

## **Dying Declarations in Pakistan and India: A Case Law Study of their Evidentiary Value**

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### **Abstract:**

*The paper analyses the evidentiary value of one the most important pieces of evidence, i.e. dying declaration. It catalogues the basic principles in this regard as pronounced by the Superior Courts of Pakistan. There are also a few references to the Indian cases as the law applicable in the both jurisdictions is similar on this point. It has been held in these jurisdictions time and again that uncorroborated dying declaration can be relied upon for conviction if it is proved to be trustworthy and genuine, and the necessity of corroboration would only arise in those circumstances in which a court's conscience is not satisfied as to its genuineness. The paper also seeks to elaborate evidentiary value of dying declarations in different situations which are of recurring nature in criminal trials. These situations are dying declarations contained in F.I.R., statements of deceased persons made to Police before their death, and more than one dying declaration by the same declarant.*

**Key Words:** Dying Declaration; Evidentiary Value; Pakistan; India; Case law.

### **I. Introduction:**

Dying declarations are those statements which are made by the victims of homicide offences as to the cause of their death. The law pertaining to dying declarations is embodied in Article 46 of the Qanun-e-Shahadat Order, 1984 which is a meticulous reproduction of Section 32 of the Indian Evidence Act, 1872. The latter law was applicable in Pakistan till its substitution by the former. The law states that the statement of dying man is relevant and admissible in evidence: it does not address the issue of its evidentiary value. This dimension has been amply dealt with by the case law. There is no dearth of decisions of the superior courts, both in Pakistan and India, which have discussed the issue of evidentiary value of dying declaration and its exact place in prosecution's evidence. This richness of case law manifests the propensity of human beings to attach great importance to the statement of dying man as it is assumed that a man in such a situation would not tell lies or fabricate stories to implicate innocent persons. At the same time, taking in view this natural tendency, the superior courts