supreme Court held that a dying declaration does not need to be exhaustive or cover all aspects of the case. Even a partial or incomplete statement is admissible, provided it directly relates to the cause of the declarant's death.

**Observation:** A dying declaration is admissible even if it is incomplete or does not cover every detail of the incident, as long as it pertains to the cause or circumstances of the declarant's death.

<sup>17</sup> CRIMINAL APPEAL NO. 111 OF 2011 SC

<sup>18</sup> AIR1994SC129, (1992)94BOMLR427, 1994CRILJ617, 1992SUPP(3)SCC60, AIR 1994 SUPREME COURT 129, 1993 AIR SCW 4041, 1994 CRI. L. J. 617, 1993 ALL. L. J. 1358, 1994 APLJ(CRI) 13.1, 1992 (3) SCC(SUPP) 60, (1993) 1 MAHLR 431, (1994) 1 APLJ 19, 1992 SCC (CRI) 957

<sup>19</sup> AIR 1999 SUPREME COURT 3695, 1999 (9) SCC 562, 1999 AIR SCW 3727, 1999 (10) SRJ 156, 1999 CRILR(SC MAH GUJ) 773, 2000 (1) UJ (SC) 437, 2000 UJ(SC) 1 437, 1999 (6) SCALE 267, 2000 (3) LRI 134, 2000 SCC(CRI) 432, 1999 (8) ADSC 426, 1999 CRIAPPR(SC) 513, 1999 CRILR(SC&MP) 773, 1999 ADSC 8 426, (1999) 7 JT 568 (SC), (1999) 4 CURCRIR 74, (1999) 3 CHANDCRIC 24, (2000) MATLR 70, (1999) 4 RECCRIR 594, (1999) SC CR R 926, (2000) 4 GUJ LR 3298, (1999) 2 GUJ LH 859, (1999) 3 SCJ 437, (1999) 8 SUPREME 717, (1999) 26 ALLCRIR 2231, (1999) 6 SCALE 267, (1999) 39 ALLCRIC 835, (2000) 1 ALLCRILR 696, (1999) 4 CRIMES 280, AIRONLINE 1999 SC 705

<sup>20</sup> 1970 AIR 1566, 1971 SCR (1) 599, AIR 1970 SUPREME COURT 1566

<sup>21</sup> Uka Ram v. State of Rajasthan

## 10. Reliability of Oral Declarations

- In **Ram Manorath v. State of Uttar Pradesh**<sup>22</sup> (1981), the Supreme Court held that oral dying declarations are admissible, but greater scrutiny is required to ensure that they were accurately conveyed by the witnesses who heard them.

**Observation:** Oral dying declarations are admissible, but courts must closely scrutinize them to ensure that they were correctly understood and reported by the witnesses.

The Supreme Court of India has consistently emphasized the need for caution in admitting dying declarations, ensuring that they are reliable, voluntary, and made under genuine belief in impending death. These declarations can be the sole basis for conviction, provided they meet the legal requirements and pass judicial scrutiny. Factors such as voluntariness, mental fitness, the mode of recording, and consistency play crucial roles in determining their admissibility. Courts continue to balance the need for justice with the protection of the accused's rights, ensuring that only credible dying declarations are used in criminal proceedings.

## Judicial Interpretation of Dying Declarations in Indian Courts

The interpretation and admissibility of dying declarations have been a significant area of judicial scrutiny in India. The Indian judiciary, particularly the Supreme Court and High Courts, have set forth various principles and guidelines to ensure that dying declarations are used fairly and justly in criminal cases. Indian courts have often dealt with challenges related to the credibility, authenticity, and reliability of these statements, which are generally considered exceptions to the hearsay rule.

### 1. Principle of the Exception to Hearsay

- Under **Section 32(1) of the Indian Evidence Act, 1872**, a dying declaration is admissible as an exception to the hearsay rule. The primary rationale behind this exception is the belief that a person on their deathbed would not lie, as they face imminent death. The courts, however, have consistently emphasized that despite this presumption of truth, a dying declaration must still meet certain standards of reliability.

### 2. Sole Basis for Conviction

- The Supreme Court, in **Khushal Rao v. State of Bombay**<sup>23</sup> (1958), laid down a seminal principle that a dying declaration can be the sole basis for conviction if it is found to be true and reliable. This case set the tone for future interpretations, stating that the law does not require corroboration if the dying declaration is clear, unambiguous, and credible.
- The Court asserted that the testimony of a person at the threshold of death carries significant weight, as it is presumed to be free from motives to fabricate. However, the Court also cautioned that dying declarations must be scrutinized carefully, and any suspicion of tutoring or coercion would render the statement inadmissible.

### 3. Requirement of Corroboration

- In **Ram Nath v. State of Madhya Pradesh**<sup>24</sup> (1953), the Supreme Court observed that while a dying declaration can be sufficient to convict an accused, courts should generally look for corroborative evidence when the declaration is not free from suspicion or when circumstances cast doubt on its reliability. Indian courts have generally favoured corroboration in cases where the dying declaration is inconsistent or incomplete.

### 4. Voluntariness and Free from Influence

- The issue of whether a dying declaration was made voluntarily and without external influence is critical. In **K. Ramachandra Reddy v. Public Prosecutor**<sup>25</sup> (1976), the Court held that a dying declaration must be made without any influence, coercion, or tutoring. The courts have repeatedly held that if there is evidence of external interference, such as suggestions from relatives, police officers, or medical staff, the declaration would lose its credibility.

<sup>22</sup> 1981 SCR (3) 195, 1981 SCC (2) 654, AIR 1981 SC 2, 1981 (2) SCC 654, (1981) ALL WC 334, 1981 SCC (CRI) 581

<sup>23</sup> AIR 1958 SC 22

<sup>24</sup> AIR 1953 SC 420, AIR 1953 SUPREME COURT 420

<sup>25</sup> 1976 AIR 1994, 1976 SCR 542, AIR 1976 SUPREME COURT 1994, (1976) 3 SCC 618, 1976 SC CRI R 366, 1976 CRI APP R (SC) 278, 1976 SCC (CRI) 473, 1977 (1) SCJ 36

- The Court's interpretation is focused on ensuring that dying declarations represent the true and voluntary statements of the declarant, free from manipulation or external pressure.

## 5. Mental and Physical Fitness of the Declarant

- The mental and physical fitness of the declarant is often a point of legal contention. In **Laxman v. State of Maharashtra**<sup>26</sup> (2002), the Supreme Court held that the absence of a doctor's certification regarding the declarant's mental fitness does not necessarily render the dying declaration inadmissible. The Court emphasized that what is important is whether the person making the declaration was in a fit state of mind to do so.
- However, the courts do take into consideration medical evidence or the testimony of witnesses who were present when the declaration was made to establish whether the declarant was capable of understanding and articulating their final words.

## 6. Multiple Dying Declarations

- When multiple dying declarations are present, the courts have emphasized the need for consistency. In **State of Uttar Pradesh v. Shishupal Singh**<sup>27</sup> (1994), the Supreme Court laid down that when there are multiple dying declarations, the one most consistent with the facts of the case should be given precedence.
- In cases where dying declarations contradict each other, the Court advised careful scrutiny to assess which statement is more credible, and the reasons for any discrepancies should be examined thoroughly.

## 7. Oral and Written Dying Declarations

- The Supreme Court in **Ram Manorath v. State of Uttar Pradesh**<sup>28</sup> (1981) ruled that both oral and written dying declarations are admissible. The Court has made it clear that no specific form is required for a dying declaration, and even gestural or oral declarations are valid if proven reliable. However, courts tend to prefer written declarations, especially those recorded by magistrates or in the presence of reliable witnesses.
- In **Koli Chunilal Savji v. State of Gujarat**<sup>29</sup> (1999), the Court accepted non-verbal gestures as a form of dying declaration, provided they were clear and understandable.

## 8. Belief in Imminent Death

- The belief that death is imminent is a crucial factor in the admissibility of dying declarations. In **Tapinder Singh v. State of Punjab**<sup>30</sup> (1970), the Supreme Court observed that for a dying declaration to be admissible, it is not necessary for the declarant to die immediately after making the statement, but the declarant must have been under a firm belief that death was imminent when making the declaration.
- This aspect of judicial interpretation is vital to establish the sincerity of the declarant's words, reinforcing the idea that one is unlikely to lie while facing certain death.

## 9. Admissibility of Incomplete Dying Declarations

- The Supreme Court has clarified that even incomplete dying declarations can be admissible as long as they provide enough information about the cause of death. In **Uka Ram v. State of Rajasthan**<sup>31</sup> (2001), the Court held that a declaration need not be exhaustive. If it touches upon the material facts regarding the circumstances of death, it may still be admitted, even if other details are missing.

<sup>26</sup> Appeal (crl.) 608 of 2001

<sup>27</sup> AIR1994SC129, (1992)94BOMLR427, 1994CRILJ617, 1992SUPP(3)SCC60, AIR 1994 SUPREME COURT 129, 1993 AIR SCW 4041, 1994 CRI. L. J. 617, 1993 ALL. L. J. 1358, 1994 APLJ(CRI) 13.1, 1992 (3) SCC(SUPP) 60, (1993) 1 MAHLR 431, (1994) 1 APLJ 19, 1992 SCC (CRI) 957

<sup>28</sup> 1981 SCR (3) 195, 1981 SCC (2) 654, AIRONLINE 1981 SC 2, 1981 (2) SCC 654, (1981) ALL WC 334, 1981 SCC (CRI) 581

<sup>29</sup> AIR 1999 SUPREME COURT 3695, 1999 (9) SCC 562, 1999 AIR SCW 3727, 1999 (10) SRJ 156, 1999 CRILR(SC MAH GUJ) 773, 2000 (1) UJ (SC) 437, 2000 UJ(SC) 1 437, 1999 (6) SCALE 267, 2000 (3) LRI 134, 2000 SCC(CRI) 432, 1999 (8) ADSC 426, 1999 CRIAPPR(SC) 513, 1999 CRILR(SC&MP) 773, 1999 ADSC 8 426, (1999) 7 JT 568 (SC), (1999) 4 CURCRIR 74, (1999) 3 CHANDCRIC 24, (2000) MATLR 70, (1999) 4 RECCRIR 594, (1999) SC CR R 926, (2000) 4 GUJ LR 3298, (1999) 2 GUJ LH 859, (1999) 3 SCJ 437, (1999) 8 SUPREME 717, (1999) 26 ALLCRIR 2231, (1999) 6 SCALE 267, (1999) 39 ALLCRIC 835, (2000) 1 ALLCRILR 696, (1999) 4 CRIMES 280, AIRONLINE 1999 SC 705

<sup>30</sup> 1970 AIR 1566, 1971 SCR (1) 599, AIR 1970 SUPREME COURT 1566

<sup>31</sup> 2001 ACR SC 2 1277 . 2001 ALD CRI 1 734 . 2001 ALLMR CRI SC 1215 . 2001 ALT CRI 2

## 10. Magistrate's Role in Recording Dying Declarations

- The Court has consistently stated that while it is preferable for a dying declaration to be recorded by a magistrate, it is not mandatory. In **Ravikumar v. State of Tamil Nadu**<sup>32</sup> (2006), the Supreme Court reiterated that dying declarations recorded by police officers or medical personnel are admissible if proven trustworthy.
- However, the Court highlighted that a dying declaration recorded by a magistrate carries more credibility as it assures procedural integrity and reduces the possibility of manipulation or coercion.

Indian courts have laid down clear guidelines and interpretations for the admissibility of dying declarations, focusing on voluntariness, reliability, and the context in which the declaration is made. The judicial approach emphasizes caution, requiring a careful examination of the facts surrounding each case. Courts have balanced the need to protect the rights of the accused with the importance of giving weight to the final words of a dying person, ensuring that justice is served in accordance with the law.

## Can Dying Declarations Be the Sole Basis for Conviction?

### 1. Legal Principles Governing Dying Declarations

#### Admissibility

Dying declarations are considered admissible evidence in Indian courts and can be used as the sole basis for conviction under specific conditions. The primary condition is that the declaration must be made voluntarily and in a fit state of mind, ensuring it is truthful. The Supreme Court of India has reinforced that a dying declaration must inspire full confidence and be free from any external influence or tutoring (*Amar Singh Munnasingh Suryawanshi vs. State of Maharashtra*<sup>33</sup>, 2005; *Laxmi alias Chhotelal vs. State of Madhya Pradesh*<sup>34</sup>, 2006).

#### Reliability

The reliability of a dying declaration is crucial. For it to be deemed reliable, it must be given in a fit mental state, and corroborated by medical evidence. The courts require that the declaration be supported by medical opinions confirming the declarant's condition at the time of making the declaration (*Amar Singh Munnasingh Suryawanshi vs. State of Maharashtra*<sup>35</sup>, 2005; *Ramesh Ahirwar vs. State of Madhya Pradesh*<sup>36</sup>, 2007).

#### Corroboration

Corroboration is not an absolute necessity for the admissibility of a dying declaration. However, the absence of corroborative evidence might raise concerns about the declaration's reliability. Courts have upheld convictions based solely on dying declarations when these declarations are consistent and credible, though corroborative evidence can strengthen the case (*Rajendra Kumar vs. State of Uttar Pradesh*<sup>37</sup>, 2010; *Ram Chand vs. State of Haryana*<sup>38</sup>, 2008).

### 2. Key Judicial Observations

#### Truthfulness and Voluntariness

<sup>32</sup> SLP(Crl) No.-001117 / 2022 SC

<sup>33</sup> AIR 2008 SUPREME COURT 479, 2007 AIR SCW 7330, 2008 (2) AIR JHAR R 208, 2008 (1) AIR BOM R 263, (2008) 1 ALLCRIR 1088, (2007) 12 SCALE 764, 2008 ALLMR(CRI) 324, (2008) 1 ALD(CRL) 110, (2008) 61 ALLINDCAS 174 (SC), (2008) 39 OCR 222, (2007) 4 CHANDCRIC 161, (2008) 1 CURCRIR 380, 2008 BOMCRSUP 115, (2008) 1 ANDHLT(CRI) 447, 2010 (3) SCC (CRI) 553

<sup>34</sup> 2018 SCC ONLINE MP 332

<sup>35</sup> AIR 2008 SUPREME COURT 479, 2007 AIR SCW 7330, 2008 (2) AIR JHAR R 208, 2008 (1) AIR BOM R 263, (2008) 1 ALLCRIR 1088, (2007) 12 SCALE 764, 2008 ALLMR(CRI) 324, (2008) 1 ALD(CRL) 110, (2008) 61 ALLINDCAS 174 (SC), (2008) 39 OCR 222, (2007) 4 CHANDCRIC 161, (2008) 1 CURCRIR 380, 2008 BOMCRSUP 115, (2008) 1 ANDHLT(CRI) 447, 2010 (3) SCC (CRI) 553

<sup>36</sup> MCRC No. 54013 of 2023 M.P High Court

<sup>37</sup> CRIMINAL APPEAL No. - 9359 of 2022 Allahabad High Court

<sup>38</sup> 1981 AIR 1036, 1981 SCR (3) 12, AIR 1981 SUPREME COURT 1036, 1981 (3) SCC 191, 1981 CRIAPPR(SC) 158, 1981 SCC(CRI) 683, 1981 BCCI 66, (1981) SC CR R 295, (1981) 2 APLJ 1, (1981) CHANDCRIC 84, (1981) CURLI(CCR) 84

Dying declarations must be both truthful and made voluntarily. The court must assess the mental fitness of the declarant at the time the declaration was made to ensure its credibility (Amar Singh Munnasingh Suryawanshi vs. State of Maharashtra<sup>39</sup>, 2005; Laxmi alias Chhotelal vs. State of Madhya Pradesh<sup>40</sup>, 2006).

### Caution and Consistency

Courts exercise caution when relying solely on dying declarations, particularly in cases with multiple declarations that may contradict each other. Inconsistencies can compromise the reliability of the declaration. For instance, discrepancies in multiple declarations have led courts to be cautious about their sole reliance (Sanjay Radhesham Ruhatiya vs. State of Maharashtra<sup>41</sup>, 2004; State of Rajasthan vs. Mst. Ganwara<sup>42</sup>, 2004).

### Judicial Precedents

Several judgments confirm that dying declarations can be used as the sole basis for conviction if they meet the criteria of reliability and trustworthiness. The absence of a motive does not necessarily undermine the declaration's validity, as the nature of the crime itself does not require proof of motive (Usha Rani vs. State of Punjab<sup>43</sup>, 2009; Chittar vs. State of Rajasthan<sup>44</sup>, 2006).

## 3. Practical Considerations

### Thorough Examination

Legal practitioners should rigorously examine dying declarations to ensure their reliability and consistency with other evidence. This thorough examination is vital to uphold the integrity of the declaration and ensure it supports the conviction.

### Medical Opinion

Securing medical opinions to confirm the mental state of the declarant at the time of the declaration is crucial. This medical corroboration supports the credibility of the declaration and addresses potential concerns regarding the declarant's condition.

### Addressing Inconsistencies

Handling inconsistencies in multiple dying declarations is essential. In cases where several declarations exist, addressing and clarifying discrepancies helps to strengthen the case and enhance the reliability of the evidence.

Dying declarations can serve as the sole basis for conviction in the Indian legal system if they meet the required criteria of truthfulness, voluntariness, and reliability. Courts must be cautious, especially when dealing with multiple declarations or potential inconsistencies. Legal practitioners should ensure that dying declarations are supported by medical opinions and thoroughly scrutinized for any signs of unreliability.

## Challenges in Using Dying Declarations as Evidence

Dying declarations hold a unique position in legal proceedings, serving as an exception to the hearsay rule. Despite their importance, they come with numerous challenges related to their admissibility, reliability, and impact on the justice process. Here are the key challenges:

The first major issue is the lack of cross-examination. Since the declarant has passed away, the accused is deprived of the opportunity to challenge or clarify the statement. Cross-examination plays a vital role in testing

<sup>39</sup> AIR 2008 SUPREME COURT 479, 2007 AIR SCW 7330, 2008 (2) AIR JHAR R 208, 2008 (1) AIR BOM R 263, (2008) 1 ALLCRIR 1088, (2007) 12 SCALE 764, 2008 ALLMR(CRI) 324, (2008) 1 ALD(CRL) 110, (2008) 61 ALLINDCAS 174 (SC), (2008) 39 OCR 222, (2007) 4 CHANDCRIC 161, (2008) 1 CURCRIR 380, 2008 BOMCRSUP 115, (2008) 1 ANDHLT(CRI) 447, 2010 (3) SCC (CRI) 553

<sup>40</sup> LAWS(MPH) -2018-2-344

<sup>41</sup> LAWS (BOM) – 1999-10-103

<sup>42</sup> AIRONLINE 2018 SC 1212, AIRONLINE 2018 SC 250

<sup>43</sup> CRWP-1207-2024 P & H High Court

<sup>44</sup> AIR 2003 SUPREME COURT 3590

the truthfulness and reliability of witness statements, and its absence raises concerns about the fairness of the trial.

Another significant factor is the mental and physical condition of the declarant at the time the statement is made. The declarant may be in immense pain, heavily medicated, or mentally disoriented due to injury or trauma. These conditions can cloud judgment, making the declaration less reliable. The court must be satisfied that the person was in a "fit state of mind" when giving the statement, but this can be difficult to prove after death.

The risk of tutoring or influence also poses a serious challenge. If the dying declaration is made in the presence of family members, law enforcement, or other interested parties, the possibility of coercion or manipulation arises. Such influence undermines the voluntariness of the statement, calling its authenticity into question.

In cases where there are multiple dying declarations or inconsistencies within a single statement, courts must carefully evaluate the circumstances. Inconsistencies between multiple declarations, or within the same one, can cast doubt on its reliability, potentially weakening its evidentiary value.

While corroboration is not a legal requirement, courts generally prefer that a dying declaration be supported by other evidence. In cases where the declaration is the sole piece of evidence and contradicts other findings, it may not be sufficient to secure a conviction. The absence of corroboration can thus pose a major challenge to the reliability of the declaration.

Another issue is language and interpretation. If the declaration is recorded by another person, such as a police officer or medical professional, there is the risk of miscommunication or error in transcription. Inaccurate recordings or translations can distort the declarant's intent, affecting the outcome of the case.

The legal formalities surrounding dying declarations must also be strictly followed to ensure admissibility. If the declaration is not recorded by a magistrate or a credible witness, or if there is no certification of the declarant's mental fitness, the court may reject the statement altogether. Procedural lapses can weaken the value of the declaration in court.

Judicial interpretation plays a crucial role in the use of dying declarations, and this can be highly subjective. Judges have discretion in deciding how much weight to give to a dying declaration, depending on the circumstances of its recording and the state of mind of the declarant. This subjectivity can lead to variability in legal outcomes.

Finally, although there is a presumption that a person on their deathbed will speak the truth, there remains the risk of fabrication or false accusations. In certain cases, especially those involving personal vendettas or conflicts, the declarant may have the motive to mislead. Courts must remain cautious in treating dying declarations as absolute truth without considering the possibility of falsehood.

While dying declarations are powerful tools in the legal system, their use is fraught with challenges. Courts must carefully evaluate the context, corroborate the evidence, and ensure that procedural safeguards are in place to prevent miscarriages of justice.

## Landmark Judgement on Dying Declaration

- i. Dying Declaration can be the sole basis for conviction

A dying declaration, if truthful, voluntary, and made in a fit state of mind, can serve as the sole basis for conviction. It reinforced the guidelines for assessing the admissibility of such declarations, emphasizing the need for careful judicial scrutiny to avoid miscarriages of justice<sup>45</sup>.

- ii. Multiple dying declarations

In cases where there are multiple dying declarations, the Indian judiciary, especially the Supreme Court, has laid down several principles to determine which declaration should be given priority or whether any of them should be accepted at all. The Court emphasizes that each dying declaration must be scrutinized carefully, considering its consistency, voluntariness, and reliability. Here are the key factors considered by the Supreme Court:

### 1. Consistency Between Multiple Dying Declarations

The Supreme Court has consistently held that if there are multiple dying declarations, their consistency plays a crucial role in determining their reliability. If all declarations are consistent with each other, it strengthens their evidentiary value and can be the sole basis for conviction.

In **Kali Ram v. State of Himachal Pradesh**<sup>46</sup> (1973), the Court observed that if there are multiple dying declarations that are consistent with each other, the courts may rely on them even without additional corroboration.

### 2. Contradictions or Inconsistencies

When multiple dying declarations contradict each other, courts must carefully scrutinize the circumstances under which each declaration was made. If any of the declarations are found to be influenced, coerced, or made under suspicious circumstances, the court may discard them.

In **Shudhakar v. State of Madhya Pradesh**<sup>47</sup> (2012), the Supreme Court ruled that when contradictions exist between dying declarations, the court should focus on the declaration that appears more reliable based on surrounding circumstances, such as who recorded it, whether the declarant was in a fit mental state, and whether there was any external influence.

### 3. Fitness of the Declarant

In cases where there are multiple dying declarations, the declarant's physical and mental fitness at the time of making the statements is critical. The court has emphasized that the person recording the declaration must ensure that the declarant was in a fit state of mind.

In **Laxman v. State of Maharashtra**<sup>48</sup> (2002), the Supreme Court ruled that a dying declaration cannot be discarded merely because the doctor did not certify the mental condition of the deceased, provided the magistrate or person recording the statement is satisfied about the declarant's fitness.

### 4. Voluntariness of the Declaration

The Court has stated that dying declarations must be voluntary and free from any external influence or tutoring. If there are multiple dying declarations, the court must assess whether any of them were made under duress or coercion.

In **Amol Singh v. State of Madhya Pradesh**<sup>49</sup> (2008), the Court emphasized that if the dying declaration is not voluntary or appears to be influenced by external factors, it must be discarded.

<sup>45</sup> Purushottam Chopra vs State AIR 2020 SUPREME COURT 476, AIRONLINE 2020 SC 15, (2020) 1 CRILR(RAJ) 125, (2020) 1 MAD LJ(CRI) 277, (2020) 1 RECCRIR 610, (2020) 1 SCALE 434, (2020) 266 DLT 520, 2020 CRILR(SC MAH GUJ) 125

<sup>46</sup> 1973 AIR 2773, 1974 SCR (1) 722, AIR 1973 SUPREME COURT 2773, (1973) 2 SCC 808, 1974 SCD 1, 1975 MADLJ(CRI) 313, 1974 (1) SCR 722, 1975 (1) SCJ 418, 1973 2 SCWR 583, 1975 MADLW (CRI) 117, 1973 SCC(CRI) 1048, ILR 1975 HP 575

<sup>47</sup> AIR 2012 SUPREME COURT 3265, 2012 (7) SCC 569, 2012 AIR SCW 4397, AIR 2012 SC (CRIMINAL) 1449, 2012 ALLMR(CRI) 3 2682, (2012) 4 MH LJ (CRI) 563, (2012) 4 CRILR(RAJ) 996, (2012) 3 UC 1657, (2012) 117 ALLINDCAS 88 (SC), (2013) 1 RAJ LW 290, 2012 (117) ALLINDCAS 88, 2012 (3) CALCRILR 250, 2012 (3) SCC(CRI) 430, 2012 (6) SCALE 587, 2012 (3) KER LT 95.1 SN, (2012) 3 CURCRIR 206, (2012) 3 DLT(CRL) 244, (2012) 3 CRIMES 171, (2012) 2 DMC 721, (2012) 3 GUJ LH 128, (2012) 2 MADLW(CRI) 389, (2012) 53 OCR 117, (2012) 6 SCALE 587, (2012) 78 ALLCRIC 992, (2012) 4 ALLCRILR 81

<sup>48</sup> 1968 0 Supreme(SC) 104; 1968 0 AIR(SC) 1390 ; 1969 71 BomLR 244 ; 1968 0 CrLJ 1647 ; 1969 0 MhLJ(SC) 592 ; 1969 0 MLJ(Cri) 3 ; 1969 0 MPLJ 529 ; 1969 0 SCD 364 ; 1968 2 SCJ 930 ; 1968 3 SCR 685

<sup>49</sup> AIRONLINE 2008 SC 62, 2008 (5) SCC 468, (2008) 40 OCR 915, (2008) 3 ALL CRI R 2650, (2008) 3 REC CRI R 602, (2008) 62 ALL CRI C 297, (2008) 3 CUR CRI R 106, (2008) 3 CHAND CRI C 301, (2008) 8 SCALE 63, (2009) 1 MAD LJ(CRI) 478, (2008) 4 MH LJ (CRI) 14, (2008) 2 MADLW(CRI) 1291, 2008 ALL MR (CRI) 2323, 2008 (2) SCC (CRI) 637, (2008) 2 ALD (CRI) 44, (2008) 2 JCC 1412 (SC), (2008) 67 ALL IND CAS 209 (SC), (2008) 67 ALLINDCAS 209

## 5. Preference to First or Last Declaration

In some cases, courts may give weightage to the first or last dying declaration based on the surrounding facts. However, the overall reliability and consistency remain paramount.

In **P. Mani v. State of Tamil Nadu**<sup>50</sup> (2006), the Supreme Court observed that a later declaration should not automatically be rejected if the earlier declaration appears less credible due to circumstances like external pressure or lack of mental fitness at the time.

## 6. Corroboration

Although corroboration of dying declarations is not mandatory, the Court has pointed out that in cases of multiple declarations, corroboration from other evidence strengthens the prosecution's case.

In **Bhajju @ Karan Singh v. State of Madhya Pradesh**<sup>51</sup> (2012), the Court ruled that where there are discrepancies between multiple dying declarations, corroborating evidence from independent witnesses or medical testimony can help determine which declaration is reliable.

## 7. Judicial Prudence

The Supreme Court in **State of Rajasthan v. Shravan Ram**<sup>52</sup> (2003) held that courts must exercise caution and prudence in cases involving multiple dying declarations. Each statement must be evaluated in the context of the other, and the Court must arrive at a decision after weighing all the surrounding circumstances.

## Conclusion

When dealing with multiple dying declarations, courts are tasked with a careful evaluation of each declaration, focusing on consistency, voluntariness, and the fitness of the declarant. Contradictions or inconsistencies between declarations require close judicial scrutiny, and courts often rely on corroborative evidence to support the reliability of the dying declaration they choose to accept. The Supreme Court's approach in such cases emphasizes that dying declarations must be approached with caution to avoid potential miscarriages of justice.

## Conclusion: The Future of Dying Declarations in Indian Criminal Law

The legal principle of dying declarations has stood the test of time in Indian criminal law, serving as a crucial tool for prosecutors when the victim is no longer alive to testify. However, the challenges surrounding their admissibility, reliability, and accuracy require careful judicial scrutiny. Courts must continue to balance the value of these declarations with the risks of falsehood, tutoring, and inconsistencies.

The evolution of technology, such as video-recorded statements or real-time medical monitoring, could enhance the reliability of dying declarations in the future. As criminal law progresses, courts may adopt more stringent guidelines to ensure that such statements remain voluntary, clear, and trustworthy. Additionally, the growing focus on human rights and fair trial standards may push for better safeguards to protect the rights of the accused, while ensuring that the truth prevails.

In conclusion, while dying declarations will likely continue to be an integral part of the Indian criminal justice system, the future may see reforms that address their inherent limitations, ensuring they are used judiciously and in the interest of justice.

<sup>50</sup> AIR 2006 SUPREME COURT 1319, 2006 (3) SCC 161, 2006 AIR SCW 1053, 2007 CRI LJ (NOC) 179, 2006 (2) AIR JHAR R 292, 2006 (1) CALCRILR 574, 2006 ALL MR(CRI) 1184, 2006 (2) SCC(CRI) 36, 2006 CALCRILR 1 574, (2006) 3 CTC 193 (SC), (2006) 2 SCALE 482, (2006) 40 ALLINDCAS 727 (SC), 2006 (4) SRJ 523, (2006) ILR (KANT) 2401, (2006) 1 DMC 471, (2006) 2 ALLCRILR 561, (2006) 3 ICC 162, (2006) 2 ALLCRIR 1204, (2006) 2 SUPREME 415, (2006) 2 EASTCRIC 138, (2006) 33 OCR 761, (2006) 2 PAT LJ 213, (2006) 2 RECCRIR 159, (2006) 4 SCJ 783, (2006) 4 CURCRIR 241, (2006) 2 JLJR 256, (2006) 55 ALLCRIC 284, (2006) 2 CRIMES 9, (2006) 1 ORISSA LR 610, (2006) 1 GCD 605 (SC), (2006) 1 HINDULR 739, (2006) 1 MAD LJ(CRI) 323, (2006) SC CR R 487, 2006 CHANDLR(CIV&CRI) 390, 2006 (2) ANDHLT(CRI) 217 SC, (2006) 2 ANDHLT(CRI) 217

<sup>51</sup> 2012 ACR 1217 . 2013 AJR 2 149 . 2012 ALT CRI 3 229 . 2012 CRI LJ 1926 . 2012 JCC 2 1192 . 2012 NCC 2 1 . 2012 RCR CRIMINAL 2 539 . 2012 SCALE 3 438 . 2012 SCC 4 327 . 2012 UC 1 787 . 2013 UC 1 787 . 2012 SCC CRI 2 440 . 2012 SCC ONLINE SC 261 . 2012 AIC 112 1 . 2012 AIR SC SUPP 792 . 2012 SCC CR 2 440 . 2012 JT 3 377 . 2012 CRLJ 0 1926 . 2012 SCR 0 1063 . 2012 ALL 0 1063 . 2012 CRLJ 0 1926 . 2012 RCR CRI 2 539 .

2012 SLT 2 665 . 2012 SUPREME 2 439 . 2012 AIOL 135 . 2012 AIR SC 1963 . 2012 CRIMES SC 2 40 . 2012 LW CRL 2 356 . 2012 SCJ 6 421 . 2012 MAHLJ CRI 3 73 . 2012 MLJ CRI 3 261 . 2012 CUTLT SUPPL 1419 . 2012 RCR CRIMINAL SC 2 539 . 2012 CRLJ 1926 . 2012 MLJ CRL 261 . 2012 CRILJ 1926 . 2012 MLJ CRL 3 261 . 2012 ALT CRI SC 3 229 . 2012 AIR SCW 1963 . 2012 CRLJ SC 1926 .

<sup>52</sup> 2012 SCC ONLINE RAJ 154

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