

## DYING DECLARATION AND ITS CORROBORATION IN PAKISTAN AND INDIA: AN ANALYTICAL STUDY OF CASE LAW

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### **ABSTRACT**

**T**his paper analyzes the law and judicial practice pertaining to corroboration of dying declarations in Pakistan and India. According to a well settled rule of law a dying declaration may form a sole basis of conviction without any corroboration provided the same inspires judicial confidence. On the other hand, the courts seek corroboration of dying declarations when they appear to be motivated, prompted or tainted by any other infirmity. This judicial practice is termed as a rule of prudence which has acquired sanctity almost equivalent to a rule of law. Bearing in mind this legal scenario, the paper explores those circumstances in which dying declarations are required to be corroborated by the courts to avoid any miscarriage of justice. Moreover, it highlights those pieces of evidence which have judicially been held as dependable for corroboration of dying declarations. The paper has analyzed the case law of the superior courts of the Indian Subcontinent to meet this end.

### **Key Words:**

*Dying Declarations; Corroboration; Pakistan; India; Case law.*

## 1. Introduction:

Dying declarations are one of the most important pieces of evidence. They have been dealt with in Article 46 of the Qanun-e-Shahadat Order, 1984 in Pakistan and Section 32 of the Indian Evidence Act, 1872. These provisions are similar. For this reason, there is no much difference in the legal consequences of the both. The courts in the both countries have consistently pronounced that dying declarations may become solitary basis of conviction without corroboration if they are proved to be genuine and truthful narration of facts. Moreover, if a court is not satisfied as to the genuineness of any dying declaration, the court has to seek its corroboration before relying upon it.

This paper analyzes the judicial pronouncements of the superior courts of Pakistan and India for highlighting those circumstances where corroboration of dying declarations have been held to be imperative for dispensation of justice. It also brings to light those pieces of evidence which are judicially treated as adequate for the purpose of corroboration of dying declarations.

The paper is divided into four sections in addition to the introduction and conclusion. The next section will explain the meaning and nature of corroboration with particular reference to dying declarations. Thereafter, another section will elaborate the rules pertaining to evidentiary value of dying declarations in general. The penultimate section will explore and enumerate those circumstances in which the courts require corroboration of dying declarations and the last section will analyze various pieces of evidence judicially declared to be reliable for the purpose of corroboration.

## 2. Meaning and Nature of Corroboration:

The word ‘corroboration’ is derived from the Latin word ‘*corroboratus*’, past part of the word ‘*corroborare*’ which has itself been derived from another Latin word ‘*robust*’ (*Mehrban v. State*, 1974). It means “to confirm and sometimes add substantiating (reinforcing) testimony to the testimony of another witness or a party in a trial.”<sup>1</sup> At another place it is defined as “confirmation and support by additional evidence or authority.”<sup>2</sup> It is also meant “to support or enhance the believability of a fact or assertion by the presentation of additional information that confirms the truthfulness of the item.”<sup>3</sup> The evidence which is used for the purpose of corroboration is termed as corroborating or corroborative evidence which may be defined as that kind of “evidence which strengthens, adds to, or confirms already existing evidence.”<sup>4</sup> Hence, corroborative evidence is some evidence other than the one which it confirms, establishes, or makes more certain (*Ali Asghar v. State*, 1968). It is additional in nature but confirmatory in quality. We cannot regard a piece of evidence as corroborating which lacks in these characteristics. To understand corroborative evidence, we may classify evidence into two categories: the first is basic evidence and the other corroborative evidence. The latter cannot be treated as a replacement for the former but would only be efficacious for supporting and confirming it.

The most important case regarding the nature of corroborative evidence is *Rex v. Baskerville* (1916) which is followed in numerous common law jurisdictions across the world. The judgment in this case was pronounced by the Court of Criminal Appeal, United Kingdom, with respect to approver’s evidence. But taking into account the rationale and cogency of the judgment, it is treated as a precedent in all circumstances requiring corroboration of any evidence. Its relevant portion explicating the rules of corroboration is reproduced here in detail:

<sup>1</sup> <http://dictionary.law.com/Default.aspx?selected=362> (Last accessed on 24/10/2011).

<sup>2</sup> <http://pakistanlawsite.com/lawonline/law/dictionary.asp> (Last accessed on 24/10/2011).

<sup>3</sup> <http://legal-dictionary.thefreedictionary.com/corroborate> (Last accessed on 24/10/2011).

<sup>4</sup> <http://dictionary.law.com/Default.aspx?selected=363> (Last accessed on 24/10/2011).

- i. “The corroboration must be by some evidence other than that of an accomplice; and, therefore, one accomplice’s evidence is not corroboration of the testimony of another accomplice.
- ii. The corroborative evidence must be evidence which implicates the accused, that is, which confirms in some material particular not only the evidence that the crime has been committed, but also that the accused committed it. In other words, the corroboration must be both as to the *corpus delicti* and as the identity of the accused.
- iii. It is not necessary that the story of the accomplice should be corroborated in every detail of the crime, since, if this were so, the evidence of the accomplice would be unnecessary.
- iv. The corroboration need not be direct evidence that the accused committed the crime; it is sufficient if it is merely circumstantial evidence of his connection with the crime.”

It was observed by the Peshawar High Court in *Ali Asghar v. State* (1968) that the rules enunciated in *Rex v. Baskerville* (1916) can be applied with the same rigor to dying declarations in Pakistan. The superior courts have also laid down some important principles pertaining to the corroborative evidence which, in essence, resonate the rules mentioned above. The summary of these principles is reproduced as following:

- i. The corroborative evidence should prove the guilt of the accused (*Haq Nawaz v. Sultan Khan*, 1977).
- ii. The extent and nature of corroborative evidence may vary from case to case, but it is necessary that it must connect or tend to connect the accused with the crime (*Shahzad v. State*, 2002).
- iii. The corroborating evidence is not required to come from an independent witness: it may come from anything (*Shah Nawaz v. State*, 2002).
- iv. A corroborative piece of evidence cannot corroborate another corroborative piece of evidence (*Dr. M. Sarwar Ch. v. State*, 2001).
- v. A piece of evidence which is tainted cannot be used for corroboration of similar evidence (*Manzoor v. State*, 1973).

The corroborative evidence is in nature of confirmatory evidence supposed to be independent of and different from that evidence which is sought to be corroborated. Taking into account this aspect, it was observed in *Ali Asghar’s* case (1968) that corroborative evidence and confirmatory evidence are interchangeable expressions.

### **3. The Requirement of Corroboration of Dying Declarations:**

Article 46 of the Qanun-e-Shahadat Order does not deal with evidentiary value of dying declarations. It only declares relevancy of dying declaration as an admissible piece of evidence. Most of the time declarations of dying men are hearsay evidence because they are not generally adduced in the court by their makers. This was the background which necessitated that there ought to be a specific provision if the legislature intended to declare dying declarations as relevant piece of evidence when the Indian Evidence Act was enacted in 1872. Hence, it was the background of enacting Section 32 of the Indian Evidence Act, 1872. The same pattern has been followed in the Qanun-e-Shahadat Order, 1984.

The superior courts, both in India and Pakistan, have elaborated the evidentiary value of dying declaration in a number of judicial pronouncements. It has been categorically laid down by the courts that if a dying declaration is proved to be true and genuine it can be relied upon without corroboration. Some decisions of various High Courts pronounced before the partition of the Indian Subcontinent which upheld this judicial stance are as under:

- i) *Rango Mir. Bhond v. Crown* (1942)
- ii) *Khurshid Hussain Salihon v. Emperor* (1941)
- iii) *M. Arif v. Emperor* (1941)
- iv) *Gulabrao Krishanjee v. Emperor* (1935)

The identical view was held by the Privy Council in *Chandrasekar v. The King* (1937). On the other hand, there were a few decisions pronounced in the pre-partitioned period wherein corroboration of dying declarations was insisted on despite its genuineness and truthfulness. In an unreported case of a Division Bench of Madras High Court (*Cr. App. No. 653, 1935*) referred to in *In re Gursuwami* (1940), Beasley C.J. and Gente J. observed that “whilst the contents of a dying declaration can be relied upon as evidence for the prosecution, in the absence of any corroboration of its contents, it is clear from the authorities and text books that it is dangerous, imprudent and opposed to practice to do so, even when no justifiable criticisms can be leveled against the declaration.” Another Division Bench of the same High Court delivered the judgment (*R.T. No. 112, 1937*) which was in conflict with the above referred decision. The question was then mooted in the Full Bench which decided unanimously in *In re Guruswami* (1940) that “if the Court, after taking everything into consideration, is convinced that the statement is true, it is its duty to convict, and notwithstanding that there is no corroboration in the true sense.”

After partition of the Indian Subcontinent, the issue of necessity of corroborating all dying declarations surfaced once again in India and it was because of the Supreme Court’s decision in *Ram Nath Madhoprasad v. State of MP* (1953). The relevant portion of the decision is as under:

“It is settled law that it is not safe to convict an accused person merely on the evidence furnished by a dying declaration without further corroboration because such a statement is not made on oath and is not subjected to cross-examination and because the maker of it might be mentally and physically in a state of confusion and might well be drawing upon his imagination while he was making the declaration.”

The above decision of the Supreme Court of India was examined and overruled in *Khushal Rao v. State of Bombay* (1958). When the case was being discussed in the High Court, the court relied upon *Ram Nath Madhoprasad’s* case (1953) and convicted the appellant after corroborating the dying declaration by his subsequent conduct (abscondance) because it was reluctant to convict on the basis of solitary dying declaration. The High Court convicted the accused and for that purpose found corroborative evidence: but the way the court asked for corroboration in a general sense once again brought the issue of necessity of corroborating all dying declarations. When the case was brought before the Supreme Court, it observed that the allegation of absconding of the accused could not afford sufficient corroboration as he did not leave the city even the jurisdiction of local police. After declaring that the corroborative evidence relied upon by the High Court was insufficient, the Supreme Court then examined the legal position whether it was settled law that a dying declaration alone cannot be made basis for conviction in all circumstances. Because the contention of the appellant with respect to the necessity of corroborating all dying declarations was based on

*Ram Nath Madhobprasad's* case (1953), the Supreme Court eventually indulged in its analysis. The court concluded that the observations made in *Ram Nath Madhobprasad's* case (1953) were merely in nature of *obiter dicta*. The court after reviewing the Section 32 of the Indian Evidence Act 1872 and the case law held that "it cannot be laid down as an absolute rule of law that a dying declaration cannot form the sole basis of conviction unless it is corroborated." It was further stated:

"Once the Court has come to the conclusion that the dying declaration was the truthful version as to the circumstances of the death and the assailants of the victim, there is no question of further corroboration. If, on the other hand, the Court, after examining the dying declaration in all its aspect, and testing its veracity, has come to the conclusion that it is not reliable by itself, and that it suffers from an infirmity, then, without corroboration it cannot form the basis of a conviction. Thus, the necessity for corroboration arises not from any inherent weakness of a dying declaration as a piece of evidence, as held in some of the reported cases, but from the fact that the Court, in a given case, has come to the conclusion that particular dying declaration was not free from the infirmities, referred to above or from such other infirmities as may be disclosed in evidence in that case (*Khushal Rao v. State of Bombay*, 1958)."

The above mentioned judgment decided the controversy upon the necessity of corroborating all dying declarations in India. Since then no court has doubted the validity of any conviction based on an uncorroborated but truthful dying declaration.

The courts in Pakistan have been consistent throughout its legal history in convicting accused persons on uncorroborated dying declarations if they are found to be genuine and true. In *Shahbaz v. Crown* (1953) it was held that "a dying declaration is a valuable piece of evidence and if it is free from suspicion and believed to be true it may be sufficient for conviction." One of the most important decisions in this regard was *Zarif v. State* (1977) which was decided by the Supreme Court of Pakistan. In the said case, Justice Anwarul Haq, speaking on behalf of the majority, observed that "it cannot be laid down as an absolute rule of law, nor even of prudence, that a dying declaration cannot form the sole basis of conviction unless it is corroborated." Another important decision of the Supreme Court is *Farmanullah v. Qadeem Khan* (2001) wherein the same rule has been reaffirmed. There are numerous decisions of various courts in Pakistan upholding the validity of convictions based on uncorroborated but truthful dying declarations (e.g., *M. Afzal v. Faqir*, 1984; *M. Kabir v. State*, 1992; *Mureed v. State*, 2002).

Law does not require corroboration of each and every dying declaration, but judicial decisions of various courts both in India and Pakistan insist on corroboration as a rule of prudence particularly when any dying declaration is tainted with any infirmity. In *M. Rasheed v. State* (1970) the court observed that "the necessity for corroboration arises not from any inherent weakness of dying declaration as a piece of evidence, but from the fact, that the court, in a given case, comes to the conclusion that the dying declaration itself is not free from infirmities." So, whenever a dying declaration does not suffer from any infirmity, it suffices to be relied on for conviction (*Muhammad Akbar v. State*, 1991). The same point was made clear in another manner in *Misri v. State* (1999) while stating that "need for corroboration of a dying declaration arises when it is not free from infirmities of such nature that dying declaration alone is rendered insufficient to record conviction." Therefore, a dying declaration does not have any inherent weakness: it is only on the ground of attending infirmities that put the courts on guard to ask for corroboration. These infirmities have been pointed out by the courts of the Indian Subcontinent. In the next section, some reported cases will be analyzed to highlight these infirmities.

#### 4. Circumstances Requiring Corroboration of Dying Declarations:

It has been observed in *DPP v. Hester* (1973) that the accumulative experience of the courts has shown that it is unwise to draw a settled conclusion in many circumstances on the testimony of one person alone. This might be for a number of reasons: for instance, motives of self-interest, or of self-exculpation, or of vindictiveness. The straight line of truth might be influenced by emotions or hysteria or alarm or remorse. Sometimes, immaturity or imagination might hamper the true appreciation of facts. Thus, there must be a sound policy to have rules of law or of practice for averting the peril of insecure finding.

The statement of a dying man is not very different from that of an individual witness except that the declarant died after making his statement. So, taking into account the caution embodied in the above referred case against relying upon the sole testimony of a person, the courts do not rely on such dying declaration whose mode of recording does not inspire confidence or in other words it is suspicious or tainted. Whenever such like situation occurs the courts have to ask for corroboration otherwise it would be a miscarriage of justice as held in *Rasheed Beg v. State* (1974). In this case, two dying declarations were made by a boy of 12 years: these statements were recorded when the boy was in a critical situation and losing consciousness. It was also found that the person who bore enmity with the named accused had accompanied the boy from the place of the incident to the hospital and the same person was also present when the dying declarations were recorded. The court observed that in such circumstances the possibility of the boy being tutored to name the accused could not be ruled out. Hence, it was not safe to convict the named accused without any corroborative evidence.

Though there are no hard and fast rules as to avoidance of suspicious circumstances while recording a dying declaration. This depends on the surrounding circumstances of dying declarations and their proper evaluation could lead us to conclude whether any particular dying declaration should or should not be corroborated. Similar principles were laid down by the Supreme Court of Pakistan in *Farman Bi v. Ghulam Farid* (1994). The court observed that “to import veracity to a dying declaration, it is necessary that the declarant should be free from external influence and not crowded around by unauthorized persons while making the statement.” In the instant case, it was transpired from the record that five or six persons were sitting around the declarant when he was making the statement. Consequently, the Supreme Court refused to convict on the sole evidence of dying declaration without corroboration.

The same rule has been laid down by the Supreme Court of India in *State v. Ram Sagar Yadav* (1985) “it is only if the circumstances surrounding the dying declaration are not clear or convincing that the court may, for its assurance, look for corroboration of the dying declaration.”

Another situation where corroboration of a dying declaration is held to be necessary by the judicial pronouncements is that when one part of a dying declaration is found to be false or incorrect, then it appears to be justified not to rely on the other part without corroborating it by independent evidence. The Supreme Court of India in *Godhu v. State* (1974) has judiciously divided such a situation into two categories: the first is when two parts of a dying declaration are indissolubly linked and there is no possibility of severing them apart. The court observed that this situation does not leave any other option except to reject the whole dying declaration. The second category is when two parts of a dying declaration can be regarded independent of each other with an ample possibility to treat them apart without affecting their intrinsic worth. In this last mentioned situation, the Supreme Court of India opined that the judicial authorities should not “normally act upon a part of the dying declaration, the other part of which has not been found to be true, unless the part relied upon is corroborated in material particulars by the other evidence on record. If such other evidence



shows that part of the dying declaration relied upon is correct and trustworthy, the court can act upon that part of the dying declaration despite the fact that another part of the dying declaration has not been proved to be correct.” In this case, rejected part of the dying declaration described that the accused dragged the deceased inside the room, while the other part of the same dying declaration attributed the fatal injuries to the accused which was also corroborated by independent evidence. Similarly, the West Pakistan High Court in *Taj Muhammad v. State* (1960) held that if it is found that the dying man in his statement has indulged in telling lies even partially that would put the courts on guard against accepting the rest of statement without any corroboration.

When a dying declaration does not convincingly establish the identity of assailants, it must be corroborated by other reliable evidence. In the case of *Gopal Singh v. State* (1972), a dying declaration was recorded which did not disclose complete names and addresses of assailants, though some indications as to their identity were there. The court held that conviction cannot be based on such dying declaration without corroboration.

If there are more than one dying declarations in a particular case, they are required to be consistent. But if the court finds inconsistencies and contradictions in them, it will be a valid case for applying the rule of corroboration. In *Ghulam Rasool v. State* (1984), two dying declarations were recorded: the one in a form of F.I.R. and the other as a statement under Sec. 161 Cr.P.C. The both were found to be full of contradictions and inconsistencies. Moreover, they were neither recorded by a Magistrate nor under the certificate of a Doctor stating the fitness of the declarant to make any statement. In such circumstances it was held by the court that these declarations could not be relied upon for conviction of murder without reliable and independent corroboration.

The rule requiring the corroboration of inconsistent dying declarations can only cure minor inconsistencies. If contradictions are of major consequences, mere corroboration would not be sufficient. In *M. Rafique v. State* (1995), two dying declarations were found to be suffering from patent and latent infirmities. The court held that no corroborative evidence however strong it might be cure the patent and latent defects and infirmities. One of the defects in this case was the mismatch of thumb-impressions of the deceased on both dying declarations.

Enmity between the parties is considered as one of the instances requiring corroboration of dying declarations because family feuds are expected to influence the declarant even at the verge of his life. In *Ghulam Hussain v. State* (1966), both parties -the accused persons and the deceased’s family- had an established enmity for about five years before the occurrence. The enmity was triggered by a dispute over property left behind by one of their mutual relatives. Certain persons from the both parties including the deceased were bound down in an earlier security proceeding as a result of their fighting. In this background, the dying declaration of the deceased was rightly held to require corroboration. The court corroborated it by the recovery of daggers (articles of offence) at the instance of the appellants and their abscondance from the village for two days after the incidence.

In another case *Gulab Jan v. State* (1985), it was established from the evidence that there was hostility, hatred and aversion between the deceased and the accused. In this case the dying declaration was recorded by a Magistrate after a meeting held between the declarant and his mother. The fact of meeting led to the inference that the deceased might have been tutored by his mother. The court held “such dying declaration could not safely be relied upon without independent corroboration in material particulars.” In the instant case, corroboration was required to minimize the adverse effect of hostile relationship between the parties

and possibility of tutoring the deceased by his mother. At the stage of trial proceedings, the dying declaration was corroborated from the evidence of close relatives of the deceased, but the appellant court observed that the same was a tainted piece of evidence and could not corroborate another tainted piece of evidence, i.e. dying declaration.

If circumstances of a case suggest a possibility of an accused being substituted by an innocent person in a dying declaration, it must be corroborated. From the same perspective, if the attending circumstances of a dying declaration do not lead to the inference of an accused being substituted by an innocent person, there is no need for corroboration. In *Niamat Ali Khan v. State* (1981), the appellant caused a fatal blow to the deceased in abdomen by knife and then ran away. The deceased in such a condition was carried to the police station, where F.I.R. was recorded on his dictation. The F.I.R. was treated as dying declaration. The court observed that there was nothing in the case to suggest that the deceased has implicated an innocent man instead of an assailant. Hence, there was no need for corroboration from any independent source.

Another situation requiring corroboration is that when the maker of a dying declaration does not appear to be different from an interested witness. When he appears to be so, his dying declaration must be corroborated as was held in *Ashiq Irshad v. State* (1985).

Our discussion in the present section has made it clear that when dying declarations are inflicted with infirmities, the courts must look for their corroboration before putting any implicit reliance on them. If such judicial practice is not followed it would lead to gross miscarriage of justice. Before moving on to the next section, let us enumerate the infirmities susceptible to corroboration as held by the courts of the Indian Subcontinent:

- i) Recording of a dying declaration in suspicious circumstances,
- ii) Possibility of a declarant of dying declaration being tutored,
- iii) One part of a dying declaration is found to be false,
- iv) Identity of assailant/s is not convincingly established,
- v) Inconsistency among more than one dying declarations by the same declarant,
- vi) Enmity and hostile relationship between the parties,
- vii) Possibility of replacement by an innocent person in place of assailant,
- viii) Dying declaration made by an interested witness.

### **5. Nature of Corroborative Evidence:**

The superior courts of the Indian Subcontinent have been unambiguous on the law point that uncorroborated dying declaration, if found to be true, is sufficient to convict. But, keeping in view the question of life and death of an implicated person, there are judicial decisions where the courts tend to find the corroborative evidence of otherwise truthful dying declaration due to extra carefulness. In addition to this, when a dying declaration is marred by infirmities, it requires corroboration as a rule of prudence. These genres of cases will be analyzed in this section to highlight those pieces of evidence which have judicially been held as admissible corroborative evidence. Some instances of corroborative evidence have already been discussed in the previous section and will not be reproduced here for avoiding repetition.



In the case of *Noor M. v. State* (1988) double murder was committed: the both deceased were related to each other as father and son. One of the deceased (son) was married to the daughter of the appellant. Afterwards, the relationship between the spouses got strained. The both parties instituted suits against each other. The suit for dissolution of marriage was filed by the wife of the deceased. As the son and his father (other deceased) were not willing to divorce her, the son instituted the suit for restitution of conjugal rights against his wife. In this background, the son and his father were attacked by the appellant, father of the deceased's wife, along with his relatives by hatchets. One of the victims died soon after reaching the hospital, while the other made a dying declaration in conscious state of mind. It was observed by the court that the dying declaration rings true and is sufficient to convince the court about the guilt of the accused. Despite having such dying declaration, the court corroborated it by motive (judicial proceedings by the parties against each other in the courts) and medical evidence.

In *Ghurphekan v. State* (1972), it was contended that the dying declaration should be discarded because neither it mentioned the name of a certain person nor accounted for the injuries on person of the accused. The court found corroboration of the dying declaration in this case by the evidence of eye-witness, circumstantial evidence, medical evidence and the situs of the injuries received by the accused. The court held that though there were discrepancies in the dying declaration, but those were not of substantial nature to discredit it completely. In fact these discrepancies were the reason for persuading the court to corroborate it and it right did so.

The evidence of abscondance of an accused may or may not be regarded as a corroborative piece of evidence. In *Niaz Ahmad v. State* (2003) both deceased and accused lived in the same courtyard where the incidence of murder took place. After the occurrence, the accused absconded for about four and half months. In this case, abscondance of the accused was regarded as supportive/corroborative of the dying declaration made by the deceased taking into account the heinousness of the murder and absence of the accused from the scene immediately thereafter. But this does not lead us to the conclusion that alleged absconding of an accused should always be treated as corroborative evidence. For instance, it was observed in *Iqbal v. State* (1986) that "abscondance would not provide necessary corroboration particularly where an absconder admitted that he was evading his arrest on account of false implication in case." The decision of the Supreme Court of India in *Khushal Rao v. State* (1958) is also a valuable precedent on this point.

Injuries suffered by an accused during scuffle with a victim which resulted into latter's death may also be treated as corroborative piece of evidence. In *M. Rasheed v. State* (1970), the deceased attributed fatal blow to the accused consistently in F.I.R. and dying declaration. There was nothing on the record which suggested the possibility of the declarant was prompted for making false charge against the accused. In addition to this the court found that the injuries on person of the accused were of the same duration as of the occurrence and, hence sufficient to corroborate the prosecution version primarily based on the dying declaration.

In *Sant Gopal v. State* (1995), a bride burning case, three dying declarations were made. Two of them were discarded as unreliable. The third dying declaration was duly recorded when the deceased was in a fit mental condition to make it. In this dying declaration, she implicated the accused and other in-laws. Despite the fact that the court found the dying declaration to be cogent and truthful, corroborated it by the medical evidence, circumstances of the case and conduct of the accused. The accused though admitted that the deceased resided in his house at the time of the occurrence, but pretended that he did not know how the burn injuries were caused to her. Moreover, he did not extend any plausible explanation of the occurrence and the burn injuries.

The same judicial approach was followed in *Kashif-ur-Rehman v. State* (1996). In the instant case, the dying declaration was found to be correctly recorded by the police and even then the same was corroborated by recovery of the pistol at the instance of the accused, the medical evidence, the ballistic expert's report, the ocular evidence, the circumstantial evidence and motive. Similarly, in *Abdul Jabbar v. State* (1996), the dying declaration, though held to be truthful version, was corroborated by the medial evidence and the evidence of incriminating recoveries (revolver) at the instance of the accused. Again in *Niaz Ahmad v. State* (2001), the dying declaration though held to be "inspiring confidence" and "honest inculpatory statement" was further corroborated by the medial evidence, the weapon of the offence used, the locale of injury and damage caused by it. In another case *Misri v. State* (1999) where the dying declaration was found to be truthful but was also corroborated by a natural witness who had no reason to falsely implicate the accused.

The abovementioned cases have pointed out that a number of pieces of evidence have been judicially treated as corroborative pieces of evidence. They are following:

- i) Evidence of motive,
- ii) Medical evidence,
- iii) Locale of injuries and its damage,
- iv) Situs of injuries received by an accused,
- v) Time of injuries on person of an accused,
- vi) Abscondance in certain circumstances,
- vii) Ballistic expert's report,
- viii) Prior judicial proceedings between parties to a case,
- ix) Ocular evidence,
- x) Circumstantial evidence,
- xi) Conduct of an accused,
- xii) Incriminating recoveries at the instance of an accused.

## **6. Conclusion:**

The paper has analyzed the case law developed by the superior courts of the Indian Subcontinent on the point of corroboration of dying declarations. There are a few conclusions which one may draw on the basis of analysis carried out. Firstly, the law does not demand corroboration of truthful dying declarations and only those dying declarations should be corroborated which do not satisfy the conscience of the court as to their genuineness. Secondly, the superior courts in the Indian Subcontinent do not tend to find the corroborative evidence in those circumstances when dying declarations do not inspire confidence, sometimes they also corroborate such dying declarations which are legally dependable for conviction. This approach appears to be justified because conviction of an offender in such cases might lead to major penalties. Thirdly, the evidence required for corroboration of dying declarations should not be potent enough by itself to justify conviction of an accused as such piece of evidence is in nature of supporting evidence only. Last but not least, as corroboration of dying declarations, in any situation whatsoever, is a dictate of prudence and caution, the same source guides us as to the nature of evidence admissible for corroboration of such dying declarations. That is the reason we have observed numerous kinds of pieces of evidence declared sufficient for the purpose of corroboration.

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