

*Ram Nath Madhoprasad's* case (1953), the Supreme Court eventually indulged in its analysis. The court concluded that the observations made in *Ram Nath Madhoprasad'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.