



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 14th November, 2025

IN THE MATTER OF:

+ **CRL.A. 366/2002**

DIDAR SINGH & ANR.

..... Appellants

Through: Mr Rakesh Tewari, Advocate.

versus

STATE (GOVT.OF NCT OF DELHI)

..... Respondent

Through: Mr. Aashneet Singh, APP for the State.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. “A mother is the only person who carries you for nine months in her belly, three years in her arms and forever in her heart”.
2. The bond between the mother and children is so strong, pure and aboveboard that there is no scope for any sort of selfishness. There is a famous line in a song which goes as under that “Poot kapoot sune hai par na maata sunee kumaata”.
3. If something adverse happens to the mother involving her son, then there must be a very drastic reason behind it. If that incident happens to be the death or homicide of the mother, with allegations of the son’s involvement, apart from that of the husband, one can easily imagine how serious the reason must be. It would have to be something truly grave and



devastating, where allegations of murder and destroying evidence are levelled against the son and the husband.

4. The judgment dated 20.04.2002 and the order of sentence dated 22.04.2002 are under challenge in the instant appeal and indispensable facts are to the effect that the deceased Gian Kaur was sleeping on the terrace of her house. In the early morning hours, an alarm was raised by some neighbours and then her daughter Taranjeet Kaur reached at the terrace where she found her mother in flames. She somehow took her mother to Safdarjung Hospital with the help of her brother Maan Singh.

5. On 05.04.2000, Mrs. Gian Kaur was admitted to Safdarjung hospital by her daughter and son, in 100% burnt condition. The doctor, apart from administering treatment, also ascertained the cause of the burn injuries, where she disclosed that her husband and son poured kerosene oil over her and set her ablaze. This, ultimately turned out to be her first dying declaration, made at about 9:30 AM. Subsequently, the second dying declaration was recorded by the Investigating Officer, where again she blamed both her husband and son, asserting that they had set her on fire after pouring kerosene oil. She ultimately succumbed to her injuries at around 11:15 PM on the same day/night. At the time of second statement of deceased, the sister-in-law of the deceased was also present and affixed her thumb impression on the statement as token of its correctness.

6. A case was registered under section 302, 201, 34IPC against the husband and the son of the deceased, namely Didar Singh and Maan Singh respectively. Upon the charges being framed under the aforesaid sections, both the accused pleaded not guilty, and the trial commenced. During the trial, the prosecution examined 16 witnesses. The evidence so brought on



record was put to the accused persons and their statements were recorded under section 313 Cr.P.C. They also examined one Mahinder Singh as a defence witness (DW-1). Ultimately, after the conclusion of the arguments, both of the accused were found guilty and convicted under section 302/ 34 IPC.

7. The case of the prosecution is primarily based upon the dying declarations of the deceased and other circumstantial evidence. This makes the dying declaration and the related law relevant in the present case.

8. It is, therefore, important to understand what a dying declaration is- when it is to be acted upon and when it cannot be. There are authorities on the subject that the dying declaration, if found to be reliable and truthful, is sufficient to convict an accused person. In such circumstances no corroboration would be required. However, as a matter of abundant precaution, the court may look for corroborative evidence.

9. A dying declaration is a statement made by a person who is about to die, explaining the cause of death or the circumstances leading to it. It is considered admissible evidence because it is believed that a person facing death is unlikely to lie. These statements can be oral or written and are admissible in cases where the person's death is in question, serving as an exception to the rule against hearsay evidence. A statement made by a person about the incident, who may not be expecting to die, in which death happens, then even that statement can also be treated as dying declaration.

10. Essential characteristics of a dying declaration, as seen in most cases are as below:

- a. Declarant must be in a fit state of mind (preferably to be certified by a doctor).



- b. Voluntary statement to be free from tutoring, prompting or influence.
- c. Statement must be related to cause of death or the circumstances of the transactions leading to death.
- d. Can be given in oral, written or even through gestures and signs.
- e. Need not be recorded only by Magistrate. Police officers, doctors or private persons can record it, but a recording done by a Magistrate is preferred.
- f. There is no fixed format prescribed by law.

11. A dying declaration, which is free from any kind of fabrication, pressure, or tutoring, and is made voluntarily without any inducement, may be relied upon as a truthful statement. When such declaration is free from any taint or element of suspicion and is found to be clear and cogent, it can be acted upon even without corroboration. If it is further shown that the statement was made without any inducement or motive, the court may base a conviction solely upon such a statement. In this context, reference can be made to the judgment in ***Khushal Rao vs. State of Bombay AIR 1958 SC 22***. In ***Laxman vs. State of Maharashtra, (2002) 6 SCC 710***, it was held that a truthful and voluntary dying declaration, made while the declarant was in a fit state of mind, can form the basis of conviction even in the absence of medical certification or independent corroboration. ***In P.V. Radhakrishna vs. State of Karnataka (2003) 6 SCC 443***, it was held that the mental fitness of declarant is essential, albeit, certification of a doctor is preferred but not essential.

12. On the other hand, if a dying declaration is found to be tainted with any kind of doubtful circumstance, making it vulnerable to doubt and suspicion, then the same should not be acted upon without there being any corroboration. Reference can be made to the judgments in ***State of U.P vs.***



Shishupal Singh, (1992) 1 SCC 331 wherein, the court held that a dying declaration suffering from doubt or inconsistency should not form the sole basis of conviction without independent corroboration.

13. A dying declaration alone has been held to be sufficient to base a conviction even without corroboration. However, the other stream of thought is that dying declaration should have some sort of corroboration as a matter of prudence. In this context, reference can be made to the judgment in *Irfan vs. State of U.P., 2023 SCC OnLine SC 1060*, where it has been observed that a dying declaration alone is sufficient to record a conviction. Reference can also be made to the judgment in *Paniben (Smt) vs. State of Gujarat, (1992) 2 SCC 474* in the same context.

14. The crux of the aforesaid judgments has been summarized by the Hon'ble Supreme Court in *Munnu Raja & Anr. State of M.P., (1976) 3 SCC 104* and *Atbir vs. Govt. of NCT of Delhi, (2010) 9 SCC 1*, where the following guidelines are provided:-

- “22. The analysis of the above decisions clearly shows that:
- Dying declaration can be the sole basis of conviction if it inspires the full confidence of the court.
 - The court should be satisfied that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination.
 - Where the court is satisfied that the declaration is true and voluntary, it can base its conviction without any further corroboration.
 - It cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence.
 - Where the dying declaration is suspicious, it should not be acted upon without corroborative evidence.



- f. A dying declaration which suffers from infirmity such as the deceased was unconscious and could never make any statement, cannot form the basis of conviction.
- g. Merely because a dying declaration does not contain all the details as to the occurrence, it is not to be rejected.
- h. Even if it is a brief statement, it is not to be discarded.
- i. When the eyewitness affirms that the deceased was not in a fit and conscious state to make the dying declaration, medical opinion cannot prevail.
- j. If after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration”

15. There is no specific format for recording a dying declaration as any statement can be treated as a dying declaration where the maker narrates about an incident and circumstances and ultimately leaves this mortal world. However, an ideal dying declaration requires a certification by a health professional and a recording by an Executive Magistrate. But then at times, it is not possible to follow these precautions. Therefore, even if the aforesaid formalities have not been observed still a dying declaration would have the same force in the eyes of law, provided certain basic aspects are there, i.e. the maker was physically and mentally fit and in a position to make a rational statement free from any coercion, pressure inducement or threat, etc. A purely voluntary statement, no prompting or rephrasing, no suggestion, no suggestive or leading questions while recording the statement, make it trustworthy and acceptable. There are instances where multiple dying declarations have been made and if an inconsistency is found in those multiple dying declarations, then it becomes doubtful and



dying declaration loses its sheen and strength. It becomes highly risky to rely on such a declaration unless there is some corroborative piece of evidence available.

16. Reverting back to the facts of the case in hand, the treatment was administered to the victim by Dr. Mohit Goel who recorded on the MLC (ExhibitPW-1/A) itself about the incident where Gian Kaur blamed her husband and son for her situation. It was observed that it was a case of 100% burn injuries. The position of the deceased was very critical. Therefore, that seems to have prompted ASI Ved Singh who had on receipt of information about the incident, reached the hospital to record the statement of the deceased on his own instead of going for formal recording of the dying declaration through the Executive Magistrate. The concerned, ASI Ved Singh, has not made any effort, nor even a call to the SDM/Executive Magistrate concerned, was there so that, if possible, a proper dying declaration can be recorded. The circumstances reflect that the victim was very critical and that seems to be the reason why such an exercise was not undertaken. As such, no malafide can be attributed.

17. Learned PP for the State contended that there is no reason to doubt the case of the prosecution in as much as clear-cut evidence is there which has been corroborated by both the circumstances as well as the evidence. In fact, there is no reason to doubt and discard the dying declaration, notwithstanding the fact that no motive appears to be there with the Appellants i.e. Didar Singh and Maan Singh to set their own wife and mother, respectively, on fire to the extent that the deceased sustained 100% burn injuries and died.



18. It is contended by learned counsel for the Appellant that it was all in the family since the victim, accused and witnesses are all are part of the family, therefore, testimony of Taranjit Kaur examined as PW-2 and Surinder Kaur examined as PW-3 should be given due weightage. It is asserted on behalf of the appellants that the dying declaration in itself is questionable on account of the fact that the deceased was not in a position to speak since she was having 100% burns injury including her face and lips also. In such circumstances, one can visualize that a coherent speech could not have been there.

19. Secondly, the family had migrated from Afghanistan and was not well versed in any other language except Afghani which is truer about the females, namely, Smt. Gian Kaur and Smt. Taranjit Kaur i.e. deceased and her daughter. The doctor and the investigating officer who have recorded the so-called dying declarations were not in a position to understand Afghani and the same has also been admitted by Dr. Mohit Goel PW-1.

20. Thirdly, the deceased was removed to the hospital and the first and foremost thing which is required to be done in any hospital, in such circumstances, is to administer the treatment. The initial treatment given to the victim reflects that she must have been in a state of delirium on account of the medicines given to her. This apparently puts her mental and psychological faculties under challenge whereas the physical condition was already critical.

21. In such circumstances, the authenticity of the dying declaration becomes highly questionable and when it is read with the testimony of Taranjit Kaur PW-2 and Surinder Kaur PW-3, then it becomes further evident that the dying declaration could not have been there and if it was



there, it was not the statement of the deceased. Apart from the dying declaration, there is hardly any evidence which may be treated as inculpatory evidence against the appellants as contended by learned counsel for the appellants. Additionally, it is submitted that there was evidently no motive with the appellants to kill the deceased as they happen to be the husband and son of the deceased. In the absence of any motive, as nothing could be indicated or brought on record, under such circumstances an attribution and allegation against the appellants that they killed Gian Kaur, at the outset, appears to be outrageous. The conviction surely is untenable in view of the absence of any eyewitness or any circumstantial evidence which may tie the appellants with the offence.

22. The deceased was in such a situation that she was not able to speak properly being a case of 100% burn injuries. Nevertheless, she made a statement. She was not able to put her signature or her thumb impression, for obvious reasons. The statement was in a way endorsed by her sister-in-law (Bhabhi) Surinder Kaur, wife of the brother of Gian Kaur. The incident came to the knowledge of the family members at about 06:00 A.M. and the victim/ deceased reached Safdarjung Hospital at about 9:30 AM and died at around 11:15 P.M. Based upon the dying declarations placed on record, one recorded by the doctor and another by the police officer, case was registered at Police station Tilak Nagar, New Delhi under Section 302/201/34 of IPC, and the appellants were held guilty under section 302/34 IPC, and the evidence reflects rightly so.

23. During the pendency of the appeal, Mann Singh absconded and was declared a proclaimed offender whereas Didar Singh left this mortal world. Against the backdrop of these facts and circumstances, learned counsel for



the appellants has submitted that the death was in fact a case of suicide and, in support of his contention, relied upon the following judgments:

- i) *Darshan Singh vs. State of Punjab* (MANU/SC/009/1983)
- ii) *Tarachand Damu Sutarv. State of Maharashtra* (MANU/SC/0132/1961)
- iii) *Lakshmi vs. Om Prakash and Ors.* (MANU/SC/0353/2001)
- iv) *Jai Karan vs. State of (N.C.T. Delhi)* (MANU/SC/0613/1999)
- v) *Chacko vs. State of Kerala* (MANU/SC/1022/2002)
- vi) *Kaushalya & Ors vs. State* (MANU/DE/0034/1987)
- vii) *Niru Nanhar Beck vs. State of Orissa* (MANU/OR/0398/1995)
- viii) *Bashir Shah vs. State of Rajasthan* (MANU/RH/0207/1994)

24. However, those judgments are not applicable to the facts of the present case, inasmuch as in *Darshan v State (supra)*, there were specific reasons suggesting the possibility of suicide arising out of matrimonial discord between the deceased and her husband. In the instant case, no such evidence of discord or circumstance indicating suicide has been found.

25. Secondly the case of *Lakshmi vs. Om Prakash (supra)* can also be distinguished on facts in as much as there were five dying declarations in that case hence, the admissibility and the reliability aspect was under a cloud, thereby giving a reason or a possibility of a case of suicide. Whereas in the instant case, nothing of that sort is there as there was no apparent reason with the deceased to commit suicide that too to implicate her own son and husband and above all both of the dying declarations are consistent.

26. In the judgment relied upon by learned counsel for the appellants in *Jay Karan's case (supra)*, the dying declaration was not accepted as it was found that the injured was not in a fit condition to make a statement. In the present case, however, the endorsement of the doctor is clear and categorical that the deceased was fit to make a statement, as evident from



Exhibit PW-22/A. In any case, a statement recorded by the treating doctor carries an inbuilt assurance of the declarant's fitness to depose.

27. In *Chacko vs. State of Kerala (supra)*, the dying declaration was disregarded as the documents were arranged in such a manner so as to accommodate space for the thumb impression, thereby casting a doubt on its authenticity and genuineness. No such infirmity exists in the present case, nor can any such doubt be pointed out.

28. Similarly, in *Kaushalya's case (supra)*, the dying declaration was rejected as it was not made in the presence of any doctor, nor attested by any doctor, thereby raising a question about the physical, mental and medical or so to say fitness of the deceased. She was in a condition to make a proper statement regarding the circumstances leading to the situation in which she was found, reference can be made to the judgment in *P.V. Radhakrishna's case (supra)*.

29. It is not necessary that a dying declaration must be recorded by a magistrate. A dying declaration may be recorded by a doctor, a policeman, or even any other person, and so long as the statement satisfies the requirement of being genuine and made by the person in a fit state of mind, it can be accepted. Therefore, the contention that a special Executive Magistrate was not involved or called for recording the statement has no bearing on the fate of a dying declaration.

30. In *Niru's case (supra)*, the dying declaration was not accepted by the Court for the reason that the possibility of self-immolation was not ruled out by the doctor, and the victim survived for about 35 days, giving sufficient time to the investigating agency to have her statement recorded in a better manner. Owing to these infirmities, the accused in that case was



acquitted. In the present case, however, the victim survived for only about 15 hours, leaving no or very little scope for calling the Executive Magistrate to record the statement. The condition of the deceased was extremely critical due to 100% burns, and therefore the dying declaration was recorded. The statements recorded first by the doctor and subsequently by the Investigating Officer cannot be faulted, particularly when both are consistent with each other, and in both, the deceased attributed responsibility to her husband and son for the circumstances leading to her condition.

31. As regards the judgment in ***Bashir Shah's case (supra)***, it discusses the law on dying declarations, which is in consonance with the settled legal position, and reiterates that even a sole dying declaration can be relied upon to record a conviction if it is found to be acceptable and free from tutoring, inducement, tampering, pressure, or fabrication. It further reiterates that, wherever appropriate, corroboration should be looked into. The judgment, verily clarifies the legal position.

32. The Death of the victim, which occurred due to burning, took place at her residence on the terrace of the house. The victim was taken to the hospital by her daughter and appellant no 2 Maan Singh, whereas the appellant no. 1, who happened to be the husband of the deceased, remained at home despite being present in the house. This can be inferred from the fact that the incident took place at around 06:00 AM, when the entire family was present. If such a drastic accident has taken place, then the head of the family i.e., appellant no. 1, along with his eldest son, should have immediately come forward to take the victim to the hospital. Why nothing of that sort took place is obvious from the fact that the police did not find



any trace of burning on the terrace where the incident allegedly took place. It has been deposed by PW-16 ASI Ved Singh that the place of incident was cleaned up, leaving no trace of anything. What could be the reason for such a situation? What was the hurry to clean the scene of crime/ incident so much so that the husband didn't accompany the victim to the hospital? Answers to these questions are pregnant with circumstances against the appellants.

33. Death can either be an accident, a suicide, or a homicide. In the present case, it is neither of the first two, as there are no traces suggesting that the fire was accidental or that the deceased committed suicide. In that eventuality there would have been signs at the spot indicating that kerosene oil and matchstick were used. It is not that the kitchen was on the terrace or victim was using fire and kerosene to do something at about 6:00 or 7 AM. The site plan (without scale) Exhibits PW-23/A and (with scale) PW-4/A reflects nothing to suggest case of suicide as some evidence or material has to be there to indicate that deceased had committed suicide. It is impossible that she brought kerosene oil and matchstick from the kitchen or from another place, poured the oil over her and set herself on fire, and then took the oil container and the matchstick back to some other place or from where she had brought it, as nothing could be found at the spot. Furthermore, items such as the cot, the mattresses, traces of burn marks on floor or any side walls or spilled or splashed kerosene oil, the container in which the oil was brought, the matchbox or any such thing which was used to put on the fire or affected by fire should have been found at the spot, had it been an accident or suicide. In such situations, the family's focus must be on



providing the medical treatment to the deceased and not on cleaning the site of incident.

34. These facts cumulatively indicate towards the only conclusion that the incident was neither accidental, nor suicidal, thereby, leaving only possibility of the same being homicidal. The evidences indicate that it was a murder.

35. However, the contentions raised on behalf of the appellants are unacceptable since the dying declarations in itself are acceptable because there was no reason with the doctor to record something which was not stated by the victim. No suggestion has been given to the doctor that he had an axe to grind or some vested interest to record something which was not stated by the deceased. The second dying declaration was recorded by the investigating officer, which is on the same lines as was the first one recorded by PW-1 Dr. Mohit Goel.

36. Dr. Mohit Goel while examining the deceased recorded the facts told by the victim which turned out to be the dying declaration. As an inherent presumption is there that the doctor had recorded it only after being satisfied that the deceased was able to make a statement. As regards the second dying declaration, Exhibit PW16/A on the application moved by ASI Ved Singh who has been examined as PW-16, and on examination by the doctor, it is shown that an endorsement was made by the doctor which is Ex. PW22/A, to the effect that the patient was fit for statement. The statement of deceased was recorded in the presence and hearing of Surinder Kaur PW-3 who put her thumb impression as well, apparently, for the reason that the deceased was not in a position to the sign or put her thumb impression, having sustained 100% burn injuries. Albeit PW-3 Surinder



Kaur has not supported this aspect, that too seems for obvious reasons being a family affair.

37. The time of arrival at the hospital was around 09.00 A.M and the death took place on the very same day at 11:15 p.m. As already noted above the deceased was in a critical state and was on an oxygen inhalation concentrator after sustaining 100% burn injuries and was gradually deteriorating, which in itself demolishes the argument raised by the counsel for the appellants that there was no bona fide attempt on behalf of the police to have the dying declaration recorded by an Executive Magistrate. It is correct that there is nothing on record to show that the police had even informed the concerned Magistrate and made a request to come down to the hospital to record the statement but then this in itself cannot rob away the sanctity of the dying declaration, especially when a both dying declaration are consistent. Therefore the contentions in this context are brushed aside. The dying declaration is evidently acceptable and in these circumstances can be acted upon. Since there is no specific format for recording dying declaration or for that matter, who can record or must record, therefore, the statements recorded by the Doctor and Police Officer cannot be faulted. The truthfulness of the dying declaration can further be inferred from the fact that the deceased, under severe pain and trauma, had repeated and recorded as well in the statement of PW-16 that she was unable to speak properly but then in the same breath she had blamed her husband and son for the situation in which she had landed. As such the dying declaration in itself is sufficient to hold the appellants responsible. In this context reference can be made to the judgment of the Hon'ble Supreme Court in



***Bhadragiri Venkata Ravi vs. Public Prosecutor High Court of A.P.,
Hyderabad (2013) 14 SCC 145***

“23. In case of plural/multiple dying declarations, the court has to scrutinize the evidence cautiously and must find out whether there is consistency particularly in material particulars therein. In case there are inter-se discrepancies in the depositions of the witnesses given in support of one of the dying declarations, it would not be safe to rely upon the same. In fact it is not the plurality of the dying declarations but the reliability thereof that adds weight to the prosecution case. If the dying declaration is found to be voluntary, reliable and made in a fit mental condition, it can be relied upon without any corroboration. But the statements should be consistent throughout.”

38. In addition to the dying declaration, certain circumstances as have been mentioned herein above and summarized herein below, which also stand against the appellants and in the absence of any appropriate explanation these circumstances too pinpoint towards the conclusion arrived at by the learned Trial Court.:-

- a. How come the deceased was sleeping alone on the terrace while her entire family was present in the home?
- b. No cot, mattress etc was found at the spot.
- c. No match box, candle or something which can be used to ignite fire was found at the spot.
- d. No container / bottle etc of kerosene oil at the spot.
- e. All traces / evidence cleaned up which in a case of suicide or accident should not have been there and is not possible.
- f. Why didn't the husband of the deceased accompany her to hospital?
- g. No reason for any inimical relationship is shown which may be potent enough to drive the deceased to commit suicide.
- h. All the above indicate that the spot was cleaned consciously by Didar Singh, if not anyone else and that is very strong circumstance/ evidence against appellants.



39. All the above coupled with the dying declaration make a foolproof case against Didar Singh and Maan Singh. Dying declaration is not only consistent but appears to be true. Deceased had no reason to name her grown up son or husband to falsely implicate them. She had nothing to gain. As such the dying declaration, being above board, free from any taint like undue influence, fabrication, pressure, inducement or for any temporal gain, being acceptable leaves no room for the appellants to scrape through the conclusion that they were responsible to set Gian Kaur on fire resulting in to her death, which was neither suicidal nor accidental.

40. In view of the foregoing discussion, it is evident that the complicity of the appellants is there and as such the judgment of conviction and sentence recorded against them is as per the available material on record. Consequently, the appeal fails and stand dismissed.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

NOVEMBER 14, 2025/ps/vm