

and possibility of tutoring the deceased by his mother. At the stage of trial proceedings, the dying declaration was corroborated from the evidence of close relatives of the deceased, but the appellat court observed that the same was a tainted piece of evidence and could not corroborate another tainted piece of evidence, i.e. dying declaration.

If circumstances of a case suggest a possibility of an accused being substituted by an innocent person in a dying declaration, it must be corroborated. From the same perspective, if the attending circumstances of a dying declaration do not lead to the inference of an accused being substituted by an innocent person, there is no need for corroboration. In *Niamat Ali Khan v. State* (1981), the appellat caused a fatal blow to the deceased in abdomen by knife and then ran away. The deceased in such a condition was carried to the police station, where F.I.R. was recorded on his dictation. The F.I.R. was treated as dying declaration. The court observed that there was nothing in the case to suggest that the deceased has implicated an innocent man instead of an assailant. Hence, there was no need for corroboration from any independent source.

Another situation requiring corroboration is that when the maker of a dying declaration does not appear to be different from an interested witness. When he appears to be so, his dying declaration must be corroborated as was held in *Ashiq Irshad v. State* (1985).

Our discussion in the present section has made it clear that when dying declarations are inflicted with infirmities, the courts must look for their corroboration before putting any implicit reliance on them. If such judicial practice is not followed it would lead to gross miscarriage of justice. Before moving on to the next section, let us enumerate the infirmities susceptible to corroboration as held by the courts of the Indian Subcontinent:

- i) Recording of a dying declaration in suspicious circumstances,
- ii) Possibility of a declarant of dying declaration being tutored,
- iii) One part of a dying declaration is found to be false,
- iv) Identity of assailant/s is not convincingly established,
- v) Inconsistency among more than one dying declarations by the same declarant,
- vi) Enmity and hostile relationship between the parties,
- vii) Possibility of replacement by an innocent person in place of assailant,
- viii) Dying declaration made by an interested witness.

5. Nature of Corroborative Evidence:

The superior courts of the Indian Subcontinent have been unambiguous on the law point that uncorroborated dying declaration, if found to be true, is sufficient to convict. But, keeping in view the question of life and death of an implicated person, there are judicial decisions where the courts tend to find the corroborative evidence of otherwise truthful dying declaration due to extra carefulness. In addition to this, when a dying declaration is marred by infirmities, it requires corroboration as a rule of prudence. These genres of cases will be analyzed in this section to highlight those pieces of evidence which have judicially been held as admissible corroborative evidence. Some instances of corroborative evidence have already been discussed in the previous section and will not be reproduced here for avoiding repetition.