

Dying Declaration

A dying declaration refers to the statement made by a person concerning the cause of their death or the circumstances leading to their demise. Recognized under sub-section (1) of section 32 of the Indian Evidence Act, these declarations are significant as they may serve as critical evidence in legal proceedings.

Admissibility

The primary reasons for admitting dying declarations are necessity and the presumption that a person's imminent death imbues their final words with a gravity akin to an oath. This concept is encapsulated in the legal maxim *nemo moriturus praesumitur mentire*, suggesting a person facing death is unlikely to lie.

Forms of Dying Declarations

In India, no specific form is mandated for a dying declaration. It can be oral, written, or even non-verbal through signs and gestures, provided it conveys the intent and information of the dying person clearly.

Evidentiary Value and Judicial Scrutiny

While a dying declaration can be sole evidence for conviction, it must be scrutinised thoroughly. Factors enhancing its credibility include prompt recording by a competent authority, consistency with other statements, and absence of external influences.

Supreme Court Observations

In cases like *Surinder Kumar v. State of Haryana* and *Atbir v. Govt. (NCT of Delhi)*,

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English Law vs. Indian Law

- English Law: Dying declarations are restricted to criminal charges of homicide or manslaughter and must be made with the declarant under the impression of impending death.
- Indian Law: Admissible in all legal proceedings, irrespective of the declarant's perception of death.

the Supreme Court highlighted the importance of verifying the voluntariness and truthfulness of the dying declaration, and the mental fitness of the declarant, respectively.

Who Can Receive a Dying Declaration?

Legally, it does not matter to whom the dying declaration is made. Whether it's a magistrate, police officer, or a private individual, the focus remains on the content and authenticity of the declaration.


Multiple Dying Declarations

When multiple declarations exist, their consistency is key. Any discrepancies must be carefully analysed to determine their impact on the overall credibility of the evidence.


Proving a Dying Declaration

To establish a dying declaration as evidence in court, specific procedural steps must be followed. The primary step involves confirming the death of the declarant, as the statement's admissibility hinges on the person having passed away. The next step is to authenticate the declaration itself. This is typically done by examining the individual

who recorded the statement—ensuring they captured the declarant's exact words and intentions—or by calling witnesses who were present at the time the declaration was made to testify about its accuracy and the circumstances under which it was made.



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