



Dying Declaration

Why in News

Recently, a special [Central Bureau of Investigation \(CBI\)](#) court awarded two policemen life sentences for the [custodial death](#) of a murder accused on the basis of the '**Dying Declaration**' made by the victim prior to his death.

- **CBI** is the **premier investigating police agency** in India. It functions under the superintendence of the **Deptt. of Personnel, Ministry of Personnel, Pension & Public Grievances** - which falls **under the prime minister's office**.

Key Points

▪ About:

- **Section-32(1) of Indian Evidence Act, 1872**, defines dying declaration as a **statement written or verbal of relevant facts made by a person, who is dead**. It is the statement of a person who had died explaining the circumstances of his death.

- This is based on the maxim '**nemo mariturus presumuntur mentri**' i.e. a man will not meet his maker with a lie on his mouth.

- The general rule under Section 60 of the Act is that **all oral evidence must be direct - he heard it, saw it or perceived it**.

▪ Rules for Admission of Dying Declaration:

- The grounds of admission under a dying declaration have been **based on two broad rules**:

- The **victim being generally the only principal eye-witness to the crime**.
- The **sense of impending death**, which **creates a sanction equal to the obligation of an oath in a court**.

▪ Recording Dying Declaration:

- Anyone can record the dying declaration of the deceased as per law. However, a **dying declaration recorded by a Judicial or Executive Magistrate will add an additional strength** to the prosecution case.

- A dying declaration may in several cases be the **"primary piece of evidence to prove the genesis of occurrence"**.

- The only requirement for such a declaration to be held perfectly accountable in court is for the **victim to volunteer the statement and be of conscious mind**.

- The person who records the dying declaration must be satisfied that the victim is in a fit state of mind.

▪ Situations Where Court Does Not Accept it as a Evidence:

- Though a dying declaration is **entitled to great weight**, the **accused has no power of**

cross-examination.

- This is the reason the courts have always insisted that the **dying declaration be of such a nature as to inspire full confidence of the court in its correctness.**
- The courts are on guard to check **if the statement of the deceased was a result of either tutoring, prompting or a product of imagination.**
- **Need of Corroboration (Supporting Evidence):**
 - Several judgments have noted that it is neither rule of law nor of prudence that **dying declaration cannot be acted upon without corroboration.**
 - If the court is satisfied that the dying declaration is true and voluntary it can base **conviction on it, without corroboration.**
 - Where a dying declaration is **suspicious**, it should **not be acted upon without corroborative evidence** because a dying declaration does not contain the details as to the occurrence.
 - It is not to be rejected, equally merely because it is a brief statement. On the contrary, **the shortness of the statement itself guarantees truth.**
- **Validity of Medical Opinion:**
 - Normally the court, in order to satisfy whether the deceased was in a fit mental condition to make the dying declaration, can look up the **medical opinion.**
 - But where the **eye witness has said that the deceased was in a fit and conscious state** to make this dying declaration, the **medical opinion cannot prevail.**

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