

The courts have not only used F.I.Rs. as dying declarations in those proceedings which are carried out under the Qanun-e-Shahadat Order 1984; they have also shown inclination to treat them as such in those situations where this law does not apply. For instance, in Ghulam Muhammad (1986), the first information was lodged by the victim under the Criminal Law (Special Provisions) Ordinance (1986). According to the provisions of the said Ordinance, the Evidence Act was not applicable to such proceedings. The report lodged by the victim was converted into a dying declaration after his death and used as a substantive piece of evidence. An objection was raised on the basis that the Evidence Act was not applicable to the proceedings, thus such use of the F.I.R. was unwarranted. It was held that merely on this account the dying declaration contained in the F.I.R. cannot be excluded from consideration.

The law laid down by the courts is unequivocal on the point that F.I.R. can be used as a substantive piece when a dying declaration is recorded in it. The question now arises as to the mode of ascertaining the veracity of such dying declarations. In other words whether the courts should treat such dying declarations on the same footing as any other dying declaration or certain kind of sanctity ought to be attached to them owing to the fact that they were recorded while performing an official duty. The courts in Pakistan have consistently observed that when F.I.R. is regarded as a dying declaration, then it is to be tested on the same principles on which any other dying declaration is scrutinized. So, when it is proved that a dying declaration is in conformity with its physical and surrounding circumstances, then it can be relied upon, otherwise it is not worthy of any credence.

In Taj Muhammad (1985), the F.I.R. was treated as a dying declaration. The court before relying on the dying declaration tested its veracity that whether it was in conformity with its physical and surrounding circumstances. It turned up during the proceedings that the F.I.R. was promptly recorded. It was not challenged at all in cross-examination. The Police officer who recorded the F.I.R. suggested neither that it was not genuine document nor that it was not written at time and place where it purports. The name of the accused, motive, the names of the witnesses and weapon of offence were mentioned in it. The defense was unable to shake it and could not criticize this piece of evidence on any other ground. So, the use of the F.I.R. as a dying declaration was held to be justifiable.

If there are minor omissions in recording of F.I.R. which are not likely to affect the veracity of the deceased's statement they may be ignored by the court. In Ghulam Hussain (1961), the victim after being wounded by firearm was taken to the Police Station where he made a brief report/F.I.R. mentioning the earlier incident but omitted to name one of the three eye-witnesses. The declarant died after three hours of making the declaration/F.I.R. It was held by the court that the omission of one of the eye-witnesses was "not of significance considering frame of mind of deceased at relevant time."

If a dying declaration is recorded in suspicious circumstances, the mere fact that it is contained in F.I.R. is not sufficient to give it evidentiary value. In Nawab (1989), the F.I.R. was lodged at a place other than the Police Station. The circumstances of the case also suggest that it was recorded after preliminary investigation. Furthermore, the deceased was accompanied by a number of his relatives at the time of recording of the F.I.R. leading to the presumption that they would have helped him in making the