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## DYING DECLARATION AND DOWRY DEATH

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Raashi Agarwal, SVKMS NMIMS Kirit P. Mehta School Of Law

### ABSTRACT

The task of the judge to scrutinize a matter and find the truth into it. Finding out the truth is a part and parcel of ever justice delivery mechanism. Every fact needs to be analyzed, scrutinized and evidence have to be presented in order to corroborate a narrated story. In a country like India where marriage is considered to be solemn and a wellspring of fresh starts. However, it has the longest shades of malice, one of them being the framework of dowry. Such instance of customs which show male-predominance by socially outraging a woman is still pervasive in the 21<sup>st</sup> century. For such a custom, women are regularly in the four walls of house are being harassed and tortured for the procurement of dowry. Instead of strict penal provisions being provided, it has been difficult to contain such a heinous crime. Dowry death is tricky one for judiciary as well, as it takes many evidences to prove the guilt of the accused. Dying declaration is one such evidence. This paper seeks to understand the relevancy, credibility, reliability, admissibly and evidentiary value of dying declaration in cases of dowry death.

**Keywords:** Dowry Death, Dying Declaration, Indian Penal Code, The Indian Evidence Act.

## INTRODUCTION

“The law of evidence in India mandates that the evidence may be given of relevant facts only and of no others”<sup>1</sup> The basic provisions which regulate around the evidentiary process are; firstly, evidence must be given for relevant facts. Secondly, evidence should be given in every case and lastly, hearsay evidence should be excluded. Amongst all the different kinds of evidences provided by The Indian Evidence Act, 1872<sup>2</sup>, the statement made by a person under the section 32 (1)<sup>3</sup> is a matter of scrutiny in this paper.

Section 32(1) summarizes the whole ideology behind the importance of the last words of a person who is on the death bed. It is presumed that the person dying will be free from any falsehood and will say nothing but the truth about the cause of his death. It is also presumed by many jurists that a person with the imminent form of danger causing his death will silence every motive to lie and concoct a story. Thus a declaration as this, made by a person about his cause of death while in a state of imminent death is called a dying declaration. It is embedded under section 32 (1) of The Indian Evidence Act, 1872<sup>4</sup>. This is also based on a maxim named “*nemo moriturus praesumitur mentiri*” which based on the principle- that a dying man will not meet his maker with a lie in his mouth.” It said to be a admissible and relevant piece of evidence in Indian law as it is a fact that a dying man can never lie. This research paper attempts to delve more into the topic of “*Leterm Mortem*” which means “*words said before death*”.

## PROBLEM STATEMENT

Dying declaration is considered to be a credible as well as relevant evidence and has been considered by many courts while dealing with criminal matters. This evidence is not given under oath and cannot be cross-examined and still comes under the ambit of valid evidence. Therefore, section 32(1) of The Indian Evidence Act, 1872 are one of those sections which are provided as an exception to the rule of hearsay evidence. The reason for such exception is because law wants the best evidence in each case. Though the discretion of the judges play a very crucial role in deciding the relevance and admissibility of the same based on the story narrated. There have been many cases of dowry death which have seen changing and different stances of judges in regard to “dying declaration” and guilt of the accused. The major problem

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<sup>1</sup> Indian Evidence Act, 1872 (Act 1 of 1872), s. 5 (hereinafter the Act)

<sup>2</sup> Indian Evidence Act, 1872 (Act 1 of 1872), s. 5 (hereinafter the Act)

<sup>3</sup> Section, 32 cl (1), Indian Evidence Act, 1872 (Act 1 of 1872), s. 5 (hereinafter the Act)

<sup>4</sup> Ibid.

lies in determining the danger of imminent death as well as corroboration of the said statements in cases of dowry death.

## RESEARCH OBJECTIVES

This research answers the following:

- A. To analyze the section 32(1)<sup>5</sup> of The Indian Evidence, Act, 1872 in depth.
- B. To analyze the evidentiary value of dying declaration
- C. To analyze the relation between dying declaration and dowry death
- D. To analyze the competency of taking the dying declaration
- E. To analyze the evidentiary value of dying declaration in cases of dowry death.

## DYING DECLARATION

### I. SECTION 32 (1) OF THE INDIAN EVIDENCE ACT

The concept of dying declaration was first invented in the English law. It is first very important to note the relevant principles of English law now in order to understand the concept of dying declaration in Indian scenario. A dying declaration according to English law is a statement which is only relevant when there is a charge of murder or manslaughter<sup>6</sup> whereas in Indian law it is applicable to all civil as well as criminal proceedings.

The case of *R .v Woodcock*<sup>7</sup> was the first case to come up with such a concept where it was held that, “*the general principle on which this specie 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 this world is gone, when every motive to false hold is silence, and the mind is induced by the most powerful considerations to speak the truth.*”. The courts have time and again taken the consideration of presumption of truth. This is the only place where Indian law and English law differs from each other, where Indian law takes a departure from the rule of “Imminent death”<sup>8</sup>

Dying declaration has been defined under section 32(1) of The Indian Evidence Act, 1872 as reiterated many times. By the basic and simple reading of the section it is understood that

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<sup>5</sup> Supra 1.

<sup>6</sup> *R. V. Mead*. (1824) 2 B & C 605.

<sup>7</sup> *R .v Woodcock* (1789) 1 Leach 500.

<sup>8</sup> *P.V. Radha Krishna v State of Karnataka*, AIR 2003 SC 2859.

statement of a person who come under the said 4 groups<sup>9</sup> are relevant form of evidence. Clause 1 form which concentrates on dying declaration can be divided into 2 half one which talks about the cause of the death and the other which speaks about the circumstances which caused the death, The researcher is of the opinion that second one is of a wider amplitude. As words like “circumstances” includes every such “transaction which resulted in his death” which has a wider dimension. This means that anything which had direct or indirect, proximate or distant relation to the death will come under this ambit. This is also mentioned in a case named Rattan Singh v. State of H.P<sup>10</sup>, where the court opined that ““circumstances of the transaction which resulted in his death’ is apparently of wider amplitude than saying circumstances which caused his death.”

The below table shows a basic difference between English law and Indian law with regards to dying declaration:

<i>English law : Dying Declaration</i>	<i>Indian Law: Dying Declaration</i>
<i>Person making statement must be under the anticipation of death or impending death.</i>	<i>It is not necessary for the admissibility of dying declaration that the deceased at the time of making the statement should have been under expectation of death.<sup>11</sup></i>
<i>Admissible only in a criminal charge of homicide or manslaughter .</i>	<i>It is admissible in civil or criminal proceedings both where ever the question of death comes into question.</i>
<i>It is admissible only when death has ensued.</i>	<i>Such statement may be used even if the declarant survives.</i>
<i>Not admissible</i>	<i>statements are admissible in cases of</i>

<sup>9</sup> Who is dead, cannot be found, become incapable of giving evidence and cannot be procured within reasonable time.

<sup>10</sup> Rattan Singh v. State of H.P (1997) 4 SCC 161 at 166-167.

<sup>11</sup> Inayat Khan v. Emperor 158 IC 336; B. Sharda v. State of Maharashtra, AIR 1984 SC 1622; Tahal Singh v. State of Punjab, AIR 1979 SC 1347.

	<i>suicide</i> <sup>12</sup>
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The procedure to be followed by the magistrate while considering dying declarations have been laid down in Rule 33 of the Criminal Rules of Practice<sup>13</sup>. Similarly, presiding officers are to consider Part-2 in Criminal Rules of Practice and Circular Orders 1990<sup>14</sup> while recording dying declarations. Section 32 starts with a word “Statement”, this word has been used in the Act many times but has not been clearly defined. There can be two meanings to the word; first being the conceptualization and the second being implication. The Oxford English Dictionary defines “statement” as something which is clearly stated or expressed. Therefore it is very important to understand what are its forms. In the case of *Queen Empress v. Abdullah*<sup>15</sup>, signs, gestures and nods were considered to be verbal statements. Therefore it can be said that, dying declarations can be given in many forms such as oral, written, gestures, thumb impression etc. As it was seen in the Nirbhaya rape case, dying declaration was made in the form of gestures, signs and nods which were accepted by the court and were termed to be admissible. There have been many cases where the dying declaration recorded is incomplete in nature, such declarations are non-admissible in the court, as they are not absolute for conviction. And all the forms need to be taken into consideration by the judges in order to prosecute the accused as a declaration once found to be in doubt cannot be used to convict a person *prima facie*. Dying declaration, once found to be true and voluntary, can be made basis of conviction without further corroboration.

## II. DYING DECLARATION AND HEARSAY PRINCIPLE

Evidence law time and again mentions that the fact needs to be proven by direct evidence one which is under oath and applicable for cross examination. In simpler words, such evidences are admissible in nature. In the case of dying declaration the direct oral evidence given by the person is not available for cross examination because the maker of it is dead or has become incapable of giving the said statement. Such a statement may be made long before the enquiry but it consists of the highest degree of truth. That is why such statements have been declared to

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<sup>12</sup> Distinction between Indian and English Law may be seen in *Kishan Lal v. State of Rajasthan*, AIR 1999 SC 3062; See, Syed Amir Ali and John Woodroffe, *Law of Evidence 1760* (Butterworth, Delhi, 17<sup>th</sup> edn.).

<sup>13</sup> Rule 33 of the Criminal Rules of Practice

<sup>14</sup> Part-2 in Criminal Rules of Practice and Circular Orders 1990

<sup>15</sup> *Queen Empress v. Abdullah*, (1885) 7 All. 600; See also *Man Chand v. R.*, 5 L324; *R. v. Motiram* 1937 Bom. 68; *Somatigir v. State of M.P.*, 1989 Cr. L.J. NOC 9.

be relevant and admissible in nature and an exception to the rule of hearsay. This is an exception due to the necessity of the evidence needs for the court to determine as well as probability of the truth said in the said statement. The general rule of hearsay if seen individually is not admissible in the court of law and if taken into consideration there should be other evidences to justify the same.

Moreover, the witness here is considered to be the sole eyewitness and there dying declaration is considered as an exception as courts don't want to take a chance with the only witness.

### **DYING DECLARATION AS EVIDENCE**

As reiterated before as well dying declaration is very important piece of evidence and the conviction is solely based on the statement of a dead man. It is said that "*The truth sits on the lips of a dying man*" The principles of dying declaration have been very articulately laid down in a Supreme Court case named, Kundanbala Subrahmanyam v. State of A.P.<sup>16</sup> which was further supported by the case named Laxmi v. Omprakash<sup>17</sup> it was held in this judgement that a last words of a person is very emotional and sacred, it is very unlikely for a person to lie in such a state. The danger of death acts as a guarantee that the statements made by the deceased about the causes of death or the circumstances of the same are true in nature and leading toward his death. Once the said declaration and the witness testifying to the same corroborates after the careful analysis of court, then that piece is the most reliable piece of evidence. A dying declaration needs to be free from any doubt, it should be free in nature. Such a pure declaration can be used to convict an accused even without corroboration. As a conviction is based on such a declaration, the same should be of full confidence and correctness. The court sees the following main points :

1. That the deceased was in a fit state of mind before making the said statement.
2. That the deceased would've have been a competent witness if alive.

In the case of Ram Nath Mahadeo Prasad v. State of M.P.<sup>18</sup> it was said that a dying declaration is a weak form of evidence as it is not given under oath and is also not available for cross

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<sup>16</sup> (1993) 2 SCC 684

<sup>17</sup> (2001) 6 SCC 118

<sup>18</sup> Ram Nath Mahadeo Prasad v. State of M.P, AIR 1953 SC 420. (Conviction is valid solely on the basis of Dying Declaration even without corroboration)

examination and the same needs corroboration. But this was overruled.<sup>19</sup> The rules of corroboration is only a rule of prudence. “*Thus, there is neither rule of law nor of prudence that dying declaration cannot be acted upon without corroboration.*”<sup>20</sup>

## I. ADMISSIBILITY

Dying declaration is an admissible form of evidence. The court relies on the following point to address its admissibility:

1. The court must be satisfied that the deceased was in the fit state of mind.
2. The court should be satisfied that the declaration is true and undoubtedly voluntary in nature.
3. If the court believes in the above said point, a conviction can be levied without the necessity to corroborate.
4. It should be free from prompting, tutoring and/or any imagination.<sup>21</sup>
5. If the court feels that there is any doubt, the same should be immediately corroborated without guaranteeing conviction.
6. Even if a statement is incomplete It should not be discarded completely.
7. The statement should be recorded in the exact words (**ipsissima verba**) and by a competent magistrate.
8. There must not be any ambiguity while describing the offender.
9. There should be no scope of influence from the 3<sup>rd</sup> party.

After examining the above said pointer and the carefully analyzed scrutiny of the courts a proper judicial pronouncement can take place establishing and proving that a dying declaration is an admissible form of evidence. Then the dying declaration has the same footing as the other admissible evidences. There should always be a rule for caution which should be taken into consideration.

## II. RELEVENCY

As it is said that All admissible facts are relevant, but all relevant facts are not admissible in

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<sup>19</sup> Kusa v. State of Orissa, AIR 1980 SC 559; State of Orissa v. Bansidhar Singh (1996) 2 SCC 194.

<sup>20</sup> Munnu Raja v. State of M.P, AIR 1976 SC 2194.

<sup>21</sup> K.R. Reddy v. Public Prosecutor, AIR 1976 SC 1994.

nature, only the ones which are legally relevant are admissible in nature. Both have different meanings and implications. Dying declaration if made are relevant in nature as mentioned in section 32(1) itself. The said declaration will only be relevant if its records diligently by a magistrate or in absences of a magistrate a police office or medical officer working there. While recording and for its relevance the person record should check the state of mind of the declarant, if not a proper state of mind, the process should not be taken further as it will be termed as irrelevant. The people who record the statement can then be called as witnesses to corroborate.

It is also said that the relevancy of a declaration cannot be question merely on the basis of difference in language, serious precautions should be taken to explain each and every aspect and phrase.<sup>22</sup> The courts had also observed that the statement cannot be declared as irrelevant only because the declarant died long after making the statement.

One of the major points which judges focus upon is the state of mind of the deceased at the time of recording the said statement. There is no provision which lays down rules in regards to a “Fit state of mind”, but there have been many judgements which has ruled in this subjective term. The statement made should be made voluntarily, consciously and with full understating. These conditions should satisfy the doctor in order to for it to be considered as a valid evidence. This is done as it’s the only piece of evidence to identify the accused.

### III. RELIABILITY

Once the dying declaration is submitted to the court, and the court has willfully accepted the same and admitted the same, they look into its reliability. For a dying declaration to be a reliable piece of evidence the court needs to look into the consciousness, state of mind, the capability, physical and mental condition of the declarant. The court needs to assure that there no implication, falsehood, concoction, 3<sup>rd</sup> party involvement, mala fide intention involved while recording the statement which will nil its reliability. After a strict scrutiny if, it observed by the court that the declaration is free from any doubts or involvement it will be reliable in nature, though it is very important to scrutinize the same before any action is taken upon the same.

The above three words needs to be look in consonance with each other, All the three are interconnected in order to prove the credibility of a dying declaration. The person recording

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<sup>22</sup>Amar Singh Munna Singh Suryavanshi v. State of Maharashtra.

should be in a strong footing regarding the state of mind of the declarant. A dying declaration is said to be the most credible when recorded by the magistrate directly as it is an independent and neutral capacitated person who delivers justice.

## **DOWRY DEATH**

Relational unions are made in paradise, it's a saying. A woman leaves her maternal house leaving all sweet memories and recollections behind looking forward to receive the same kind of love and affection in her in law's house "*Sasural*" as called in customary language. But the mere settlement because of dowry smashes the dream of recently married young girl. Customs and rituals are a part and parcel of an Indian cultured wedding but it should not cause ill effects to society. Bride burning is considered as a shame in our society. One of the main reasons for bride burning is dowry. Such victimization of women in the society is done to fulfil the greed of acquiring money from the bride and/or bride family in different kinds of ways such as cash, gold, other kinds of jewelry, electronics, furniture etc.

If such wants are not fulfilled over time a women's dignity is oppressed and questioned by the husband or his family. It results into harassment and torturing of a woman. Women are treated as slaves in this patriarchal society with no equality in a marital relationship. This inhuman treatment forces the women to taken her own life or many times the husband or the relatives of the husband find it necessary and essential to end her life. Even though there is a well settled law, there is no end to such illegal activities being performed in the four walls of the house. It is just a custom in relation to India's Male dominated society. In simple words dowry means brutal violence on the women for non-fulfilment of dowry. It is a social evil and a social menace but such atrocities are still prevalent even in the 21<sup>st</sup> century. Dowry death, murder suicide, and bride burning or becoming symptoms of peculiar social malady and are an unfortunate development of a social setup. Respective of religion, caste or creed to which they belong almost every day not only a married woman or harassed humiliated beaten and forced to commit suicide believe husband et cetera torture and ill-treatment but thousands or even burnt to death because parents are unable to meet the dowry demands of in-laws or their husbands.

### **I. PROVISION FOR DOWRY DEATH**

In Brief there are three situations where a married woman is subjected to cruelty and harassment leading to the commission of an offence as mentioned below:

- A. Cruelty on women by husband or relatives which is covered under section 498-A<sup>23</sup> of The Indian Penal Code,1860. This is attracted when the husband or his family members subject the woman to cruelty or harassment.
- B. Secondly, dowry death which is covered under section 304-B<sup>24</sup> of The Indian Penal Code,1860. Which is attracted when there is cruelty or harassment inflicted by the husband or his relatives in regards to demand for dowry. If after the marriage the woman succumbs to death or burns or any kind of body injury within seven years of the marriage the husband or the relative is deemed to have caused her death and is liable to be punished under the above said section for dowry death.
- C. Thirdly, there are certain presumptions as to dowry death which is covered under section 113-B<sup>25</sup> of The Indian Evidence Act, 1872. In this section there is a presumption that the dowry death has arisen from the fact of cruelty and harassment soon before death within seven years of marriage due to non-fulfilment of dowry. In this case it is the duty of the prosecution to a stab list of ingredients of dowry death and later the onus of proof is shifted to the accused. In such cases the court resumes that the death has been a dowry death.

If Section 304-B<sup>26</sup> of The Indian Penal Code,1860 is read plainly shows that the essentials to prove dowry death is death of the woman should be caused by burns or bodily injury, the date should have been occurred within the seven years of marriage, the woman should have been subjected to cruelty or harassment, this can be done by either the husband or the relatives of the husband and such harassment should be done for the non-fulfilment of dowry. This section should be read in consonance with section 113-B<sup>27</sup> of The Indian Evidence Act, 1872. Section 113-B relies on the words “Soon before her death” which is very essential to prove the case under section 304-B. The prosecution needs to show that the death was due to cruelty and harassment. There needs to be direct and proximate nexus between cruelty and death. Many courts have failed to give a time limit to the phrase soon before. Supreme Court observed that there cannot be a limited time limit fixed to the above said phrase. The expression should normally imply that the interval between cruelty, harassment and death should not be disrupted. There is no straight jacket formula that can be laid down as to the length of the time.

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<sup>23</sup> Section 498-A, The Indian Penal Code,1860.

<sup>24</sup> Section 304-B, The Indian Penal Code,1860.

<sup>25</sup> Section 113-B, The Indian Evidence Act, 1872

<sup>26</sup> Supra 24.

<sup>27</sup> Section 113-B, The Indian Evidence Act, 1872

The onus of proof lies within the prosecution to prove the unnatural death to come under the ambit of dowry death. Section 113-B stresses more onus towards the accused to prove his innocence. There have been many cases where the case of prosecution was becoming weak in nature due to insufficient evidence to prove the death caused due to non-fulfillment of dowry. This can be fatal to the prosecution's case. Dying declaration is one such evidence which is presented before the court to prove dowry death.

## II. RELATION OF DYING DECLARATION AND DOWRY DEATH

Dying declaration is one of the main forms of evidence in cases of dowry death. Last words of a woman indicating towards her cause of death in a matrimonial house is used as dying declaration in cases of dowry death.

In a case where two days prior to the occurrence, the deceased wife told to her mother about the harassment that she was facing due to demand of dowry. The letters which she had written to her mother before her death also spoke of the harassment in relation to the dowry. Let us would prove to be in her handwriting in the court of law. This was considered to be a dying declaration because of its proximity of time between the statement and the death. The Supreme Court had upheld his conviction and allowed the dying declaration to prove the accused guilty in the case of dowry death.<sup>28</sup> It is held by the SC in many judgements that statements made by the women expressing danger to her life has been held indicating towards her cause of death.

Recording the dying declaration; Recording of dying declaration is done by the magistrates and it generally has the highest amount of weightage in regards to relevancy, admissibility and reliability. But there can be emergent times where magistrate might not be able to record the statement. For instance, Bride was taken to the hospital where the doctor recorded her burn to be of 80% degree still her statement was recorded and she was deemed to be in a fit condition. Declaration was held to be reliable even if it was taken by the medical doctor or the officer. The court have had been of the view that there can be a particular bias and danger when a statement is recorded by a family member or a private person. But still in cases of dowry death, a statement made to relative or parents have been considered to be admissible and reliable as they are the first ones in between the 4 walls of the houses to witness such an incident. Once recorded and scrutinized they are considered to be admissible in nature is the points for admissibility as above mentioned are boxed out.

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<sup>28</sup> Nandyala Venkataramana v. State of A.P., AIR 2011 SC 567.

In the case of State of M.P. V Dal Singh<sup>29</sup> it was explained that, “one should not look for loopholes in a dying declaration”, “*The trial court or the High Court may not look for corroboration of a dying declaration, particularly in dowry cases, to prove the guilt of an accused unless this statement suffers from any infirmity, the Supreme Court has held.*”<sup>30</sup>

It was said Bench of Justices B.S. Chauhan and Dipak Misra that:

1. Indication must be definite : It means that a dying declaration might be made in any form but must be positive and definite.
2. Exaggeration needn't discredit the evidence: No exaggeration can belittle the evidence gathered. The court had observed that a witness might subconsciously be in trauma or shock at the time of the occurrence which can cause one to be emotional with some exaggeration. The court should focus on the credibility of the witness.

The above explanation is given particularly keeping in mind the case of dowry death. In the case of Pradeep Kumar versus state of Haryana<sup>31</sup> there were two dying declarations which were recorded by the deceased who is the wife. First statement was that she caught fire while pumping the stove. Whereas the second statement was that she set herself ablaze being angry with the husband. The two statements would read it to be very contradictory nature but both had to be considered independently on its own merits as with evidentiary value. The second part, the court said, which inculpated her husband inspired confidence. This part had to be treated as a dying declaration.

### **CASE STUDY : LAL MUNI DEVI VS THE STATE OF JHARKHAND, 2019**

This case is a fairly recent case which incorporates the concept of dowry death as well as dying declaration. This case was judged in the court of Jharkhand on the 22<sup>nd</sup> of February in the year 2019. This was criminal appeal which was filed against the order dated 2002.

#### **I. FACTS OF THE CASE**

In this case the victim named Sheela Devi wife of Harish Kumar had a quarrel with her mother in law, where her mother in law threatened her to be beaten by her husband after he returns

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<sup>29</sup> State of M.P. V Dal Singh, AIR 2013 SC 2059

<sup>30</sup><https://www.thehindu.com/news/national/in-dowry-cases-dont-look-for-loopholes-in-dying-declaration-supreme-court/article4740437.ece>

<sup>31</sup> Pradeep Kumar versus state of Haryana, AIR 2014 SC 2694

from his office and she would be burnt. Later when the husband i.e Harish Kumar returned home, his mother complained to him about the quarrel that took place. Being angry about the same tortured and harassed his wife and dragged her to the kitchen, he poured kerosene on her and set her ablaze. It was also found out that. Her husband, mother-in-law Lalmuni Devi and his brother -in-law Satish Kumar always subjected her to cruelty for demand of dowry. Therefore, this occurrence took place. Due to the noise and “Hulla” the neighbors approached and brought her in serious condition in Telco Hospital on tempo and considering her serious condition she was referred to Tata Main Hospital burn ward in 2B where she was getting treatment.

## II. CHARGES INVOLVED

The deceased “*fardbeyan*” was recorded in presence of Dr. R. Bharat, Sr. Specialist, Burning and Plastic Surgery, Tata Main Hospital. On the basis of the same the charges were registered under section 498A/341/323/307/34 of IPC and 3 /4 of Dowry Prohibition Act against the accused Harish Kumar, Lalmuni Devi and Satish Kumar. After the death of the wife hereinafter the deceased the section of 304-B of The Indian Penal, 1860. During trial the accused Harish Kumar died and the proceeding against him was dropped. Hence the trial of the sole accused Lalmuni Devi proceeded.

## III. ARGUMENTS FROM THE STATE

1. The states contended that the “*fardbeyan*” should not be considered as an ordinary one but should be considered as a dying declaration under section 32(1)<sup>32</sup> of The Indian Evidence, Act, 1872.
2. The statement was made by Sheela Devi, the deceased when she was in the hospital in an injured and burnt condition prior to her death. In her statement she vividly pointed out her relationship between her husband, her mother-in-law, and her brother-in-law.
3. The statement also referred to the dowry demand at least thrice in the dying declaration. It is therefore to be treated as a deposition made in the court during the course of the trial.
4. The medical practitioner also said that the said deceased was in a conscious state of mind when her statement was recorded, the same was even attested by her via a thumb impression. The doctor also deposed that the statement was signed and stamped by him as well. The medical

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<sup>32</sup> Section 32(1),The Indian Evidence, Act, 1872.

practitioner also mentioned that even if a person has hundred percent burn degrees he can be in full senses and in a position to speak at least for some hours before their death.

5. The counsel also said that it was an abnormal or unnatural death which had taken place in the matrimonial home within seven years of her marriage pertaining to dowry. In paragraph 20 the counsel also linked section 113B of the Indian evidence act and its phrase “soon before”. Therefore, it is said that the interval between cruelty harassment death in relation to dowry as a proxy mate live link.

#### **IV. JUDGEMENT**

The learned judge first ruled out all the possibilities to make the statement recorded by the deceased in the purview of a dying declaration. Judge agreed with the fact that it was a dying declaration given by the deceased in the presence of a medical practitioner where it was asserted that the deceased was in a conscious state of mind while giving her statement additionally she also gave her thumb impression. For the offences of section 304B of the IPC the ingredients of unnatural death and that that had taken place within seven years of marriage for the demand of dowry has also been fulfilled as the dying declaration referred to the said matter at least 3 times. With this reasoning the court held the accused guilty of the above-mentioned crimes and were sentenced to 7 years of jail.

The arrest was made on the basis of the dying declaration, as the statement was clear, complete, made in a conscious state of mind and with no ambiguity making the said piece of evidence admissible, credible, relevant and reliable.

#### **CONCLUSION**

Dying declaration is no doubt an important piece of evidence which guides and assists the courts in funding the truth, identifying the accused and delivering justice. It also acts as a very important piece of evidence in the cases of dowry death. Though it is covered with a lot of blemish it still carries enough amount of weightage. Evidence law only gives weightage to direct evidence and dying declaration constitutes a radical departure from the evidence law principles. That is why this provision gives special sanctity to the last word of a person presuming him/her to be saying the absolute truth. But still court do take caution before admitting the statement blindly. They apply their own expertise and sense of mind to come to a best possible solution while delivering justice and also while determining the relevancy, admissibility and credibility of the same.

In the due course of time, the court have applied the concept of rational and caution. If the statement is direct, complete, consciously given, without any ambiguity, with clear understanding courts will heavily rely on the dying declaration. Therefore, it is considered to be an important piece of evidence in regards to truthfulness and its contents. Section 32(1) of the act is having been tactfully designed in respect to the last words of a person. In the boom of informational technology, dying declaration are also recording in the electronic format apart from the oral or written form.

Dowry today is demanded and paid without any relational connection to the bride's parents' income and wealth. This is leads to brides committing suicide if not fulfilled. This social evil has led to a lot of deaths, though the false defense of accidental death is taken. A woman is subjected utmost amount cruelty, is time and again harassed, illegally detained in the name of dowry. Dying declaration acts as once such evidence, which can lead to justice to the deceased as well as the deceased family.