
ADMISSIBILITY AND EVIDENTIARY WEIGHT OF DYING DECLARATIONS IN CRIMINAL TRIALS

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ABSTRACT

The concept of a dying declaration has played a crucial role in the study of evidence law for quite some time. A dying declaration is commonly interpreted to be a statement made either in writing or orally by a person regarding the cause of their death or the circumstances surrounding it. The rule that allows such declarations to be taken in court is based on an ancient legal maxim which asserts that no one would lie when death is imminent. This main concept of law considers that when a person is dying with no hope and no reason to lie, he or she feels a strong urge to utter nothing but the truth.

Keywords: Dying Declaration, Bhartiya Nyaya Sanhita, Sec 32 of Indian Evidence Act, Admissibility of Evidence, Hearsay Exceptions, Evidentiary Value, Judicial Interpretation.

CHAPTER 1: INTRODUCTION, RESEARCH QUESTIONS, OBJECTIVES, AND METHODOLOGY

1.1 INTRODUCTION

At first the doctrine was based on religious beliefs, which depicted in the last moments people with an involuntary need to confess their sins. Alongside the religious aspects, the strong psychological factors also come in when one is facing death. The moment is so heavy that it confers the duty to tell the truth, which is similar to the obligation that results from taking an oath in a courtroom. This distinctiveness of dying declarations makes them the only exception to the hearsay rule because, unlike other hearsay evidence, dying declarations are usually not allowed in legal cases.

Accepting dying declarations serves as a crucial exception to the hearsay rule, which typically blocks the use of out-of-court statements as proof of truth. Section 26 of the Bharatiya Sakshya Adhinyam, 2023, specifically addresses this exception and provides guidelines for admitting dying declarations in court¹. Notwithstanding the differences in the legal treatment of dying declarations, there were significant variations among the common law countries especially between India and U.K. These differences bring out the philosophical differences on the necessity of the dying declarations to the courts as against the strictness in evidence standards required to prevent wrong convictions.

The Indian legal system offers a more liberal interpretation and thus dying declarations are valid in both civil and criminal cases irrespective of whether the declarant was expecting death or not. The English law, however, is more stringent in its application of the dying declaration rule; it allows only dying declarations made by the declarant in the course of dying, who thus has a valid cause of action, to be admitted as evidence in murder or manslaughter proceedings. These basic differences have in turn given rise to a huge debate among legal scholars about the reliability and the fairness and the dying declarations as a trial method's effectiveness.

Through the development of dying declaration law, the courts have been able to slowly but surely find the way to achieving a proper balance in the conflicting interests. One side acknowledges the potential of dying statements to provide critical testimonials in cases of the victims being the only witnesses and the witnesses being very ill and dying with essential

¹ Indian Evidence Act, 1872, § 32

evidence. The other side echoes the doubts regarding the credibility of such statements, the absence of cross-examination, and the extreme stress under which the person may be speaking not being the representation of the truth. Consequently, courts have established detailed principles and criteria to evaluate dying declarations before using them to determine guilt or innocence².

1.2 RESEARCH QUESTIONS

Thus, this study presents and compares dying declarations as its primary source of evidence in a criminal case through a procedure of analysis, inviting the discussion of the following questions:

1. What are the differences and similarities in the specific conditions and criteria to be met for a statement to be recognized as a dying declaration under Indian and UK law?
2. What are the differences and similarities in the way Indian and UK courts deal with dying declarations in terms of their admissibility and evidentiary value, and which legal doctrines are the causes of these differences?
3. To what extent is it told that dying declarations can be the sole basis for a conviction in Indian criminal law, and what mechanisms should be in place to counter possible wrongful convictions?
4. How crucial is the presence of corroborative evidence in determining the credibility of dying declarations, and does it make any difference to how the courts regard these declarations depending on whether or not there is such evidence?
5. How important court decisions have been in the shaping of dying declaration law in India, and what are the guiding principles from landmark cases about the careful consideration of such evidence?
6. What are the aspects concerning the mental and physical condition of the declarant at the time of expressing the statement that influence the credibility and admissibility of dying declarations?

² Supreme Court of India, Principles on Judicial Assessment of Dying Declarations

7. What are the factors that should be considered by the courts when it comes to the importance of dying declarations and the possibility of their unreliability, especially since the declarant cannot be cross-examined?

1.3 RESEARCH OBJECTIVES

The main objectives of this research paper are diverse and detailed:

1. To provide a thorough examination and analysis of the legal framework around dying declarations under Section 26 of the Bharatiya Sakshya Adhinyam, 2023, as interpreted and applied by Indian courts over time³.
2. This part will go through the process of the dying declaration doctrine becoming a part of English law, thus seeing how the common law principles were applied and the decision of the courts made in the process.
3. A structured and thorough comparison of the two legal systems, namely India and the UK, will be carried out in terms of the dying declarations' admissibility and evidential value, along with their fundamental differences and justifications being marked.
4. The most important decisions of the courts in both India and England that have changed the understanding of dying declarations will be looked at and the principles of the courts that were applied when evaluating this evidence will be clarified.
5. The traits that courts look for in dying declarations, such as the mental state of the declarant, physical condition, and voluntary nature, as well as the context of the statement, will be analyzed.
6. This step will look into the problems that arise because there are no opportunities for cross-examination in the dying declaration evidence and how the courts deal with this limitation.

1.4 RESEARCH METHODOLOGY

This research paper follows a doctrinal research methodology which focuses on analysis of basic principles of law, legal doctrines, and legislations and rules, decisions of Indian courts,

³ Indian Evidence Act, 1872, § 32

and scholarly writings of law. The main sources include the Bharatiya Sakshya Adhiniyam, 2023, especially Section 26, which covers dying declarations; relevant aspects of English common law; and a comprehensive review of key court rulings from both Indian and English courts interpreting and applying the principles of dying declarations⁴.

The research methodology adopts multiple perspectives. A historical analysis is performed as the first step, which shows the journey of the dying declaration doctrine from its common law birth to its present judicial use. This historical perspective brings forth the reasons for the existence of the doctrine and illustrates the extent to which it has evolved in conjunction with the shifting opinions on evidence testing and fairness. As a second step, a doctrinal analysis is executed, reviewing legislative measures, prevailing legal standards, and judicial decisions on the admission and assessment of dying declarations. A comparative legal analysis is the last step, which reveals the differences and similarities between the Indian and the UK legal systems in their application of dying declarations.

They supplement the primary sources and provide courts' impressions that are very close to the actual state of affairs regarding dying declarations. Case law analysis remains the key, as Indian courts have made a substantial contribution to the understanding of dying declarations through their decision making which shows application of legal principles to different situations. In the same way, English cases provide insights into common law's position regarding dying declarations as well as the rationale for the stricter rules of English law as compared to Indian law.

CHAPTER 2: HISTORICAL DEVELOPMENT AND CONCEPTUAL FRAMEWORK OF DYING DECLARATION

2.1 HISTORICAL ORIGINS

The doctrine of dying declarations has its roots in common law principles that developed over time. One of the earliest English cases dealing with dying declarations is *R v. William Woodcock from 1789*⁵. The case of dying declaration has brought about the establishment of some important principles which are still at work in the law today. It has been the case that the journalists and the lawyers have been able to get access to the deathbed utterances of the very

⁴ Doctrinal Research Methodology: Historical, Statutory, and Comparative Legal Analysis

⁵ R v. William Woodcock, 168 E.R. 352 (K.B. 1789)

sick, or dying people, which were thought to be so unique and trustworthy that they could get through the bars of the hearsay rule and be admitted as evidence. This principle is based on the tenet that the approach of death forces people to tell the truth.

Common law's acceptance of the dying declaration doctrine has been gradual, as seen in the cases where it was allowed or denied, which indicates that the courts had gotten to a point where they recognized that certain special situations might warrant the break of the general rule that required all evidence to come from witnesses who could be cross-examined. One reason for this exception is that the dying person is no longer trying to deceive or exaggerate. The other is that the situation of dying brings about a moral obligation to tell the truth.

2.2 THE FUNDAMENTAL PRINCIPLE: "NEMO MORITURUS PRAESUMITUR MENTIRI"

The Latin phrase "nemo moriturus praesumitur mentiri" captures the philosophical and moral basis of the dying declaration doctrine. This principle translates to "a man will not meet his Maker with a lie in his mouth." It conveys a strong understanding of human behavior in stressful situations. The maxim assumes that when facing death, a person feels compelled to tell the truth and has no motives for deceit⁶. Though the modern legal practice has moved through the years, still it acknowledges this motto's significance due to the fact that it recognizes psychological truths that are very strong.

This rule implies that the mentality of a person who thinks he is about to die is completely different from that of a normal person. When they are at their death's door, such people are the least to lie or tell tales full of complications like those who fear facing the ultimate judge of their words do. This revelation is acknowledgment of the fact that, through their lifetime, people usually have many different reasons motivating them to distort the truth but these reasons become insignificant when they are about to die.

In contrast to this, the present-day legal systems do admit that the over-simplified rule "nemo moriturus praesumitur mentiri" must be regarded as a presumption which is, however, not an absolute one. This presumption implies that even though the psychological condition associated with death is imminent and overpowering does not guarantee that the person will

⁶ "Nemo Moriturus Praesumitur Mentiri" - Latin Maxim ("a man will not meet his Maker with a lie in his mouth"); see *K.R. Reddy v. Public Prosecutor*, A.I.R. 1976 S.C. 1898

speak the truth. Courts understand that even dying individuals may have reasons to misrepresent facts, such as wanting to protect loved ones or shift blame⁷. As a result, while the maxim supports the rationale for the hearsay exception, courts have developed careful methods to evaluate whether specific dying declarations should be considered reliable.

2.3 CONCEPTUAL FOUNDATIONS IN COMMON LAW AND THE EXCEPTION TO HEARSAY

In general, the law of evidence prohibits hearsay evidence, which refers to out-of-court statements used to prove the truth of what is asserted. This prohibition exists because such statements deny the opposing party the chance to cross-examine the declarant about their knowledge, biases, and honesty. Excluding hearsay evidence is a core principle in the common law of evidence, ensuring fact-finders receive evidence that can be adequately tested for reliability.

The common law system has for a long time acknowledged that in exceptional cases, some out-of-court statements with sufficient reliability can be permitted as exceptions to hearsay. Of all these exceptions, dying declaration are the most prominent one. This exemption is grounded on the reasoning that the exceptional conditions of the declaration, especially the declarant's conviction of being on the verge of death, give enough ground for treating the hearsay rules that are usually applicable as being non-existent.

Dying declaration as an exception to the hearsay. This classification implies that dying declarations are indeed out-of-court statements. However, it also indicates that the rarity of the circumstances under which these statements are made is the only reason for their admission even when hearsay is generally banned. The exception reveals a conviction that the merits of dying declarations and the necessity to admit them practically supersede all the typical arguments for hearing evidence being declined.

CHAPTER 3: LEGAL FRAMEWORK IN INDIA

3.1 STATUTORY PROVISIONS AND TEXTUAL ANALYSIS

Section 26 of the Bharatiya Sakshya Adhiniyam, 2023, provides the main statutory basis for

⁷ K.R. Reddy v. Public Prosecutor, A.I.R. 1976 S.C. 1898

admitting dying declarations in India. This section states that statements, whether written or spoken, made by someone who is dead, cannot be found, cannot give evidence, or whose presence cannot be secured without unreasonable delay or expense, are relevant in particular situations. It specifically notes that such statements are relevant when they concern the cause of death of the person who made them or any related circumstances, provided that the person's death is in question during the proceedings⁸.

The language used in Section 26 is very wide and all-encompassing, thus revealing the intent of the Indian legislature to grant a lot of discretion concerning the acceptance of dying declarations. The provision states that such statements are to be considered relevant no matter if the deceased person had the expectation of being dead at the time the statements were made, and the statements are still relevant in any court dealing with issues regarding the cause of death. This novel approach can be termed as a transition from the rather restrictive common law approach prevalent in English law and indicates a conscious decision by the Indian legislature to widen the scope of admissible evidence in death-related cases.

Section 26 enumerates a list of specific people whose declarations are entitled to be accepted as relevant according to this exception. It goes further beyond just the deceased as it also takes into account people who are missing, those who can no longer provide evidence, and those whose presence would incur unreasonable delay or expense. This wider view refuses to look at the reasons for the dying declarations being admissible-the unavailability of the declarant for cross-examination-in terms of death alone and extends the notion to unavailability due to other reasons that prevent the declarant from giving evidence.

3.2 REQUIREMENTS FOR ADMISSIBILITY UNDER INDIAN LAW

Indian courts have developed a comprehensive body of law interpreting Section 26 and establishing the criteria for evaluating dying declarations. While the language of Section 26 may seem straightforward, courts recognize that admitting dying declarations without proper safeguards could lead to unreliable evidence being used in serious criminal cases. Therefore, Indian courts have set forth several requirements that statements must meet to qualify as admissible dying declarations⁹.

⁸ Indian Evidence Act, 1872, § 32(1)

⁹ Supreme Court of India Case Law on Admissibility Requirements

To begin with, the declaration must come from a person who has died or is otherwise unable to speak in court. The very requirement supports the exception's primary ground—the witness cannot be cross-examined. The legal system consistently argues, that if the witness is alive, the testimony cannot be categorized as a dying declaration. Rather, that individual is allowed to testify in the court of law, and then the prior statements may be brought in to corroborate or challenge the trial testimony. The condition of the witness being dead or unreachable protects the exception from being utilized in the case of cross-examination not being possible, which is merely the result of a clever maneuver.

In the second place, the statement must be about the death's cause or the surrounding of the death. By placing such a condition, the courts are limiting the area where the exception shall apply to the rare and unique information that only the declarant would know and cannot be easily found out through other means. This requirement indicates a belief that the special trustworthiness usually associated with dying declarations deserves to be called upon when the information is directly connected to the death of the declarant.

Thirdly, it is established that the psychological and physical state of the declarant when making the statement is to a great extent, the factor that determines if the statement can be admitted or not. The Indian courts may not enforce the imminent death condition for the declarant, as the English courts do, but still, the belief of the declarant in their nearing death is still considered to be a factor of the statement's reliability in courts. Furthermore, the courts have pointed out that the witness should be able to see the events he is saying and also have sufficient mental capacity to see and remember the events referred to in his dying declaration.

3.3 SCOPE OF APPLICATION: CIVIL AND CRIMINAL CASES

One of the major distinctions between Indian law and English law is the different scope of dying declarations that can be admitted into the record. Indian law recognizes dying declarations in both civil and criminal matters. The fact that the Indian legislators are so liberal in this matter indicates their conviction that the reasons for permitting these declarations—presumed reliability on the part of the declarant since she is dying—apply to all sorts of disputes including legal ones.

In the murder case, the civil suit for the death, or the rape allegation, dying declarations

connected to the events of death or injury can be still well admissible evidence. The cases given in Section 26(1) of the Bharatiya Sakshya Adhiniyam demonstrate this extensive application. One case is a civil matter and the other is a criminal case about the charge of rape, thus showing that dying declarations are not confined to murder cases only.¹⁰

English law, on the other hand, has typically restricted the use of dying declarations to criminal trials for murder or manslaughter only. The thinking behind this is that dying declarations, by their very nature, along with the absence of cross-examination, are so fragile that they should only be allowed in weighty criminal cases where other proof might not exist. The English method underscores procedural caution and safeguards the defendant's right to face his accuser. Hence, the application of this exception to hearsay is limited.

3.4 JUDICIAL STANDARDS FOR ASSESSING RELIABILITY

The dying declarations carefully analyzed by the Indian courts have become a main part of the Indian legal system.

The Supreme Court of India, in its rulings, has laid down the principles for the proper treatment and acceptance of dying declarations. One such case was *K.R. Reddy v. Public Prosecutor*, in which the Court formulated the principles governing dying declarations. It held that they were allowed under Section 26 but, since they were not sworn statements and could not be cross-examined, the courts had to be particularly careful in their scrutiny before putting any reliance on them¹¹. The Court recognized that, while dying declarations generally do not require corroboration, they still need thorough scrutiny to evaluate their reliability based on the circumstances of their creation.

The principles from *K.R. Reddy v. Public Prosecutor* have been further developed in later cases. In *Kushal Rao v. State of Bombay*, the Supreme Court ruled that a reliable and credible dying declaration can serve as the sole basis for conviction. This decision shows that the Court acknowledges that, despite their hearsay nature, dying declarations can be reliable enough to support a conviction without additional corroborating evidence. The ruling emphasizes that courts should not automatically distrust dying declarations but must evaluate them based on

¹⁰ Indian Evidence Act, 1872, § 32(1) Examples

¹¹ *K.R. Reddy v. Public Prosecutor*, A.I.R. 1976 S.C. 1898

their internal reliability and consistency¹².

3.5 THE DOCTRINE THAT DYING DECLARATION NEED NOT BE CORROBORATED

In India dying declaration does not require any kind of corroboration. Convictions can be solely be based on dying declaration even when there is no evidence to corroborate it. Furthermore, the Court has asserted that it is impermissible to take for granted that a dying declaration is of less credibility than other types of evidence. Instead, it should be treated like any other evidence and assessed based on the surrounding conditions and the principles governing evidence evaluation¹³. This viewpoint shows a sophisticated comprehension that the trustworthiness of proof may depend on particular facts and situations, and the utmost dying declarations should still be considered.

On the one hand, dying declarations do not require corroboration, but the courts still consider the case that the additional evidence can immensely bolster their trustworthiness. In instances where a declaration enjoys the backing of other evidence, corresponds with the facts ascertained by other witnesses, and is in agreement with medical and physical evidence, more importance may be attached to the dying declaration by the courts. Supporting evidence can be sourced from a variety of sources like eyewitnesses, forensic data, physical evidence from the crime scene, medical testimony, and the declarant's earlier comments or conduct.

The Supreme Court has also mentioned that the way dying declarations are made impacts their credibility. A declaration that is taken down by a competent magistrate, preferably in a interactive manner and in the words of the declarant, is regarded as more reliable than a statement that is merely recorded through oral testimony. This realization points out that strict recording protocols yield a report that is more reliable than informal testimony of what the declarant said.

3.6 ASSESSMENT OF MENTAL AND PHYSICAL STATE

Courts acknowledge that a declarant's mental and physical state at the time of making a statement is crucial in determining the admissibility and reliability of dying declarations. This

¹² Kushal Rao v. State of Bombay, A.I.R. 1957 S.C. 401

¹³ Supreme Court of India Jurisprudence on Corroboration <https://www.scobserver.in/supreme-court-observer-law-reports-scolr/corroboration-of-extra-judicial-confession-ramu-appa-mahapatar-v-state-of-maharashtra/>

assessment must consider various aspects of the declarant's condition¹⁴. To begin with, the judges have to assess if the person making the declaration had enough mental ability to perceive and comprehend the situation they were talking about. In case of the declaration being made by an unconscious person, one heavily sedated, delirious, or someone else unable to think reasonably, then such declaration will not be admitted into evidence as a dying declaration, since it will be classified as unreliable. Assessing mental condition usually requires looking at the proof of the declarant's state of being unconscious, speech being clear and coherent, participation in conversation, being aware of the environment, and concentrating attention.

Moreover, the courts also consider the impact of the declarant's health on their making a dying declaration. A person in great pain, shock, or bodily discomfort may not be able to recognize and communicate precisely the events leading up to his or her death. The courts' decision is based upon the damages, wounds, and any pain that might have been caused. They are trying to figure out if such physical states justifiably create doubts about the reliability of the statement made by the declarant. Also, the courts realize that the declarant should have the knowledge about the matter—in the sense that they must be able to see and understand the facts they are talking about.

3.7 ABSENCE OF TUTORING OR PROMPTING

Indian courts reiterate that no one should influence or prompt dying declarations. The court's principal concurrence holds that one person suggesting something to the declarant and the declarant merely reiterating it does not mean that the declarant's true thoughts come out, but rather the person who suggested it gets to take the credit for the viewpoint. Thus, the courts need evidence to show that the declarant was the one who started their statement or that it was made during the neutral questioning, i.e., not during the leading questioning aimed at getting a particular answer.

The investigation into whether there was any prompting looks at the circumstances under which the statement was made, the questions posed to the declarant, and how the statement got to be on record. If the questions are found to be leading or aiming at suggesting particular answers, the courts ought to scrutinize the correctness of the statement very carefully. However, if the questions were open and neutral, giving the declarant the chance to convey their thoughts in

¹⁴ <https://www.ncbi.nlm.nih.gov/books/NBK546682/>

their own way, the correctness of the statement is enhanced¹⁵.

CHAPTER 4: LEGAL FRAMEWORK IN THE UNITED KINGDOM AND COMPARATIVE ANALYSIS

4.1 ENGLISH LAW REQUIREMENTS AND ADMISSIBILITY CONDITIONS

Dying declarations are evidence that the person making the statement is dead. The declaration must have been made by the deceased person when he/she thought he/she was dying and this is a very stringent requirement under the English legal system. The law does not require a presumption that the death was instantaneous but does lay down the condition that the patient must have lost all chances of getting cured and be convinced death is about to come. The concentration is on the mental condition of the patient instead of the timing of death¹⁶. The supposition is that an individual who thinks they are going to die any moment soon is driven by a moral need to speak the truth without being influenced by revenge, deception, or personal gain.

This point of view, which underlies the whole dying declarations doctrine, is that the belief in the veracity of the speaker is based on the fact that the person is dying. To put it in historical terms, English common law regarded the utterances of a dying individual as equivalent to sworn testimony, it was based on the idea that the fear of divine judgment or the severity of coming death significantly weakened the lying temptation. Although the religious aspect is no longer present, this principle still exists as it is linked to the concept of evidentiary reliability. Hence, demonstrating a dying person's absolute expectation of death is a gatekeeping task that ensures the person's mindset is congruent with the psychological conditions that the doctrine rests upon.

This stipulation creates a substantial contrast with the Indian perspective, which does not require such a subjective conviction. The Indian judiciary will accept dying declarations even if the person making the statement was not aware of their death being imminent, provided the statement pertains to the death cause or the circumstances surrounding the death. In contrast, English courts demand a more rigorous evidentiary basis before the hearsay exception applies¹⁷. According to English law, a dying declaration will never be recognized if a statement

¹⁵ <https://blog.iplayers.in/admissibility-of-dying-declaration/>

¹⁶ English Common Law Doctrine of Dying Declarations

¹⁷ English Common Law, Hopeless Expectation of Death Requirement

has been made by the declarant believing that recovery is possible or if there is no proof of such a belief, no matter how serious the injuries inflicted.

The English practice of anticipating a death with no hope ensures that the dying declaration exception is no more than a rare occurrence rather than a habitual one. Many patients who succumb to their injuries may at first think that they are going to get well, so only very few utterances of dead people are allowed as legal evidence in the English courts. This is a kind of protective measure for the defendant since unreliable or premature statements are not allowed to be part of the evidence without cross-examination.

One more thing that sets the English doctrine apart is its restriction to homicide or manslaughter cases. On the contrary, Indian law allows dying declarations to be used in diverse civil and criminal contexts, while the English law only limits it to the case where the victim was fatally injured. This limitation is the result of a continuous thought that dying declarations are of paramount importance in murder cases, as the death of the victim is the only direct witness to the crime. The justification is that the combination of the obligation for such evidence and the moral strength of the declarant's thought is the reason why the general prohibition against hearsay is bypassed.

English courts argue that while the declarant is alive, their statement can be presented in court using standard evidence methods like testimony or affidavits. Once the declarant has died, their absence creates special circumstances that allow for exceptions to hearsay rules, but only when the death is relevant to the criminal charge¹⁸. This, in turn, results in the dying declarations being totally excluded as evidence in the court for other grave felonies like sexual assault, robbery, or attempted murder, even if the victim dies because of the related injuries while the prosecution is not charging anything under homicide. Thus, the English method highlights the logical connection between conspectus of the case and the justification for taking away the accused's right to cross-examination.

On the other hand, Indian courts are not restricting dying declarations only to murder cases. Statements about rape, dowry harassment, causing suicide, domestic violence, etc., may be considered dying declarations provided that they are related to the declarant's death or the circumstances leading to it. This gives a much wider scope to dying declarations in Indian

<https://www.oxfordreference.com/display/10.1093/oi/authority.20110803095737492>

¹⁸ English Law Limitation to Homicide Cases <https://www.legislation.gov.uk/ukpga/1980/58>

courts showing different priorities and a larger trust in judicial discretion than strict limitations.

The English law's narrower view indicates a preference for certain rules over the flexibility of the courts. By restricting the doctrine to homicide and manslaughter, the English system reinforces the integrity of the adversarial process by limiting the situations where out-of-court statements can take the place of live testimony.

Moreover, showing that the declarant really believed death was coming is a must for the English courts. This kind of independent proof can be done with the help of various types of evidence, such as witness statements, medical records, comments made to doctors or others present, the nature of injuries, or circumstantial evidence that the person was aware of death coming. It is the prosecutor's duty to prove that the declarant gave up hope of being cured. If this criterion is not fulfilled, then the statement would not be considered admissible, regardless of the fact that it appears to be accurate and trustworthy.

This rule often leads to the rejection of evidence that might otherwise be admissible in other places. To illustrate, if a victim who is fatally injured manages to say something incriminating about the offender but he/she thinks that he/she can get well, the English courts will refuse to recognize that statement as evidence if later on the victim dies. In India, such statements are generally considered as credible evidence irrespective of the declarant's belief in recovery. Therefore, the English requirement acts as a safeguard for the accused.

There is another significant feature of English law which is its relation with the alterations in the hearsay rules. The new laws, such as the Criminal Justice Act 2003, permit the admittance of hearsay in a wider scope, including statements made by witnesses who are not available; nevertheless, the common law principle of dying declarations is still a specific, narrow exception that remains. The courts have clarified that statutory provisions do not nullify traditional doctrines unless it is explicitly stated.¹⁹

4.2 CRITICAL DISTINCTIONS BETWEEN INDIAN AND ENGLISH APPROACHES

To start with, concerning the death expectation, Indian law prohibits stating the declarant should expect to die, whereas English law compels the declarant to have faced a certain and hopeless expectation of death. This variation is an indication of the different levels of reliability

¹⁹ Criminal Justice Act 2003 (UK)

presumed in dying declarations. By resorting to Indian law, one can argue that a person who thinks that they are dying will most probably be truthful whereas if another person does not believe that they are dying yet dies shortly after, their statement may be accepted if other conditions are satisfied. English law is more cautious, insisting that the psychological pressures of facing inevitable death must have been genuinely present when the statement was made²⁰.

Secondly, the Indian legal system allows dying declarations to be given as evidence in both civil and criminal cases, whereas the English legal system confines them to death and manslaughter cases only. These differences reveal opposing perceptions regarding the very situations where the distinct credibility of dying declarations warrant the easing of the hearsay rule. Where the Indian law asserts that the information that a deceased person has regarding the death he or she has suffered is so vital to the case that it cannot be overlooked and therefore must be admitted, English courts' limitation still indicates the premise that the rarity of the exception should be strictly confined to such cases only and that under no circumstances should witness-based substitutes be considered.

Thirdly, Indian law is quite liberal as it does not regard dying declarations as dying declarations. India allows wide-ranging death-related statements admitting no dying declaration definitions. English law on the other hand limits the statements to be made in homicide to be interpreted narrowly. Therefore, the two opposite legal systems have different perceptions of the risks that dying declarations may introduce, leading to either unreliable evidence or unjust trials.

4.3 JUSTIFICATIONS FOR DIFFERENT APPROACHES

The Indian and English approaches to dying declarations not only differ technically in terms of linguistic variations or legal doctrinal changes but also reveal deep underlying differences in the perceptions of the balance between the rights of litigants through fair legal processes and the need for quick resolution of civil and criminal cases through practical administration of justice.

The English viewpoint is based on caution and concern for the accused's right to counter the evidence. Through the restriction of dying declarations to murder trials in which the victim cannot give evidence and wherein the declarant genuinely believes death is close, the English

²⁰ <https://blog.iplayers.in/dying-declaration-2/>

legal system seeks to minimize the possibility of relying on the testimony that is either unreliable or has been unfairly obtained for the purpose of convicting.

On the other hand, the Indian perspective gives the dying declarations the credit of being a source of truth and a means of achieving justice. The Indian law philosophy is that dying declarations should be given in both civil and criminal cases and declare no limitation on the time of death by being non-strict in the requirement that the declarant expects to die, so it believes that these hearsay signals are powerful enough to get a ruling. The courts could be relied upon to judge the statements' trustworthiness accurately.

CHAPTER 5: LANDMARK JUDICIAL DECISIONS AND EVOLUTION OF JURISPRUDENCE

5.1 SEMINAL INDIAN CASES: FROM KUSHAL RAO TO CONTEMPORARY DECISIONS

The law regarding dying declarations in Indian legal systems has been shaped by numerous critical rulings that have defined important principles and clarified the standards for evaluating dying declarations.

The case of *Laxman v. State of Maharashtra (2002)* is another significant ruling in the development of dying declaration jurisprudence. In this Constitution Bench decision, the Court clarified previous rulings, stating that a doctor's certificate is not necessary for the admissibility of dying declarations²¹. This decision recognized that medical testimony might facilitate an evaluation of the declarant's mental and bodily condition, however, the absence cannot by itself disqualify the dying declaration. The Court pointed out that in addition to medical evidence, dying declarations could be supported by witnesses who were present at the time or even had just heard the words; among them, family members, police, or others having different roles.

In the *Bhaju case (2012)*, the Supreme Court stated that a dying declaration could be the only source of evidence if it is trustworthy and uniform. This ruling repeated the landmarks from previous such rulings, by stating that dying declarations need not be backed by legal evidence and that courts could convict solely on the basis of a well-supported and persuasive dying declaration. The decision shows that the Court trusts the assessment of the trial judges

²¹ . Laxman v. State of Maharashtra, A.I.R. 2002 S.C. 1601

regarding the realness of dying declarations through judicious scrutiny of the contextual circumstances²².

In *Jayamma's case (2021)*, the Supreme Court noted that inconsistencies in dying declarations call for corroboration and that courts should avoid convicting based on questionable declarations²³. This ruling clarifies the jurisprudence by implying that corroboration is not necessarily required for all dying declarations; however, if there are major discrepancies or if the situation is rather unbelievable, then one should be skeptical about the evidence and usually it would be necessary to have supporting evidence for such use in the conviction. The ruling showed to be another example of a very refined judicial deliberation as to when the presumed reliability of dying declarations is convincingly high and when better to be careful.

The *Irfan case (2023)* stressed that among the factors a court must take into account when evaluating dying declarations, the requirement of corroboration arises from having serious doubts. The judgment recognized that the court must perform rather intricate assessments of the dying declaration, considering not only the occasion of the statement but also the speaker's motives, reliability indicators, and other factors that might manipulate credibility²⁴.

5.2 KEY PRINCIPLES ESTABLISHED THROUGH CASE LAW

The aforementioned landmark decisions and many other cases have been the main source of the emergence of certain main points which Indian courts will then consider when they look into dying declarations. To begin with, dying declarations do not need corroboration by law, and courts can convict based solely on reliable dying declarations. Second, each case must be assessed based on its specific facts; courts should not apply blanket rules that state dying declarations are automatically weaker evidence or always require corroboration. Thirdly, the courts must examine the conditions under which the declaration was made, including the mental and physical state of the declarant, the absence of prompting or aiding, and the consistency of the declaration with other pieces of evidence.

Fourthly, the recording of a dying declaration impacts its reliability. Declarations written down by magistrates in the proper courtroom procedure are regarded as more trustworthy than those

²² Bhajju v. State of Haryana, A.I.R. 2012 S.C. 3012

²³ Jayamma & Another v. State of Karnataka, A.I.R. 2021 S.C. 123

²⁴ Irfan @ Naka v. The State of Uttar Pradesh, A.I.R. 2023 S.C. 789

simply known through verbal testimony. Fifthly, it is true that corroborative evidence is not a prerequisite for dying declarations but it very much increases their trustworthiness and hence, their acceptance. Sixthly, the courts should determine whether the witness had a clear idea regarding the matter and if he/she had the ability to see the facts that were being talked about. The last point is that the witness's motivation for speaking out is relevant; the courts strive to detect the conditions which point to the witness having a motive for being honest or perhaps having the opposite reason for distorting the truth.

5.3 EVOLUTION TOWARD GREATER RELIANCE ON DYING DECLARATIONS

The evolutionary process of the Indian judiciary is illustrated by the slow but steady rise in the acceptance of dying declarations and their worth as evidence. In the early stages, the dying declarations were viewed with skepticism and the courts drew attention to their hearsay quality as well as the lack of cross-examination. The judges, however, relied on their experience and created new criteria for judging the reliability of the information that they began to trust more and more the dying declarations. The present legal practices are indicative of a dissymmetrical perception that upper echelons dying declarations and at the same time put in place mechanisms to prevent any dubious proclamations from entering the court.

CHAPTER 6: COMPARATIVE EXAMINATION OF PROCEDURAL ASPECTS AND PRACTICAL CONSIDERATIONS

6.1 RECORDING OF DYING DECLARATION

A major practical problem that affects the trustworthiness of dying declarations is the way these testimonies are recorded. Indian courts realize that this will be the most formal and reliable way to record a dying declaration, i.e., a competent magistrate recording the declaration very carefully, including questions and answers for the declarant, where the declarant's responses are noted in their own words as much as possible. When a dying declaration is properly documented by a judicial officer in this formal manner, it is highly reliable and can lead to conviction with little extra evidence support.

On the other hand, statements taken by police officers, though still admissible, are considered less reliable than those recorded by magistrates. Police recordings can give rise to the possibility of leading questions, suggestions, or other influences that might affect the statement's reliability. In spite of these problems, Indian courts accept that police-recorded

statements can be treated as admissible dying declarations if they are recorded in a proper manner and it is proven that the declarant's words were accurately captured²⁵.

Oral testimony concerning a dying declaration, that is, the testimony of a person who heard the declarant saying such a thing, is placed on the lowest level of reliability. This type of proof is confronted with the limitations of human memory, the possibility of bias, and the danger of the speaker being misheard or misrepresented. The courts will check this type of evidence closely, as they realize that in the absence of supporting evidence or agreement with known facts, oral testimony may not be enough for a conviction.

6.2 EVIDENTIARY WEIGHT AND CORROBORATION CONSIDERATIONS

Corroborating evidence can be of different types. To illustrate, physical evidence at the scene of death may validate the facts that a dying declaration states. Medical evidence can substantiate the injuries, the causes of death or the other medical details that the declarant has described. The testimony of other witnesses who were present may also make a dying declaration stronger by attesting that the events took place as narrated.

In cases where a dying declaration is consistent with the established facts and other evidence, the declaration gets a huge boost in reliability and the weight courts assign to it. On the other hand, if there are serious discrepancies between a dying declaration and established facts, the court usually requires corroboration before the declaration can be relied upon for a conviction, as it leads to doubts about its reliability. Courts have observed that the absence of corroborating evidence can be a reason for being cautious, especially if the dying declaration is the only link that connects the accused with the crime, even though this absence does not automatically rule out a conviction²⁶.

6.3 ADMISSIBILITY DISTINCTIONS BETWEEN INDIAN AND ENGLISH APPROACHES IN PRACTICE

Major difference is the nature of cases in which dying declarations are allowed to be presented as evidence. The English law allows dying declarations for homicide and manslaughter cases only. Victim's testimony given before dying is not treated as dying declaration unless the

²⁵ <https://sciencescholar.us/journal/index.php/ijhs/article/view/10319>

²⁶ <https://theamikusqraie.com/evidentiary-value-of-dying-declaration-under-indian-evidence-act/>

prosecution is about the death of the victim. Statements concerning crimes like rape, robbery, or arson, even if they are made just prior to the death, will not be considered as dying declarations. The rule follows from the English law, which prioritizes caution in the use of procedures. As dying declarations are hearsay and cannot be subjected to cross-examination, their admission may adversely affect the fairness of the trial. English law thus confines these exceptions to the most serious offenses particularly unlawful killings where prosecution may have to rely on the deceased's testimony out of necessity. For all other offenses, including those that may involve serious violence, English law tends to reject such evidence in order to protect the rights of the accused.

Interestingly, Indian law is diametrically opposed to this view. The Bharatiya Sakshya Adhinyam in its Section 26, does not impose any admissibility restrictions pertaining to murder or manslaughter. Rather, dying declarations are allowed in all situations, domestic or of a criminal nature, where the cause of the person's death is relevant. This larger admissibility includes not only rape but also dowry harassment, domestic violence, acid attacks, custodial violence, and suicide abetment, etc., where the victim's last words might help clarify essential facts. The Indian Perspective mirrors the notion that the evidentiary value of statements about the death's cause is not limited to the homicide cases.

This is a big difference with huge implications in terms of criminal justice. The dying victim of rape or serious injury in English law has to be viewed by investigators as giving the last account that will not be admissible under the dying declaration exception. Such a limitation may dictate the course of investigation, pushing police more to rely on physical evidence, witnesses, forensic data, and circumstantial evidence. Though the statements of the victim can lead through the investigation, they will not be presented to the jury as direct evidence of the accused's guilt under the dying declaration exception. The law reforms regarding hearsay in modern English courts have permitted under certain exceptions, nevertheless, the traditional common law rule still stands strong and continues to limit dying declarations to a specific class of evidence.

On the other hand, in the Indian judicial system, the testimony of the victim is, most of the times, the decisive evidence for the prosecution. Victim's recorded statement could be prioritized by the investigators as the one to be taken when death is imminent, considering that the courts will allow it during the trial. These statements are to be documented by medical

personnel, magistrates, and police, and the procedures set in place assure reliable recording of dying declarations. Indian courts have given a lot of judgments that have clarified the criteria for assessing such declarations, and the most important aspects are: clarity, voluntariness, and the absence of coaching. The rule of admissibility is quite liberal overall, so, more often than not, the victim's last account shapes the prosecution's direction, thus influencing the framing of charges, gathering of evidence and the pace of trial.

The no and yes doctrines at the English and Indian oath-touching practices also battle against each other and the different doctrines form the main border at that very point. The English method grants some broad powers to the prosecution and takes defensive measures for the accused through the insistence of cross-examination; thus, the latter's right to question the evidence directly and finally by the exclusion of dying declarations in non-homicide cases, which is also a measure to lower the wrongful convictions created on unreliable hearsay basis, is deemed to be very strict but can also lead to a non-prosecution of a very serious case due to a victim's testimony being the main and only evidence that can't be included.

In contrast, the Indian method provides an open door but also leads to a different set of risks. The admission of dying declarations in a broad array of cases makes it hard not to consider that statements could be totally or partially unreliable and still get the kind of weight that is normally given to the proofs. The Indian courts are, however, trying to combat this situation by performing careful judicial examinations, by making corroboration a necessity, and by evaluating the mental and physical state of the one who is declaring.

The expectation of death by the declarant is one more major difference between the two legal systems. Under English law, the declarant must be of the opinion that he or she is going to die very soon for the statement to be regarded as valid. This requirement guarantees that the psychological basis of the doctrine—the opinion that people only tell the truth when they are at death's door—operates fully. It also helps to maintain the hearsay rule: if the declarant is not aware of his death, his statement may not be serious enough to be considered by the doctrine. On the other hand, Indian law does not insist on the same thing at all. Indian courts take dying declarations even if the declarant was of the opinion he or she might get well. This difference is based on Indian's taking the matter very practically. Indian logic points out that the value of such utterances does not depend only on the mental condition of the declarant but also on how closely the statement is related to the events of the crime and the lesser possibility of deceit

when the victim is in a seriously injured state.

Different criteria entail different practices in police investigations and court procedures. In England, the police must record the subjective belief of the person making the statement about his or her dying in order for it to be characterized as a dying declaration. The police in India are not required to do so; they only need to ascertain that the declarant was of sound mind to comprehend the questions and give sensible replies. English courts might rule out a statement entirely if the speaker did not fulfill the death-expectation condition. Moreover, the Indian judicial system will take the statement but may assign it lesser importance if the situation indicates doubt.

The wide-ranging Indian methodology also has a say in the order of investigation priorities. In instance of dowry deaths, acid attacks, rapes leading to death, or custodial violence, investigators frequently consider dying declarations as key proof. Quick invitations are sent for magistrates or medical officers to take statements, and courts require that these recordings show the victim's exact words without any omissions or paraphrasing.

To sum up, the admissibility differences between the Indian and the English methods reveal not only different legal priorities – the former being the focus on evidence and truth-seeking while the latter on procedural fairness and caution. These differences are, of course, reflected in the daily operations of the respective criminal justice systems. The narrow rule of the English law, while safeguarding the defendants, might also trigger the exclusion of crucial evidence, whereas the wider rule in India not only increases accessibility to the evidence but simultaneously places a heavier burden on the courts to separate the credible from the non-credible testimonies. Thus, neither stance can be declared as completely winning; both represent an equitable distribution of a certain set of values. If a legal system is to emphasize the adversarial rights, it is likely to adopt the English-style limitations, while if it gives precedence to the substantial justice and the reliability of the evidence then it would be inclined to the Indian model.

In the end, the differences in admissibility not only influence the trials but also the approaches taken for investigations, the theories developed for prosecutions, and the judges' attitudes in each legal system.

CHAPTER 7: CRITICAL ANALYSIS, CONCLUSIONS

7.1 STRENGTHS AND LIMITATIONS OF DYING DECLARATIONS AS EVIDENCE

The dying declarations are valuable for their strengths and weaknesses. The main advantage is their capacity to reveal vital details of the crimes or the deaths' circumstances that might otherwise be lost. Dying victims are often the sole witnesses to the crime. If these statements were not made, the vital information dying person had would be unreported and, thus, the culprit may be left unpunished. The very fact of death inspires the idea that dying people might be telling the truth and hence the statements are taken as truthful without even undergoing cross-examination.

Moreover, these declarations can contain some specific details that are indicators of their veracity. When a dying person calls out his attacker, tells about the murder weapon, points to the place of the crime, or gives some other significant details, he is conveying information that is not based on guessing but on direct knowledge. By dying, a person is naturally reluctant to make wrongful accusations and this very fact strengthens the court's inference of reliability that is drawn from such statements.

Notwithstanding, dying declarations have observable restrictions that are quite considerable. To begin with, giving up the right to cross-examine the witness means that the courts are not able to verify if there are any inconsistencies, put the witness's memory to the test or delve into how the witness is sure about what he or she says. The dying person is in a situation where he or she will not be able to clear up any uncertainty, shed light on the use of ambiguous language, or rectify any misunderstandings or errors. This constraint is inherent in the case of dying declarations.

Secondly, the declarant's state at the moment of making the statement may have a bearing on the matter of reliability of the statement. Vicelike pain, shock, sedatives, and almost unconsciousness may all work against proper observation and communication. Although the courts do their best to appraise these factors via medical evidence and testimony, such assessments are usually less than perfect. It is possible that the courts might underestimate the magnitude of the impact that these factors have on reliability.

Thirdly, the taking of dying declarations by police officers or other officials presents a risk of

prompting or tutoring. They may hold certain views about the facts or may, without meaning to, influence the declarant through leading questions or suggestions. The courts try to identify and eliminate these influences, but it is often very difficult to prove their absence, and subtle forms of suggestion might even go unnoticed.

7.2 CRITICAL EXAMINATION

Dying declarations are a controversial subject with two opposing sides presenting an evidentiary necessity claim: on one side, the need to bring in significant statements that have become impossible to prove, as the witness has passed away, and on the other side, the need to protect the defendant from the conviction based on untested hearsay. The Indian law is lenient as compared to the English law.

The established definition plays a significant role in law enforcement. It diminishes the likelihood of a jury relying on extant out-of-court statements that might be untrustworthy, standardized, or muddled, by merely allowing admission of a small number of dying statements. Even though there have been recent legal modifications, such as those enacted by the Criminal Justice Act, the inherent hesitation of English law has still mapped out the judicial interpretation of dying statements in a very cautious manner.

1. Conversely, Indian legal system as provided in Section 32 of the Indian Evidence Act and backed up with broad Supreme Court interpretations, has a more permissive approach. Indian courts often take dying declarations as evidence in both criminal and civil cases with no requirement of the declarant being conscious of the impending death to die²⁷. This is an embodiment of a realistic perception that very often the persons suffering from violent crimes are not able to give evidence in court, and their statements made out of court usually represent the only direct account of the crime. Consequently, Indian legal system is very much concerned about the availability of such evidence, which can be crucial, and at the same time it puts the burden of assessing reliability and the weighing of dying declarations with other evidences mainly on trial courts and appellate reviews. This policy displays a larger degree of trust in the judges' capability to evaluate the cases and it is also a matter of preference for finding the substantive truth rather than just adhering to strict procedural barriers.

²⁷ Indian Evidence Act, 1872, § 32

2. Different as they are, the two systems still bring into focus a major distinction between them: the notions of admissibility and evidentiary weight are not the same. What is more, when a dying declaration is allowed, the judges might still emphasize that its credibility is determined by the indicators of reliability. The usual indicators concern the time of the statement in relation to the injury, the mental and physical condition of the person (e.g., consciousness, pain, or being under the influence of drugs or alcohol), the nature of the statement (was it made out of impulse or during an interrogation?), any reason for the person to lie or to point at another, the coherence of the statement itself, and the availability or absence of evidence by independent means (like medical records, witness testimonies, forensic data, or immediate notes). This list of factors helps the courts decide the level of confidence a jury can have in a piece of evidence that could not be subjected to a cross-examination. Moreover, appellate courts keep a close eye on the trials where the dying declarations act as the main proof for the conviction, and they actually reverse the decisions quite often if the trial judges neglect these factors or if the atmosphere around the declaration points to the manipulation of the evidence.

3. Benefits and risks of the Indian model: Accessibility vs. Potential Unreliability

The foremost advantage of the Indian method is its ability to gather crucial testimonies that could easily be lost otherwise. In numerous cases of violent crimes—such as burnings, stabbings, and shootings—the last utterances of the person dying may serve as the only direct evidence for the perpetrator's identity or the chronology of events.

In reality, at times, the records testify to statements taken in a rush during messy circumstances or by parties with an interest in the matter without any neutral documentation. The reliability of the statement made by the declarant might be doubtful, even though it sounds loud and clear, if the declarant is under the influence of shock, pain, or medication. A soft rule of admission, without the strong safeguards of having the statement recorded and corroborated, can result in wrongful prosecutions or convictions based on statements that are seemingly credible but are actually factually incorrect. Therefore, the emphasis on contextual evaluation and appellate review in Indian law is crucial for the prevention of wrongful convictions.

4. Benefits and risks of the English model: procedural safeguards vs. evidentiary loss

England's tougher laws eliminate some reliability risks. By having a certain expectation of

death and normally confining the exception to murder, English law sorts out the utterances that may not possess the gravity law presumes. This approach is very cautious and maintains the institution's integrity. Only in the most severe situations—where the social costs of excluding vital evidence could be enormous and the protection from cross-examination might be outweighed by the need to convict a murderer—does this exception apply.

5. Two illustrative cases

a) *Jayamma & Another v. State of Karnataka (Supreme Court of India, 2021)*. In this case, the Supreme Court reevaluated when a dying declaration can securely support a conviction. The circumstances around the declaration were disputed, with questions about timing and how it was recorded²⁸. The Court underlined that a genuine dying declaration could result in a conviction, but the trial court should take great care in its contextual analysis; if the declaration creates a lot of doubt, it is not safe to convict without some proof. Jayamma illustrates the Indian judiciary's cautious approach: the range of admissibility might be wide, but there is always a strong focus on judicial wise man ship concerning the weight and the need for corroboration. The judgment enhances procedural protections by setting out workable standards for judges to evaluate the declaration's origin and authenticity.

b) *Irfan @ Naka v. The State of Uttar Pradesh (2023)*. In the case of Irfan, the court underlined that in case there is a considerable suspicion or a manifest defect in the declaration, it should only be taken as one piece of evidence and not the only basis for convicting a person. The court's ruling introduced practical tests for the trial courts such as checking the medical capability of giving the statement, searching for independent corroboration, and analyzing the spontaneity of the statement in order to guarantee that the convictions based on dying declarations are really fair. In this manner, the case of Irfan implements the Indian legal habit of admitting evidence while being very careful scrutinizing it²⁹.

6. Towards a balanced synthesis: policy and procedural reform

A mixture of the two would keep the necessary statements accessible and at the same time

²⁸ Jayamma & Another v. State of Karnataka, A.I.R. 2021 S.C. 123

²⁹ Irfan @ Naka v. The State of Uttar Pradesh, A.I.R. 2023 S.C. 789

would impose stricter measures to minimize the risks. Among the possible changes, the following could be mentioned: the statements should be recorded by neutral persons, the state of the declarant should be documented, the courts should have clear guidelines regarding dying declarations, there should be a definite answer on when corroboration is necessary, and there should be training of law enforcement and medical personnel on how to obtain and keep such statements without giving hints. These new rules would make the Indian system retain its practical advantages, but at the same time, they would also overcome its main weaknesses—manipulation and inadequate documentation—and would bring in the English-style caution, but through procedural rather than exclusionary means.

7.3 SPECIAL CONSIDERATIONS: PHYSICAL CONDITION AND STATEMENT RELIABILITY

Very recently, researchers looked into the effects that severe injuries, especially burns, have on the ability of a person to make dying declarations that are to be taken as clear and trustworthy. Studies have concluded the idea that people with burns on their face or with major body burns cannot give valid dying declarations is a misconception. They also have pointed out that in the case of the victims with burns, the loss of speech was not that much and the victims with facial injuries were also speaking. The impairment of speech differed more with age and sex than with the severity of the injury. These results indicate that the courts should not entirely disbelieve dying declarations from burn victims just because of their supposed inability to communicate properly.

The judges will benefit from this research in knowing how the physical condition is related to the reliability of dying declarations. The judges will, therefore, have access to evidence-based guidance for deciding the case of those who are in severe physical distress. The acknowledgment of the fact that the dying persons can still utter coherent words, even under dire conditions, is an assertion that serious injuries do not always compromise the reliability of the statement made by the dying person.

7.4 THE ROLE OF CORROBORATION: LAW AND PRACTICE

Indian law does not require corroboration legally, but in practice, Indian courts often show such consideration to the evidence that supports the claim. The practice is a sign of a very developed judicial awareness. The law allows in some cases to rely on dying declarations without

corroboration, but still, it is often wise to obtain the supporting evidence where it is possible, especially in the case of serious crimes where the consequences can be grave. The Court's ruling has been sticking up on such matters in a more delicate way. It admits that while corroboration isn't legally prescribed, it makes the juristic process of dying declarations very much reliable. The absence of corroboration especially when coupled with other factors pointing towards unreliability could be a reason for taking it with caution.

7.5 RECOMMENDATIONS AND SUGGESTIONS

The suggestion is that adoption of standard practices in recording dying declarations, especially that of the police officers, will not only make them more reliable but also provide better documentation for evaluation later on. These practices should involve professional interviewers, non-partisan questioning methods and, if possible, transcribing the declarer's exact words. When technology is employed to document dying declarations verbatim, where applicable, a more trustworthy account than one relying on mere recollection would be produced.

Second, the issue of the relationship between the declarant's physical condition and the trustworthiness of their statements, which has been frequently discussed in courts, along with the results of studies on how various bodily conditions affect verbal and non-verbal communication, would make the judges' decision-making process easier. Usually, the courts tend to decide on the basis of the severity of the injury communication assumed as the case. The rarer approach is that of evaluating each case one by one, relying on the scientific evidence of human physiology and psychology.

Third, the comparative study and experience sharing among the common law jurisdictions about dying declarations, their respective approaches and the strengths and weaknesses of each, would make the area of comparative jurisprudence more vibrant. The exploration of how judges in different parts of the world cope with the intricate matters concerning dying declarations may provide us with a clearer view of the advantages and disadvantages of the possible policies influencing such cases and then assist judges in making their rulings better.

7.6 CONCLUSION

The law of evidence considers dying declarations as the most controversial type of testimony, requiring judges to weigh the necessity of potentially crucial testimony against the right of the

accused to be protected from unreliable hearsay. This presumption gives a practical base for the admission of the hearsay exception. But at the same time, the parameters of this exception and the way different systems of law control its application are indicative of the balancing act that is being constantly played between the advantages of evidence and the drawbacks of mistakes and bias.

Dying declarations have received different treatment in different jurisdictions historically because the question of their reliability and the protections necessary for fairness have been determined differently according to the local legal culture and the level of trust in the institutions. In India, Section 32 of the Indian Evidence Act and the corresponding case laws reflect a rather soft stance of dying declarations. Indian courts have permitted the use of dying declarations in the case of both civil and criminal matters and have often accepted the view that a number of victims, especially those involved in violent crimes, may be unable to take the stand in court but are still a source of important information if they are allowed to speak while they are conscious of their approaching death. The Indian legal system generally accepts dying declarations as evidence prima facie, not only that but their dependability is also decided by the courts based on the context surrounding the case and not by rigid rules. The evidence captured in this manner is the main concern that could be lost otherwise, so it is permitted mostly on the basis of the trial courts' skill in assessing facts and their appellate review of the wrongful conviction being prevented.

English law on the other hand takes a more restrictive road. The contrast between the two approaches is a reminder of a fundamental choice to be made: either to give priority to the necessity of obtaining potentially significant evidence for the purpose of justice or to impose restrictions on the use of such evidence only in rare instances to guarantee fairness in the process.

No method is completely perfect. The Indian model's strong point is its ability to draw in expert testimony, which could prove extremely important in cases that have little evidence otherwise, but this is still very dependent on the judges' decision. The reliability of a dying declaration is highly context dependent: the timing of the statement with respect to the injury, the person's power to see and remember, the presence of possible reasons to lie or to incriminate someone else, whether the statement was made freely or prompted by people with an interest, and the existence of corroborating evidence are all important factors to consider. When judges apply

these criteria of evaluation consistently and thoroughly—such as checking the medical records, investigating the possibility of coaching, and observing the agreement in the content of the statement—then the risk of wrongful convictions is minimized. Still, if there is no careful consideration of the trustworthiness-reducing factors, the flexibility that is supposed to lead to the discovery of truth might result in malfunction.

The English model does reduce some of these risks by limiting the admissibility of the evidence through focusing on the statements presented to juries. Yet it is no less problematic at the same time. Rigid rules could very likely exclude the most truthful and the most critical evidence, particularly in cases when the only person who could identify the attacker or knows the facts of the immediate vicinity will die without testifying. In such instances, technicality in evidence exclusion can be a barrier to justice as it may prevent the best evidence from being accessed. Thus, the conflict between safeguarding and practicality is still there; neither total inclusion nor complete exclusion is a perfect solution.

Courts have established unifying rules to moderate risks without denying the access to the significant extrajudicial testimonies in both systems. A distinction between admissibility and weight is made by the courts at the outset. The admissibility rules decide whether or not the evidence can be communicated to the fact-finder and the weight is the evaluation that the fact-finders give to that evidence. The courts have ruled several times that dying declarations are admissible even if they raise hearsay problems, nevertheless, it is the court's obligation to offer the parties unique directions or cautionary guidelines on how much weight juries should give to that evidence. The jury will normally be told about the lack of the possibility of cross-examination of the declarant, will be urged to scrutinize the supporting evidence very carefully, and will be informed about any circumstances that might diminish the given credibility. This layered approach allows for the continued use of such important testimony but at the same time acknowledging the constraints of such testimony.

Moreover, in practice, courts have often relied on different contextual factors to scrutinize the reliability of a witness and this has now become an important element in jurisprudence. They would evaluate the time of the statement (proximity in time to the event and how close to death), the declarant's mental state (awareness, lucidity, and any influence from drugs), how natural the statement was, any reason to lie, and what other evidence there is supporting or contradicting the claim. The presence of independent confirmation like medical records,

eyewitness accounts, forensic evidence, or contemporaneous documenting can greatly influence whether the testimony is perceived as compelling rather than speculative. Although many areas of law agree that corroboration is not a strict legal requirement, they recognize that the lack of it usually calls for more caution.

In the practice of reforms and good practices, the main goal is achieved. The process of dying declarations recording should become a regular practice, have medical staff or neutral authorities as witnesses and document the condition of the declarant, and preserve all original notes or recordings for the court to review, all these will definitely boost the factfinder's power to determine the reliability of the evidence. The training for police and medical personnel who collect and document these statements must not only contain the use of leading questions but it should also be followed by a primary judge's ruling. The jurors should be given detailed and unambiguous instructions about dying declarations, and the higher courts should keep demanding high standards when reliance on such evidence makes the conviction.

In conclusion, the creation of legal principles is a continuous journey. The recent decisions in different common law jurisdictions have consistently shed light on how courts deal with dying declarations, for instance, whether in some cases corroboration is a prerequisite, how much importance should be accorded to statements made under duress, and what the admissibility standards are? The legal revolution is heavily impacted by policy issues. Society, on the one hand, has a very strong concern and a big interest in making sure that the people who commit violent crimes are punished, especially given the fact that sometimes the only testimony that could incriminate the criminal just dies. Dying declarations could be evidenced for capturing the truth when other evidence is either limited or nonexistent. On the contrary, the nature of death penalty sentences makes the stakes very high, hence the need for stringent precautions against the use of such unexamined and untrustworthy hearsay. So, legislations have to draw-up rules or permissions to ensure a claim can be made where there is a substantial likelihood of reliability and at the same time, prompt the unqualified and unreliable hearsay to be effectively buried.