

CRA-D-322-DB-2004 (O & M)

2025:PHHC:071341-DB



::1::

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

(102)

**CRA-D-322-DB-2004 (O & M)**

**Reserved on: 21.05.2025**

**Date of Pronouncement:26.05.2025**

Bachna Ram

.... appellant

V/s

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL  
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. P.K.S. Phoolka, Advocate as Amicus Curiae,  
for the appellant.

Mr. Ranvir Singh Arya, Addl.A.G., Haryana.

\*\*\*\*\*

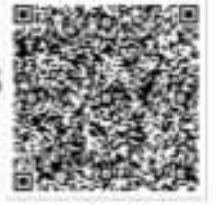
**JASJIT SINGH BEDI, J.**

The present appeal has been filed against the judgment of conviction and order of sentence dated 03/04.03.2004 passed by the Additional Sessions Judge (I), Kaithal.

2. The instant FIR came to be registered on 04.05.2002. The appellant came to be convicted vide judgment of conviction and order of sentence dated 03/04.03.2004. The present appeal against the judgment of conviction and order of sentence was filed on 29.03.2004. The matter has come up for final hearing now after almost 23 years of the registration of the FIR.

CRA-D-322-DB-2004 (O & M)

2025:PHHC:071341-DB

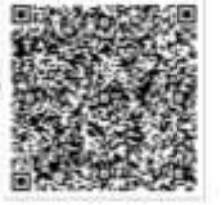


::2::

3. The brief facts of the prosecution case as per the report under Section 173 Cr.P.C. are that on 04.05.2002, the Moharrir Head constable of Police Station City, Kaithal, received a telephonic message from Police Post, Grain Market, Kaithal that one Karambir son of Chhotu, Caste Gujjar, resident of Shanti Nagar, Kaithal had been admitted in Civil Hospital, Kaithal in a burnt condition. On receipt of the said information, ASI Balraj alongwith Satbir Singh, Head constable on a Govt. Gypsy No.HR-03-9272 being driven by Mahabir Singh, Constable No.523 reached the Civil Hospital, Kaithal, where Karambir injured was found admitted. Medico Legal Report No.LR/94/02 dated 04.05.2002 was received from the doctor on duty, wherein injured Karambir was reported to have received 70-75% burns. The investigating officer moved an application before the Duty Magistrate for recording the statement of injured/complainant-Karambir. Accordingly, Sh. Mohinder Singh, Judicial Magistrate Ist Class, Kaithal came to the hospital and he sought the opinion of the doctor on duty regarding the condition of the injured. The doctor declared the injured fit to make a statement and accordingly the Judicial Magistrate proceeded to record the statement of injured person. The Magistrate put questions to the patient regarding his occupation and he disclosed that he was running a three wheeler and was un-married. The Magistrate enquired about the circumstances in which he received burn injuries. The patient replied that for the previous three years, he was living with Bachna Ram Gujjar in the area of Shanti Nagar and was having brotherly relations with him. The

CRA-D-322-DB-2004 (O & M)

2025:PHHC:071341-DB



::3::

patient has further narrated that he was having relations with Mohindero wife of Bachna Ram as husband and wife. He used to give her his earning and about three years ago, he got contract money of Rs.20,000/- in respect of his agricultural land which he handed over to Mohindero Devi for running the household. Bachna Ram was aware of his relations with Mohindero but he never stopped him. On 03.05.2002, he had some dispute with Bachna Ram in connection with a complaint made by him to the police against Sonu son of Bachna Ram regarding some theft matter. Then Bachna Ram gave him beatings at about 9.00 or 10.00 P.M. on 03.05.2002 and thereafter, he slept in the *Verandah* of the house. On 04.05.2002, in the morning at about 4.00 .A.M., he felt irritation of burning and when he woke up, he found that Bachna Ram had taken out diesel from the three wheeler and had poured it on him with an intention to kill him and then had sat him on fire by stating that he would not spare him that day. He specifically narrated before the Magistrate that the reason behind the incident was a complaint made by him against the son of the accused with the police. Further, he stated that after setting him on fire, the accused went inside the house and bolted the room from inside. Meanwhile, the wife of Bachna Ram, namely, Mohindero came after attending the call of nature, who helped the complainant and extinguished the fire. She raised an alarm. On hearing the noise, Kitaba, Ram Sarup and Smt. Sunehri neighbours appeared at the spot. They brought him in burnt condition to the hospital at 5.30 A.M. He also disclosed before the Magistrate that Bachna Ram was in the habit of allowing his wife to do

CRA-D-322-DB-2004 (O & M)

2025:PHHC:071341-DB



::4::

prostitution. He also narrated to the Magistrate that he belonged to village Kokat and his mother and brothers were alive. After recording the statement of the injured, the Magistrate read over the same to him, who admitted its contents as correct and then put his thumb impressions. The investigating officer took the certified copy of the statement of the complainant recorded by the Magistrate and on the basis of the same, case vide FIR No.183 dated 04.05.2002 was registered under Section 307 IPC and further investigation was set into motion.

4. The police visited the spot and took into police possession the plastic Can as well as *Daree* lying at the spot. The photographs of the spot were also taken. On 10.05.2002, information was received from Civil Hospital, Kaithal that complainant-injured Karambir had died. So, the offence under Section 302 IPC was added. Post mortem on the dead body was got conducted. On 18.05.2002 Bachna Ram accused was arrested. On 25.05.2002 the parcels of articles taken from the spot, were sent to Forensic Science Laboratory, Madhuban for chemical analysis. Scaled site plan of the place of occurrence was got prepared. After completion of investigation and interrogation, Station House Officer, Police Station City Kaithal, presented the challan in the court of Chief Judicial Magistrate, Kaithal.

5. On commitment, charges were framed under Section 302 IPC. The accusations contained in the charge sheet were read over and explained to the accused who denied the same and claimed trial.



6. In order to substantiate its case, the prosecution examined PW-1/Sher Singh Inspector, PW-2/Ramniwas draftsman, PW-3/Suraj Bhan Sub Inspector, PW-4/Dr. Lajja Ram, PW-5/Jai Lal Head constable, PW-6/Mahender Singh, Judicial Magistrate Ist Class Kaithal, PW-7/Suresh Kumar Constable No.491, PW-8/Dr. D.C. Thukral, PW-9/Ishwar Singh son of Chhotu Ram, PW-10/Manohar Lal ASI, PW-11/Balwan Singh ASI, PW-12/Pawan Kumar photographer and PW-13/Bir Singh EHC. PW-Mohindero was given up by learned public prosecutor as having been won over by the accused. PWs Naresh Kumar and H.C, Satbir Singh were given up as unnecessary on 01.04.2003. PWs Ram Sarup, Kitaba and Sunehri were given up on 22.05.2003 as having been won over by the accused.

7. The gist of the prosecution evidence is as under:-

PW-1/Sher Singh Inspector stated on Oath that on 10.05.2002 he was posted as SHO, Police station City Kaithal and he investigated the present case. On 18.05.2002, the accused was arrested by him. He also recorded the statements of MHC Jai Lal and Constable Suresh Kumar under Section 161 Cr.P.C. After completion of investigation, he had prepared the report under Section 173 Cr.P.C.

PW-2/Ram Niwas draftsman prepared the scaled site plan Ex.PA. on 03.06.2002 at the instance of Mohindero wife of accused after visiting the spot.

CRA-D-322-DB-2004 (O & M)

2025:PHHC:071341-DB



::6::

PW-3/Suraj Bhan, SI stated on Oath that on 04.05.2002 he received statement of Kashmir Singh Ex.PB with endorsement of Balwan Singh ASI Ex.PB/1 on the basis of which he recorded the FIR Ex.PB/2 in this case.

PW-4/Dr. Lajja Ram, Medical Officer, Civil Hospital, Kaithal stated on oath that on 04.05.2002, he medico legally examined Karambir son of Chhota Ram, aged 25 years, resident of Shakti Negar, Kaithal, who was conscious at that time and was smelling of kerosene oil. On physical examination, he found superficial to deep burns over the body of the patient except head and few area of both the legs. The total percentage of burn was 70-75%. He also sought the Surgeon's opinion. He proved the carbon copy of the MLR Ex. PC. He sent ruqa Ex.PD to the police station regarding the admission of the patient. He further deposed that a Judicial Magistrate had come to the hospital to record the statement of the patient. The Magistrate obtained his opinion regarding the fitness of the injured and he opined vide endorsement Ex.PE that the patient was fit to make a statement. Thereafter, statement of the patient was recorded and after recording the statement, he was again asked to give opinion regarding the fitness of the patient. He further deposed that he gave opinion Ex.PE/1 that the patient remained fit to make a statement during the period of recording of his statement. During cross-examination, he stated that when the injured was brought to the hospital, he was accompanied with Mohindero wife of Bachna Ram. He

CRA-D-322-DB-2004 (O & M)

2025:PHHC:071341-DB



::7::

further deposed that the police had arrived in the hospital on receipt of a ruqa and they enquired from the injured as to how, he sustained injuries.

PW-5/Jai Lal Head Constable submitted his sworn affidavit Ex. PF.

PW-6/Sh. Mahender Singh JMIC, Kaithal stated on oath that on 04.05.2002, he was Duty Magistrate. On that day, on the request of police, he went to Civil Hospital, Kaithal at 7.55 A.M. Dr. Lajja Ram was on duty and he obtained his opinion regarding the condition of the patient, vide his endorsement Ex.PE/2 and the opinion of Dr. Lajja Ram is Ex.PE vide which he declared the patient in a fit mental state to make a statement. He has also proved the endorsement Ex.PE/3 and stated that he recorded the statement of Karambir which is Ex.PE/4. He categorically stated that he read over the contents of the statement and explained it to complainant Karambir, who admitted the same as correct and then his thumb impressions were procured. He stated that the patient was identified by Balwan Singh ASI. He has again sought the opinion of the doctor, available on the file as Ex.PE/1 vide which he had opined that the injured remained mentally fit to make statement during recording of his statement. In his cross-examination, he stated that when he recorded the statement of patient, no person from the public was standing near him.

PW-7/Suresh Kumar Constable tendered his affidavit Ex. PG in evidence and stated that the same be read as part of his statement.

CRA-D-322-DB-2004 (O & M)

2025:PHHC:071341-DB



::8::

PW-8/Dr.D.C. Thukral, Medical Officer, Civil Hospital, Kaithal, conducted post mortem on the dead body of Karambir on 10.05.2002 and observed as under:-

*"The length of the dead body was 5'-5". It was the dead body of an adult male aged 25 years, wearing nothing. A metal ring was there on the right wrist. Eyes were closed. Mouth was partially opened. There were superficial to deep burns all over the body except face and part of thigh. Rigor morits was in appearing stage.*

*Scalp, skull, vertebrae were healthy and congested. Walls, ribs and cartilages, pleura were healthy. Larynx and trachea, right and left lungs were pale and healthy. There was blood in the right chamber. It was healthy. Peritoenum was healthy. Mouth, pharynx and oesophagus were healthy. Stomach contained liquid. It was healthy and pale. Chyle was present in the small intestine and pacecal matter was in the large intestines. Liver, spleen, kidneys were pale and healthy. Bladder was healthy. Organs of generation were also pale and healthy.*

*In my opinion the cause of death in this case was shock due to burns which were ante-mortem in nature and sufficient to cause death in the normal course of nature.*

He proved the post mortem report Ex.PF. He further stated that he conducted the post mortem on police application Ex.PG and the inquest proceeding Ex.PH.

PW-9/Ishwar Singh son of Chhotu Ram stated on oath that Karambir, since deceased, was his real brother, who used to ply a three

CRA-D-322-DB-2004 (O & M)

2025:PHHC:071341-DB



::9::

wheeler and was residing at Kaithal with Bachna Ram accused. Information regarding the death was received by him on which they came to the hospital and identified the body of the deceased.

PW-10/Manohar Lal ASI stated on oath that on 04.05.2002 he was posted at Police Post Anaj Mandi, Kaithal. He took over the investigation of this case from Balwan Singh ASI. He called the photographer who took snaps of the scene. He also prepared the rough site plan Ex.PJ with correct marginal notes on the demarcation of Kitaba Singh. A plastic Can, a *Daree and Baan* of the cot were lifted by him from the spot which were seized vide memo Ex.PK after converting them into different parcels. He recorded the statements of the witnesses. On 10.05.2002, on receipt of ruqa regarding the death of Karambir, he went to the hospital and prepared inquest report Ex.PH. He moved an application for post mortem and on receipt of post mortem report, offence under section 302 IPC was added in the F.I.R and the special reports were sent to the superior officers. Then, he handed over the investigation to Inspector/SHO, Police Station City Kaithal. During cross-examination, he admitted that Kitaba Singh PW was already present at the spot. He also disclosed about the surrounding houses near the spot in question and admitted the presence of Sunehri Devi etc., when he lifted the articles from the spot. He also admitted that during investigation, it was revealed to him that deceased Karambir used to reside in the house of the accused and also used to run a three wheeler. He was not tenant of the accused. He denied the suggestion that the patient told him in

CRA-D-322-DB-2004 (O & M)

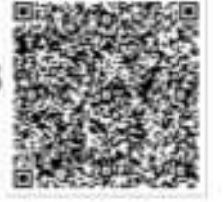
2025:PHHC:071341-DB



::10::

the hospital that he had received accidental burns. He also categorically denied that the deceased was filling diesel in the three wheeler and in that process a fire took place accidentally in which he received injuries.

PW-11/Balwan Singh ASI partly investigated the case. On receipt of information regarding the admission of Karambir in the hospital, he went there and found that Karambir was having 70-75% burns. He made an application for getting the statement of injured recorded under Section 164 Cr.P.C. before the Chief Judicial Magistrate, Kaithal, which is Ex.PL. The Learned Chief Judicial Magistrate, marked it to the Duty Magistrate to record the statement of the patient. He stated that Sh. Mahender Singh JMIC/Duty Magistrate, Kaithal then visited Civil Hospital, Kaithal alongwith him for recording the statement of the patient. After recording the statement of the patient, he obtained certified copy of the same which was Ex.PB. He made his proceedings Ex.PB/1 and sent the same to the police station on the basis of which FIR Ex.PB/2 was recorded. He handed over the investigation to Manohar Lal ASI, who came at the spot. He further proved the memo Ex.PJ. During cross-examination, he admitted that Sher Singh, Inspector/SHO had directed him to conduct the investigation of the case. He also stated that when he visited the hospital, Karambir was murmuring. He denied the suggestion that the deceased made a statement before him that he was filling diesel and in that process, a fire took place and he received burn injuries accidentally. He denied the suggestion of false deposition being police officials.



PW-12/Pawan Kumar, Photographer visited the spot on 04.05.2002 on summoning by the police. He took two snaps. The negatives of the same were Ex. P-1 and Ex.P-2 and the enlarged positives were Ex.P-3 and Ex.P-4.

PW-13/Bir Singh, EHC brought the *roznamcha* of Police Station City Kaithal dated 10.05.2002. He deposed that on receipt of ruqa Ex.PM report No.48 was recorded in the *roznamcha* regarding the death of Karambir. He proved the copy of the report Ex.PM/1.

8. Apart from the oral evidence, the prosecution placed reliance on the following exhibited documents:-

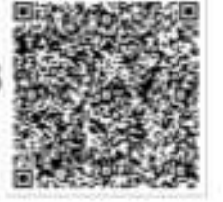
Sr. No.	Exhibits	Nature of Document(s)
1.	Ex.PA	Scaled site plan.
2.	Ex.PB	Photo stat certified copy of various endorsements and statement of injured Karambir recorded by Judicial Magistrate on 04.05.2002.
3.	Ex.PB/1	Endorsement made by the police.
4.	Ex.PB/2	Carbon copy of the F.I.R.
5.	Ex.PC	Carbon copy of the medico legal report.
6.	Ex.PD	Ruqa sent by the doctor on duty to SHO, P.S. City Kaithal regarding the admission of the injured.
7.	Ex.PE	Endorsement made by the doctor vide which patient was declared fit to make statement.
8.	Ex.PE/1	Endorsement made by the Magistrate that the patient remained fit during recording of his statement.
9.	Ex.PE/2 and Ex.PE/3	Certificates given by the Magistrate before recording the statement of the injured.
10.	Ex.PE/4	Statement of the injured recorded by the Judicial Magistrate 1st Class, Kaithal.
11.	Ex.PE/5	Certificate given by the Magistrate in the foot of the statement of the injured.
12.	Ex.PF	Affidavit of Head Constable Jai Lal
13.	Ex.PF	post mortem report (this has been



		inadvertently marked twice, so, Ex.PF be read as Ex. PF/1 now).
14.	Ex.PG	Affidavit of Suresh Kumar, Constable No.491
15.	Again Ex.PG	Carbon copy of application moved by the police for post mortem of the deceased (since Ex.PG has been exhibited twice, so, Ex.PG application moved by the police for post mortem of the deceased be read as Ex.PG/1 for convenience.
16.	Ex.PH	Inquest report U/S 174 Cr.P.C.
17.	Ex.PJ	Rough Site Plan of the place of the occurrence
18.	Ex.PK	Memo of taking plastic Can and <i>Daree</i> into police possession
19.	Ex.PL	An application moved by Balwan Singh ASI to the Duty Magistrate
20.	Ex.PL/1	Order passed by CJM, Kaithal for entrusting the application to Sh.Mahender Singh, JMIC Kaithal for disposal in accordance with law.
21.	Ex.PM	Ruqa sent by the doctor intimating about the death of the injured
22.	Ex.PM/1	Copy of DDR No.48 dated 10.05.2002.
23.	Exs.P-1 and P-2	Negatives
24.	Exs.P-3 and P-4	Positive Photographs

9. After completion of the prosecution evidence, the statement of the accused was recorded under section 313 Cr.P.C. Incriminating evidence appearing on record was put to the accused. He denied the whole prosecution evidence as incorrect and pleaded false implication.

10. Based on the evidence led, the accused-appellant, namely, Bachna Ram came to be convicted and sentenced by the Court of the Additional Sessions Judge (I), Kaithal, vide judgment of conviction and order of sentence dated 03/04.03.2004 as under:-



<b>Offence U/Ss</b>	<b>Sentence</b>	<b>Fine</b>	<b>In default of payment of fine</b>
302 IPC	Life Imprisonment	Rs.5,000/-	RI 06 months

11. The aforementioned judgment of conviction and order of sentence dated 03/04.03.2004 passed by the Additional Sessions Judge (I), Kaithal is under challenge before this Court.

12. During the pendency of this appeal, the sentence of the accused-appellant, namely, Bachna Ram was suspended by this Court vide order dated 14.09.2007.

13. The learned Amicus Curiae for the accused-appellant contends that the conviction could not be recorded solely on the basis of the dying declaration. Independent corroboration is unavailable in the instant case. The prosecution has deliberately not examined Mohindero wife of the accused who had appeared at the spot and her presence is admitted by the deceased at the time of the occurrence. He, thus, contends that the impugned judgment be set aside and the accused-appellant be acquitted of the charges framed against him.

14. The learned counsel for the State, on the other hand, contends that if the dying declaration is believable then it is sufficient to convict the accused. The dying declaration is corroborated by the medical evidence on the file as also by PW-10/ASI Manohar Lal, the investigating officer. The accused has furnished no explanation regarding the death of the deceased in his house in his statement under Section 313 Cr.P.C. Mohindero would not

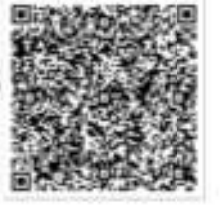


have deposed against her husband i.e. the accused in this case for obvious reasons and therefore, was given up having been won over. He, thus, contends that the present appeal is liable to be dismissed.

15. We have heard the learned counsel for the parties.

16. As per the prosecution evidence, it is apparent that in the instant case Ex.PE/4 is a substantive piece of evidence, which is the statement of the deceased recorded by the Judicial Magistrate Ist Class, Kaithal on 04.05.2002. Ex.PE is the opinion of the doctor that the patient was fit to make a statement at 7.55 A.M. which was obtained by the Duty Magistrate by virtue of his order Ex.PE/2 which reveals that on arrival of the Duty Magistrate, at General Hospital, Kaithal at 7.55 A.M. he sought the opinion of the doctor on duty whether Karambir was fit to make a statement or not. Ex. PE/3 is again a reference in writing made by the Duty Magistrate that the doctor on duty opined that the patient was fit to make a statement and then he recorded the statement of the patient. The said statement is written in question answer form and it bears the left thumb impression of the deceased, which has been duly verified by Balwan Singh, ASI and there is also opinion of the doctor Ex. PE/1 that the patient remained fit during the period, his statement was being recorded by the Duty Magistrate. Ex.PE/5 is the memorandum/certificate/ order passed by the Duty Magistrate, who recorded the statement of the patient, which reads as under:-

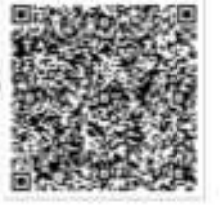
*"The above statement has been recorded by me in my handwriting, after obtaining the opinion of doctor on Duty. Before recording the statement, the patient was explained that*



*he was not bound to make statement and if made the same would be used as evidence against him. After satisfying myself that the patient Karambir was ready to make his statement voluntarily, without any fear, pressure or coercion, the same is recorded in verbatim. After recording the same, it was read over and explained to which he put his left thumb impressions at three places in token of contents as correct. The patient was got identified from ASI Balwan Singh, who was present in the corridor of hospital. Certified copy of the statement and other orders passed thereon be given to the police, if requested and original be sealed and sent to the Learned Illaga Magistrate.*

*Sd/- JMIC Duty, 8.40AM/4.5.02*

17. The above procedure has been duly narrated and proved by Sh. Mahender Singh, Judicial Magistrate Ist Class, Kaithal, who appeared in the witness box as PW-6. He categorically stated that the maker of the statement remained mentally fit throughout the period his statement was being recorded. All this shows that the statement Ex. PE/4 is correctly, properly and legally recorded by the JMIC and the contents of the said statement reveal that the deceased has categorically stated that accused Bachna Ram had some dispute with him, a day earlier to the incident, in connection with the fact that his son Sonu, aged 08 years was involved in a theft, which was reported by the deceased to the police and the deceased had also asked the police officials to give beatings to the boy who would confess the guilt. He specifically stated that Bachna Ram gave him beatings on 03.05.2002 during night at about 9.00 or 10.00 P.M. He also admitted that he



was having illicit relations with the wife of Bachna Ram accused and was living in their house. The deceased has categorically stated before the Magistrate that in the morning Bachna Ram took out diesel from the three wheeler and sprinkled the same on him by stating that he would not spare and then set him on fire. So, the statement Ex.PE/4 is emphatic in implicating the accused in causing the murder of deceased-Karambir.

18. The evidentiary value of a dying declaration and whether it could be the sole basis of conviction, has been discussed in various judgments of the Hon'ble Supreme Court. Some of them are discussed hereinbelow:-

In '*Jai Karan versus State (N.C.T. of Delhi) 1999(4) RCR (Criminal) 265*', it was held as under:-

12. *In the case of Paniben v. State of Gujara, 1992(3) RCR (Criminal) 552 : 1992(2) SCC 474 this Court summed up the principles of dying declaration with the following observation (para 18) :*

"Though a dying declaration is entitled to great weight, it is worthwhile to note that the accused has no power of cross examination. Such a power is essential for eliciting the truth as an obligation of oath could be. This is the reason the Court also insists that the dying declaration should be of such a nature as to inspire full confidence of the Court in its correctness. The Court has to be on guard that the statement of deceased was not as a result of either tutoring, prompting or a product of imagination. The Court must be further satisfied that the deceased was in a fit state of mind after a clear opportunity to observe and



identify the assailants. Once the Court is satisfied that the declaration was true and voluntary, undoubtedly, 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. This Court has laid down in several judgments the principles governing dying declaration, which could be summed up as under:

"(i) There is neither rule of law nor of prudence that dying declaration cannot be acted upon without corroboration. *Munnu Raja v. State of M.P.*, 1976(3) SCC 104;

(ii) If the Court is satisfied that the dying declaration is true and voluntary it can base conviction on it, without corroboration. *State of U.P. v. Ram Sagar Yadav*, 1985(1) SCC 522 and *Ramawati Devi v. State of Bihar*, 1983(1) SCC 211;

(iii) This Court has to scrutinise the dying declaration carefully and must ensure that the declaration is not the result of tutoring, prompting or imagination. The deceased had opportunity to observe and identify the assailants and was in a fit state of make the declaration. *K. Ramachandra Reddy v. Public Prosecutor*, 1976(3) SCC 618;

(iv) Where dying declaration is suspicious it should not be acted upon without corroborative evidence. *Rasheed Beg v. State of M.P.*, 1974(4) SCC 264;

(v) Where the deceased was unconscious and could never make any dying declaration the evidence with regard to it is to be rejected. *Kake Singh v. State of M.P.*, 1981(Supp) SCC 25;

(vi) A dying declaration which suffers from infirmity cannot form the basis of conviction *Ram Manorath v. State of U.P.*, 1981(2) SCC 654;

(vii) Merely because a dying declaration does not contain the details as to the occurrence, it is not to be rejected.



State of Maharashtra v. Krishnamurti Laxmipati Naidu, 1980 (Supp) SCC 455;

(viii) Equally, merely because it is a brief statement, it is not to be discarded. On the contrary, the shortness of the statement itself guarantees truth. Surajdeo Oza v. State of Bihar, 1980 Supp. SCC 769;

(ix) Normally the court in order to satisfy whether deceased was in a fit mental condition to make the dying declaration look up to the medical opinion. But where the eye witness has said that the deceased was in a fit and conscious state to make this dying declaration, the medical opinion cannot prevail. Nanahau Ram v. State of M.P., 1988 Supp. SCC 152;

(x) Where the prosecution version differs from the version as given in the dying declaration, the said declaration cannot be acted upon. State of U.P. v. Madan Mohan, 1989(3) SCC 390."

In '***Purshottam Chopra & Anr. Versus State (Govt. of NCT***

***Delhi) 2020(1) RCR (Criminal) 610***', it was held as under:-

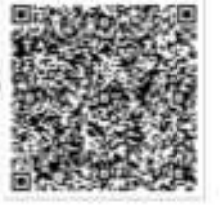
*21. For what has been noticed hereinabove, some of the principles relating to recording of dying declaration and its admissibility and reliability could be usefully summed up as under:-*

*i) A dying declaration could be the sole basis of conviction even without corroboration, if it inspires confidence of the Court.*

*ii) The Court should be satisfied that the declarant was in a fit state of mind at the time of making the statement; and that it was a voluntary statement, which was not the result of tutoring, prompting or imagination.*

*iii) Where a dying declaration is suspicious or is suffering from any infirmity such as want of fit state of mind of the declarant or of like nature, it should not be acted upon without corroborative evidence.*

*iv) When the eye-witnesses affirm that the deceased was not in a fit and conscious state to make the statement, the medical opinion cannot prevail.*



v) *The law does not provide as to who could record dying declaration nor there is any prescribed format or procedure for the same but the person recording dying declaration must be satisfied that the maker is in a fit state of mind and is capable of making the statement*

vi) *Although presence of a Magistrate is not absolutely necessary for recording of a dying declaration but to ensure authenticity and credibility, it is expected that a Magistrate be requested to record such dying declaration and/or attestation be obtained from other persons present at the time of recording the dying declaration.*

vii) *As regards a burns case, the percentage and degree of burns would not, by itself, be decisive of the credibility of dying declaration; and the decisive factor would be the quality of evidence about the fit and conscious state of the declarant to make the statement.*

viii) *If after careful scrutiny, the Court finds the statement placed as dying declaration to be voluntary and also finds it coherent and consistent, there is no legal impediment in recording conviction on its basis even without corroboration.*

In '**Rajendra s/o Ramdas Kolhe Versus State of Maharashtra**

**2024 AIR Supreme Court 2682**', it was held as under:-

*25. The law relating to dying declaration is now well settled. Once a dying declaration is found to be authentic inspiring confidence of the court, then the same can be relied upon and can be the sole basis for conviction without any corroboration. However, before accepting such a dying declaration, court must be satisfied that it was rendered voluntarily, it is consistent and credible and that it is devoid of any tutoring. Once such a conclusion is reached, a great deal of sanctity is attached to a dying declaration and as said earlier, it can form the sole basis for conviction.*



19. In the instant case, it can be safely said that the dying declaration Ex.PE/4 has been recorded as per law and is free from any pressure and the same has been duly proved by PW-6/Sh. Mahender Singh, Judicial Magistrate Ist Class, Kaithal. It is a substantive piece of evidence on the file to prove the allegations against the accused. Dr. Lajja Ram (PW-4) has categorically stated that the deceased was fit to make a statement to the Magistrate and his opinion was Ex.PE. During the course of recording of his statement by the Magistrate he remained fit and the opinion was Ex.PE/1. The said dying declaration is duly corroborated by the medical evidence available on the file because the testimony of PW-4/Dr. Lajja Ram and PW-8/Dr. D.C. Thukral confirms that the deceased was having 70-75% burns and he died due to burn injuries. The other evidence has been proved by PW-1/Inspector Sher Singh, PW-2/Ram Niwas draftsman, PW-3/Suraj Bhan, SI, PW-9/Ishwar Singh, PW-10/Manohar Lal ASI and PW-11/Balwan Singh ASI.

20. The argument that Mohindero wife of the accused who brought the deceased to the hospital has not been examined thereby creating a doubt in the prosecution case, cannot be accepted. The statement of the deceased Ex.PE/4 itself reveals that Mohindero arrived at the spot subsequently after the fire has been lit by the accused. She is not an eye witness of the occurrence. In the instant case, the only eye witnesses are the deceased and the accused, and the deceased has fully narrated the prosecution version in his statement Ex.PE/4 which is authenticated and has been proved by PW-

CRA-D-322-DB-2004 (O & M)

2025:PHHC:071341-DB



::21::

6/Sh. Mohinder Singh JMIC, Kaithal. Even otherwise, it is highly unlikely that Mohindero would depose against the accused who is her husband.

21. As a sequel to the aforementioned facts, once the dying declaration inspires confidence, then, it can certainly be relied upon to convict the accused.

22. The up-shot of the aforementioned discussion is that the commission of the offence stands duly established beyond reasonable doubt. Therefore, we find no merit in the present appeal and the same stands dismissed. The accused-appellant/Bachna Ram is directed to surrender before the Jail Authorities concerned to serve out his remaining sentence.

23. Information be given to the concerned quarters.

24. The pending applications, if any, shall stands disposed of accordingly.

**( GURVINDER SINGH GILL )  
JUDGE**

**26.05.2025**  
sukhpreet

**( JASJIT SINGH BEDI )  
JUDGE**

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No