

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