

# Dying Declaration: Evidentiary Value 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, 1872 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 declaring 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*

## I. 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 1872**, 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.

#### **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.

#### **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.

#### **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.

### **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* (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.RAMACHANDAR REDDY VS PUBLIC PROSCUTOR (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.

**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** (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.

**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, their liability 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.

### **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\*(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.

### **3. Condition of the Declaring:**

**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 Pradesh7(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 Maharashtra8 (2002)**, where the Supreme Court ruled that the absence of a magistrate does not automatically render a dying declaration unreliable.

### **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 Bombay12 (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.

### **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.

#### **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.

#### **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.

### **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**).

**Landmark Judgement on Dying Declaration:**

**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.

**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.

**II. 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.

**BIBLIOGRAPHY:**

- [1]. Chopra purushottam, supreme court judgement on dying decelaration,2007SCJ2976.
- [2]. Ratanlal and Dhirajlal , the law of evidence, 27<sup>th</sup> ed, lexisnexis, guegaon,2020



- [3]. Sakar, S.C., Law of evidence, 20<sup>th</sup> ed., LexisNexis Butterworth's wadhwa , Nagpur,2015
- [4]. Iyer, VR ,Krishna ,”dying declaration” legal and practical insights”, journal of the Indian law, Vol.45, No.3,2018.

