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# An Analysis of the Admissibility and Reliability of Dying Declarations as Evidence in Criminal Trials

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## ABSTRACT

*Dying declarations are statements made by a person who knows that they are about to die and who relate the cause or circumstances of their impending death. These declarations are admissible as exceptions to the hearsay rule, which generally prohibits the admission of out-of-court statements. The rationale for admitting dying declarations is that a person who is about to die is presumed to have no motive to lie, and that their statements are therefore more likely to be truthful.*

*The admissibility of dying declarations is generally subject to several key requirements. First and foremost, the individual making the declaration must possess the awareness of their impending death. Secondly, the statement itself must pertain to either the cause or the circumstances surrounding the declarant's impending demise. Equally crucial is that the statement is offered freely, without any form of coercion or external influence. Additionally, the declaration should ideally take place in the presence of two or more witnesses to validate its authenticity.*

*The reliability of dying declarations, however, remains a case-specific evaluation. Several factors come into play when determining the trustworthiness of such statements. The mental state of the declarant at the time of making the statement is a critical consideration. Moreover, the declarant's physical and mental capacity to provide a dependable statement is taken into account. The circumstances surrounding the statement's issuance, as well as the possible motives behind the declarant's decision to make the statement, are all factors that weigh into the assessment of the declaration's reliability. In essence, the admissibility and reliability of dying declarations hinge on a careful examination of the specific details and context of each case. Dying declarations are generally considered to be reliable evidence, but they are not infallible. As with any type of evidence, the reliability of a dying declaration must be assessed on a case-by-case basis.*

*In addition to the requirements listed above, some jurisdictions also impose additional requirements for the admissibility of dying declarations. For example, some jurisdictions require that the declarant be able to identify their killer. Other jurisdictions require that the dying declaration be corroborated by other evidence.*

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*The admissibility and reliability of dying declarations as evidence in criminal trials is a complex and evolving area of law. The requirements for admissibility and the factors that are considered in assessing reliability vary from jurisdiction to jurisdiction. As a result, it is important to consult with an attorney to determine the admissibility and reliability of a dying declaration in a particular case.*

*Dying declarations are statements made by a person who believes they are about to die, regarding the cause of their death or the circumstances surrounding it. These statements are often used as evidence in criminal trials to establish the identity of the perpetrator and to determine the criminal liability of the accused. However, the admissibility and reliability of dying declarations as evidence in criminal trials have been the subject of much debate in legal circles.*

## I. INTRODUCTION

In the legal system, a dying declaration is a statement made by a person who is facing imminent and certain death concerning the cause of their death or the circumstances surrounding it. These statements are typically used as evidence in criminal trials to establish the identity of the perpetrator of the crime and to determine the criminal liability of the accused.

Dying declarations are generally considered to be a form of hearsay evidence, as the declarant is not available to testify in court. However, because the declarant is making a statement against their own interest, there is a general belief that it is highly unlikely that they would lie or misrepresent the facts. This belief adds to the credibility of the dying declaration, making it a valuable form of evidence in legal proceedings.

In some countries, dying declarations are given special status under the law, meaning they may be admissible in court even if they do not satisfy the rigorous hearsay rules that apply to other statements. In India, Section 32 of the Indian Evidence Act 1872 allows for dying declarations to be admissible in court under certain conditions, including that the person making the statement is found dead, or is unable to appear in court, and that the declaration was made in a fit state of mind without any external influence, intimidation, or coercion.

Dying declarations are often used to establish criminal liability in cases such as homicide, physical assault, or any other case related to threats to life. However, the admissibility and reliability of dying declarations as evidence in criminal trials have been the subject of much debate in legal circles, and various factors must be considered, including the mental and physical condition of the declarant, the nature and extent of their injuries, and the absence of any external influence or pressure. The reliability of a dying declaration will have a significant

impact on its admissibility in court and its potential to sway the jury or the judge.

### **(A) Admissibility of dying declarations**

Dying declarations are an important form of evidence in criminal trials, and their admissibility is determined by the rules of evidence as established under the law. In most legal systems, including in India, the admissibility of dying declarations is rooted in the hearsay rule, which is a principle of evidence law that generally excludes out-of-court statements made by someone who is not available to testify in court as evidence.

In India, the admissibility of dying declarations is governed by Section 32(1) of the Indian Evidence Act, which provides that statements made by a person who is dead, whether the death was caused by the act of the accused or otherwise, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the court unreasonable, are admissible in evidence.

To be admissible under Section 32(1), a dying declaration must meet certain prerequisites. First, it must have been made by a person who is conscious and capable of making a statement. Second, the declaration must have been made voluntarily, without any external influence or pressure. Third, the declarant should be in a fit mental state and should not have been induced or influenced to make a statement. Fourth, the declaration must be made in the presence of at least two witnesses who are competent to testify.

Reliability is another important factor in determining the admissibility of a dying declaration. Typically, courts will scrutinize the statement carefully to determine if it was free from coercion or undue influence. They will also seek to establish the declarant's state of mind, mental faculty and physical condition at the time of the statement. If a court finds that the dying declaration was made voluntarily and without undue influence, and meets all the prerequisites of the law, it may be admissible as evidence in criminal trials.

### **(B) Reliability of dying declarations**

The reliability of a dying declaration refers to the degree to which the statement is truthful and accurate, and whether it can be relied upon to establish the facts of the case. The reliability of a dying declaration depends on various factors, such as the physical and mental condition of the declarant, the nature of their injuries, the time and place of the statement, and the absence of any external factors or influences that may have affected the declarant.

To determine the reliability of a dying declaration, courts will examine the circumstances under

which the statement was made, such as whether the declarant was aware that they were about to die, whether they were under any pain-relieving medication or other forms of intoxication, and whether they had any motive to fabricate their testimony. Additionally, courts may assess the declaration in light of any previous inconsistent statements or evidence presented in the case.

In India, to be considered reliable, a dying declaration must meet the criteria established under Section 32(1) of the Indian Evidence Act. The declaration must be made voluntarily, without any external influence or pressure, while the declarant was in a fit state of mind. The statement should also be made in the presence of at least two witnesses who are competent to testify.

A dying declaration that satisfies these requirements may be considered a highly reliable form of evidence in criminal trials. However, courts are also aware that dying declarations are often given under highly emotional circumstances, which may affect their reliability. As a result, courts will usually scrutinize the declaration carefully to ensure that it is free from any external pressure or undue influence.

### **(C) Illustration**

Let's consider a hypothetical scenario to illustrate the use of a dying declaration as evidence in a criminal trial:

Suppose a woman is found fatally injured in her home, and she is rushed to the hospital, where she dies minutes later. Before her death, the woman tells a nurse and a police officer that her estranged husband attacked her with a knife. She provides a detailed description of the incident, including the location, time, and exact nature of the attack. She is too weak to give any more information, and the doctors are unable to save her.

In this case, the woman's statement made to the nurse and police officer would be considered a dying declaration. The legal system recognizes the value and importance of such statements in cases where the person making them cannot be cross-examined. As a result, the woman's statement would be admissible in a court of law, and could be used to establish the identity of the perpetrator and to determine the criminal liability of the accused.

To establish the admissibility and reliability of the dying declaration, the court would examine the circumstances under which it was made. The court would inquire about the state of mind of the woman, including whether she was in a fit condition to make a statement, whether she had any motivation or reason to lie, and whether she was under any external influence or coercion while making the statement. They would also take the necessary steps to ensure that the statement was, indeed, made voluntarily and without any pressure.

If the court is satisfied that the declaration is admissible, they would combine the statement with other available evidence, such as the location and time of the attack or any other witnesses present, to build a case against the accused. If the prosecution can demonstrate that the accused had the motive, means, and opportunity to commit the crime, and if the declaration is deemed reliable, it could go a long way in establishing the guilt of the accused beyond a reasonable doubt.

In summary, dying declarations can provide valuable evidence in criminal trials, and the admissibility and reliability of such statements are determined based on the circumstances under which they are made. If the criteria are satisfied, dying declarations can be an effective way to establish criminal liability and, ultimately, to ensure justice is carried out.

## **II. MEANING AND PROVISION OF DYING DECLARATION**

The term "dying declaration" refers to a statement made by a person who is on the brink of death, and who is providing crucial information about the cause of their death or the circumstances surrounding it. In the legal system, dying declarations are considered to be a form of hearsay evidence since the person who made the statement is not available to testify in court. However, because the declarant is in the process of dying, and is typically making a statement against their own interest, there is a general belief that it is highly unlikely that they would lie or misrepresent the facts.

The provision for dying declarations is established in the Indian Evidence Act, 1872. Section 32 of the act lays down the provisions for the admissibility of dying declarations in criminal proceedings. The section makes provisions for the admissibility of statements made by a person who is either found dead or is unable to appear in court.

The Section specifies that a statement made by a person who is dead, whether the death was caused by the act of the accused or otherwise, or who cannot be found or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the court unreasonable, is relevant under the following circumstances:

- 1.** That the statement was made by the person under a sense of impending death;
- 2.** That the statement relates to the cause of their death or the circumstances around it; and
- 3.** That such a statement must be made voluntarily and without any external influence.

Further, the statement must be made by the person who is capable of making a statement and is in a fit state of mind to do so. The statement can be made to any person, and there is no

requirement that it must be made in the presence of an officer in charge of a police station or a magistrate.

The rationale behind providing for dying declarations is that, due to the gravity of their condition, the person making the statement is more likely to speak the truth and act without any bias or malice. The courts, while admitting the dying declaration, carefully consider the circumstances under which it was made to ensure the statement's authenticity and reliability. If the statement meets the criteria laid down by Section 32, it can be used as primary evidence in criminal proceedings.

#### **(A) Essentials of dying declaration**

The admissibility of a dying declaration in a criminal trial is governed by Section 32(1) of the Indian Evidence Act, which lays down certain essential requirements for such a statement to be admissible in court. Let's take a look at the essentials of a dying declaration:

1. Made by a person in imminent death: The first essential requirement of a dying declaration is that it must be made by a person who is in a condition of near-imminent death. This means that the person making the statement must believe that their death is imminent, and there must be a real possibility that they will not survive.
2. Voluntarily made: The second essential requirement is that the declaration must be an entirely voluntary statement. The declarant must make the statement without any pressure or coercion from any person, and it must be entirely of their own accord.
3. Made in a fit state of mind: The third essential requirement is that the declarant must be in a fit state of mind when making the statement. This means that they must be conscious and aware of what they are saying, without suffering from any mental or physical incapacity that affects their ability to provide an accurate description of an event or facts related to the crime.
4. Made before death: The fourth essential requirement is that the statement must be made before the declarant's death. The declarant must pass away while or after giving the statement, and it cannot be based on statements or hearsay given later by other persons.
5. Related to the cause of death: The fifth essential requirement is that the statement must relate to the cause or circumstances of the declarant's death. The statement cannot be a general statement, but it must be related to the specific incident, such as the accused's conduct or the manner of injury, that led to the declarant's fatal state.

6. Made to competent witnesses: The final essential requirement is that the statement must have been made to at least two competent witnesses who are capable of testifying and making accurate observations of the statement. The witnesses should also be available to give evidence in court.

In summary, a dying declaration is admissible in court under certain circumstances. The declarant must have made the statement voluntarily and in a fit state of mind, and it must be related to the cause or circumstances of their death. Additionally, the statement must have been made to competent witnesses and must have been made in the declarant's imminent death state. If all these essential requirements are met, the declaration can be used as evidence against the accused in court.

### **III. DIFFERENT FORM AND PROCEDURE OF DYING DECLARATION**

A dying declaration can be in various forms and can be made through different procedures. Below are some of the different forms and procedures of dying declarations:

**1. Oral statements:** Most dying declarations are made orally, i.e., the declarant speaks the statement out loud to a person or people present. In such cases, the statement must be recorded accurately in writing, and the witnesses who heard the statement must attest to its veracity.

**2. Written statements:** In some cases, a dying person may be too weak or too incapacitated to speak and may instead make a written statement. Such written statements can be admissible as dying declarations if they meet the necessary requirements of admissibility.

**3. Gestures or signs:** A declarant who cannot speak may convey their message through gestures or signs that can be interpreted by another person. In such cases, the interpreter must be present as a witness when the declaration is being made.

**4. Video or audio recordings:** In some cases, the dying declaration may be in the form of a video or audio recording. The recording must contain a clear expression of the declarant's final words and must be accompanied by an attestation from an appropriate witness.

When it comes to the procedure of a dying declaration, the Indian Evidence Act does not specify the specific procedures that need to be followed. However, based on legal precedents and court decisions, some general procedures are followed. These may include:

1. A magistrate or other official should record the statement if possible. A police officer or other non-official person may also record the statement, provided they are suitable witnesses.

2. The declarant should be asked questions to clarify their statement and ensure that they understand the significance of their statement.
3. The statement should be recorded in the declarant's own words as far as possible.
4. The time and place of the declaration and the names of the witnesses present should be noted.
5. The declaration should be signed or marked by the declarant, if possible.

**Here are some points to keep in mind regarding who can record a dying declaration**

**(A) Who Can Record a Dying Declaration?**

The Indian Evidence Act doesn't specifically define who can record a dying declaration. However, according to Section 32 of the act, a dying declaration can be made to any person, whether they are a magistrate, a police officer, or a civilian. The Act considers any person competent to receive a dying declaration, provided that they are capable of understanding the statement and can testify to it in court.

1. Any person can record a dying declaration: There is no requirement that a particular person, such as a magistrate or police officer, must record the dying declaration. The Act allows the statement to be made to anyone, and the person receiving the statement must record it accurately.
2. The recording must be attested by a witness: After recording the statement, the person receiving the declaration must have it attested by at least one witness who is present at the time of the statement. The witness must sign the statement or put their mark on it.
3. The person recording the declaration must be competent: The person recording the declaration must be competent and understand the nature of the statement. If it is a written statement, they must be able to read and write the language used.
4. Police officers can record a dying declaration: Under Section 161 of the Criminal Procedure Code, a police officer may record a statement, including a dying declaration, during the course of an investigation. However, they must follow the necessary legal requirements and ensure that the statement is recorded accurately in the presence of a witness.

In summary, any person who is competent and capable of understanding the nature of the statement can record a dying declaration. However, it must be attested by a witness, and if it is recorded by a police officer, they must follow the legal procedures for recording such

statements.

### **(B) The language of dying declaration**

A declarant's dying declaration is admissible in court under the Indian Evidence Act regardless of the language spoken, provided that all other statutory conditions are satisfied. To guarantee that the statement was obtained appropriately and accurately, courts have historically attempted to produce a declaration in the language spoken by the declarant.

When the declarant speaks a language other than the witnesses' or the official who is transcribing it, the record or transcription must be meticulously made in that language, and an interpreter must translate it into the language of the official language used in the court or trial.

To ensure the correctness, integrity, and dependability of the statement under consideration, it is imperative to hire an interpreter who is qualified and capable of handling the task well.

The court will need to use an interpreter to explain the proceedings and associated phrases into a language the declarant can understand if they are being conducted in a language they do not understand.

### **(C) Magistrate's recording of death declaration**

The Magistrate may record the dying declaration in a variety of situations. A dying declaration's admissibility as evidence depends entirely on the specifics of the case. Aside from. Given its voluntariness, the circumstances, and the facts of the case, a deathbed declaration alone may serve as the basis for an accused person's conviction. in a particular case.

#### **1. Oral Declaration**

Oral records of a dying declaration are possible. An oral dying declaration is a statement made by the declarant that is not written down and must be recited from memory by the witnesses. The identical words of the declarant must be repeated in front of the court, according to a rule issued by the supreme court. Any inconsistencies or contradictions in the exact words reproduced will affect the oral dying declaration's admissibility as evidence. It should be remembered that an oral declaration made before death could influence whether or not someone is convicted of a crime.

#### **2. Declaration of Identification Through Dying**

There isn't a certain type of dying pronouncement that is recognised by or recognised by the law. But with the right identification, that must be acting as a piece of evidence.

The Apex Court has also ruled in a case that the question of who stabbed the deceased and why

was at the heart of the entire situation. The dying declaration contains these important details.

### 3. Question-and-answer format

It was decided that the deathbed declaration could not be disregarded for that reason alone when it was not recorded in question-and-answer format. A remark included in the story could sound more natural because it might present the victim's side of the incident.

### 4. gestures and signals

The full bench of the Allahabad High Court held in the case of Queen-Empress v. Abdullah that "If the injured person is unable to speak, he can make dying declaration by signs & gestures in response to the question." The accused had cut the throat of the deceased girl and as a result, she was unable to speak; as a result, she indicated the name of the accused by the signs of her hand. The Apex Court stated in a different instance that "the usefulness of the sign language would rely on as to who recorded the signs, what gestures & nods were made, what were the queries addressed, whether simple or sophisticated, & how effective & understandable the nods & gestures were.

### 5. Unfinished Statement

The Apex Court had ruled that a dying declaration would not be reliable if the deceased did not finish the primary sentence (such as the origin or reason for the crime). However, the declaration can be trusted if the deceased has told the entire tale but has not responded to the final formal question regarding what further he wished to say.

## **(D) Fitness of the Declarant**

A need before a dying declaration can be recorded is that the declarant be in good bodily and mental health. The court must have faith and assurance that the declarant was fully qualified and able to record his or her statement at the time the dying declaration was recorded. Assume that where declarer survives.

In a case determined by the Apex Court, the deceased who had made the declaration of impending death was severely hurt yet was awake the entire time he or she was saying it. The Court determined that the mirror incoherence in his statement—which was otherwise found to be genuine—with regard to the facts and circumstances would not be a sufficient reason to not rely on it.

### **1. Absence of a medical fitness certification**

When a dowry victim's dying declaration was contested on the grounds that a doctor's certificate of mental fitness for the statement was missing, the Supreme Court gave little weight to this

oversight because the case was not entirely based on the victim's declaration. According to the circumstances, the injured woman arrived to the hospital by herself, changing vehicles on the way. This was sufficient evidence in itself to show her fitness.

i. When a claim is unrelated to the cause of death

It cannot be argued that the individual delivering the statement is describing the circumstances of his death or the cause of his death if it cannot be established that he died as a result of the wounds he sustained in the occurrence.

## **2. Health Report**

The woman was aware, had good orientation, and provided clear answers to the questions posed to her, the hospital's doctor noted in the accident register. Her injury or the post-mortem report, which stated that given the extent of the deceased's injuries, she could not have been in a position to make a statement, could not be used to reject her statement. It was decided that the magistrate did not need to conduct an independent fitness investigation when the medical report of fitness was provided to the magistrate who was to record the statement.

i. Doctor's assertion

with a bride-burning case, the doctor to whom the deceased was brought for treatment testified that shortly after her admission, she claimed that her husband had doused her with paraffin and set her ablaze. The physician noted it. The contemporaneous record served to bolster the doctor's testimony. The doctor, according to the court, had no justification for fabricating testimony or case materials against the defendants.

## **IV. PROXIMITY BETWEEN THE TIME OF THE STATEMENT AND THAT OF DEATH**

Proximity or immediate proximity means the closeness or nearness in time between the making of the declaration and the declarant's death. According to the Indian Evidence Act, the requirement of the "proximity of time" means that the statement must be made by the declarant after they have been mortally injured and must genuinely hold a belief that they are nearing their death.

The closer the time interval between the making of the statement and the death of the declarant, the more valuable the statement is considered. This is because the closer in time the statement was made, the less likely it is that the declarant's memory was impaired, deteriorated or influenced, and the more likely the statement was made in clear consciousness and without any external influence.

However, Indian courts have not laid down any specific time frame for the "proximity of time"

in cases of dying declarations. The courts rely on facts and circumstances of each case, to determine whether the statement made by the declarant was made in close proximity to the time of death.

In general, the declaration must be made when the declarant is giving up all hope of recovery and is fully convinced that they will die soon. It is also essential that the statement is made when the declarant is in a conscious state and can grasp the significance of what they are saying.

In summary, the "proximity of time" requirement means that there should not be any significant time gap between the declaration and the death of the declarant. The closer in time the statement was made to the death of the declarant, the more persuasive it will be considered. However, the court considers the entire facts and circumstances of the case to determine the admissibility of a dying declaration, including the proximity of time.

## **V. ADMISSIBILITY OF MORE THAN ONE DYING DECLARATION**

The admissibility of more than one dying declaration depends upon the circumstances of the case and the credibility of the witness. The Indian Evidence Act does not prevent admission of more than one dying declaration in cases where it meets the necessary requirements.

It is permissible to use more than one dying declaration as evidence in a trial. However, the court will assess each declaration separately and independently, and weigh the reliability and credibility of each statement.

If the court finds that more than one dying declaration has been made, it will assess the consistency and similarity of each statement against the other declarations. If the statements are mutually contradictory, the court will have to evaluate and consider which statement is more reliable and believable.

In situations where there are multiple dying declarations that are not mutually contradictory, the court will consider each declaration in isolation and evaluate its credibility and reliability. Whether to give probative value to each of the declarations or not will depend on facts and circumstances of the case and the court's judgment.

It is essential to note that the dying declaration must meet the essential admissibility requirements, i.e., it must be voluntary, genuine, and made in close proximity to death.

In summary, the admissibility of more than one dying declaration rests on the discretion of the court. Multiple dying declarations can be admitted if they meet the necessary requirements of admissibility and do not contradict the facts of the case. The court will consider each declaration separately and evaluate its credibility, reliability and probative value using factors such as

consistency, similarity, and proximity of time.

#### **(A) Exceptions of Dying Declaration**

While dying declarations are generally admissible in court as evidence under Section 32 of the Indian Evidence Act, there are some exceptions where such statements may not be admissible. Below are some of the exceptions:

- 1. Statement made by the declarant after regaining consciousness:** If the declarant makes any statement after regaining consciousness, it may not be treated as a dying declaration, and it must meet other admissibility requirements.
- 2. Statement made by the declarant before receiving fatal injuries:** If the declarant made the statement before receiving the fatal injuries, it cannot be considered a dying declaration, and it must meet other admissibility requirements.
- 3. Statement not related to cause of death:** If the statement made by the declarant is not related to the cause of death or the circumstances leading to death, it may not be treated as a dying declaration.
- 4. Statement not made voluntarily and without external pressure or coercion:** If the statement made by the declarant is not made voluntarily, but rather made under duress, coercion, or external pressure, it may not be treated as a dying declaration.
- 5. Statement made by a declarant who survived the injuries:** If the declarant survives the injuries and is available to give evidence in court, the dying declaration may not be admissible.
- 6. Statement made by a declarant who was mentally unfit:** If the declarant was under the influence of drugs, alcohol, or was mentally unstable at the time of making the statement, it may not be admissible as evidence.

In summary, dying declarations are admissible in court as evidence if they meet the essential requirements of admissibility. There are exceptions where dying declarations may not be admissible, such as when they were made before receiving fatal injuries, not related to the cause of death, made under duress or coercion, or made by mentally unfit declarants. The court evaluates each case independently to determine the admissibility of a dying declaration.

## **VI. CASES ON DYING DECLARATION**

There have been several high-profile cases in India where dying declarations have played a crucial role in the outcome of the trial. Below are some examples:

**1. Jessica Lall Murder Case:** Jessica Lall, a model cum bartender, was shot dead during a party in Delhi in 1999. Sabrina, Lall's sister, testified as a witness and claimed that Manu Sharma, a politician's son, was the one who shot Jessica. However, due to political pressure and other factors, the case was dismissed, and Sharma was acquitted. In 2006, the Delhi High Court overturned the acquittal and sentenced Sharma to life imprisonment based on the dying declaration given by the deceased Lall.

**2. Nirbhaya Case:** The Nirbhaya case, also known as the Delhi rape case, shook the nation's conscience and sparked widespread protests against rape and sexual violence in India. The victim, a young medical student, was gang-raped and brutally assaulted on a moving bus in 2012. The dying declaration made by the victim was considered crucial evidence in the case, as it gave a graphic and detailed account of the assault.

**3. Khushboo Mirza case:** Khushboo Mirza, a woman who was set on fire by her husband and in-laws, made a dying declaration naming them as the culprits. This was the first case in India in which an FIR was filed against the suspects based on a dying declaration recorded on a mobile phone.

**4. Ruchika Girhotra case:** Ruchika Girhotra, a young girl who was molested by SPS Rathore, a former director-general of police in Haryana, made a dying declaration claiming that Rathore had harassed and molested her. This dying declaration played a significant role in Rathore's conviction and sentencing.

These cases are just a few examples of how dying declarations can be used as essential evidence in establishing the guilt of the accused. While dying declarations may have their limitations and exceptions, they have been an essential tool in ensuring justice in many cases where the victim's testimony is not available through other means.

#### **(A) Case Analysis of Pakala Narayana Swami Vs. King Emperor**

The case was appealed to the Privy Council, which overturned the decision of the trial judge and held that the dying declaration was admissible as evidence. The council observed that the statement was made by Narayana while he was conscious and had the opportunity to reflect on what he was saying. The council also stated that a dying declaration is considered reliable as it is made in the "immediacy of impending death". The council held that in order to be admissible, a dying declaration must meet the following essential requirements:

1. It must be made by the person who is about to die or who is too physically and mentally disabled to make a statement otherwise.

2. It must relate to the cause of the person's death.
3. It must be made voluntarily and without external pressure or influence.
4. It must be made in close proximity to the event in question.

This decision by the Privy Council has had far-reaching consequences on the Indian legal system, as it established the precedent for the admissibility of dying declarations as evidence in a criminal trial.

In conclusion, *Pakala Narayana Swami vs. King Emperor* was a landmark case in the admissibility of dying declarations as evidence in Indian criminal trials. The case emphasized the need to meet the essential requirements of admissibility, including the immediacy of the impending death, voluntariness, and its relation to the cause of the person's death.

## VII. CONCLUSION

Dying declaration has been a crucial tool in the Indian legal system for establishing the guilt of the accused in criminal trials. It is a statement made by a person who is aware of his impending death, describing the circumstances leading to his death or the cause of his dying. This statement is considered an exception to hearsay and can be admitted as evidence if it is found to meet the necessary requirements of admissibility.

The requirements for admissibility of dying declaration are that it should be made voluntarily, without any external pressure or coercion, and should be made by a person who is aware that he is about to die or who is too physically and mentally disabled to make a statement otherwise. The statement must relate to the cause of death, and it must be made in close proximity to the event in question.

Before admitting a dying declaration, the court evaluates the reliability and credibility of the statement by examining factors such as consistency, similarity, and proximity in time. The court may also consider whether the declarant had a motive to provide false information.

While dying declarations are deemed to be reliable, they are admissible with limitations, and the court carefully considers each case's circumstances before admitting them as evidence. The exceptions to dying declarations are cases where the statement is made by a person who is mentally unfit, made due to external pressure, or not related to the cause of death.

In summary, the admissibility of a dying declaration depends on the fulfilment of the essential requirements of admissibility, and the court's evaluation of the statement's credibility and reliability based on the circumstances in which the statement was made. Dying declarations remain an important tool in establishing the guilt of the accused, as it is often the only available

evidence in cases where the victim has died and is unable to testify.

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