



A STUDY ON THE LEGAL VALIDITY OF THE SUICIDAL NOTE

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1.1. Introduction

The World's largest democratic country's constitution is also the largest one in that. Supreme law of the land, constitution speaks about the function, people's rights, countries citizenship, law, and order, governmental functions, three organs of government, and everything, which all are essential to a nation. Our constitution gives enormous rights to citizens and non-citizens also, one of the fundamental rights is the right to life, it adds a unique feature to other fundamental right i.e., this right cannot be waived by a person so that this right to life is guaranteed by article 21 of Indian constitution does not include right to die. Section 309 of the Indian penal code clearly shows it. This article speaks in nutshell about the suicidal note's validity.

1.2. Objectives

- To understand what is suicide
- To differentiate dying declaration and a suicidal note
- Find the solution to suicidal notes validity issues
- To solve the problems in suicidal notes

1.3. Literature review

A Thematic Analysis of Suicide Notes, written by Rory C O'Connor, Noel P Sheehy, and Daryl B O'Connor, this research article focuses on the suicidal note, it analyses thematic analysis of suicidal notes with so many cases, mainly focusing on the reason for suicide with the suicidal note. This article analyses women's death to dowry death and domestic violence as the main reasons for suicide with the suicidal note (R. O'Connor, 1999).

The article Mysore study: A study of suicide notes, was research done in Mysore city, Department of Psychiatry, JSS Medical College and Hospital, JSS University, Mysore conducted this research. This is the research on 22 suicide notes, it mainly focuses on age, language, and sex ratio analysis on that suicidal note (P Namratha, 2015).

A paper resented on RECORDING OF DYING DECLARATION, by B. GAUTHAM PRASAD, 1st Additional District & Session Judge, Srikakulam. This gives an overall view of the dying declaration, manner of recording dying declaration, competency of record dying declaration, and relevant case law. It is a clear presentation of the dying declaration; it shares a knowledgeable idea of the dying declaration (PRASAD).

SCOPE OF DYING DECLARATION & ADMISSIBILITY OF SUICIDE NOTE UNDER SECTION 32 OF THE IEA written by PIYUSH KATYAL, SHRESTHA ROY (NATIONAL



LAW UNIVERSITY, ODISHA). This research article focuses essentials of dying declaration, valid dying declaration, evidence act analysis upon suicidal death, suicidal notes sole evidence validity, and a valid suicidal note concerning so many case law analyses

2.1. Suicidal note

A person killing himself or herself is called suicide for any reasons. It clearly shows suicide is a voluntary act, as well as it may induced by some other person. Even though it's a voluntary act, it is not happened out of willingness. Who are not able to handle a certain situation or who thinks that some situation can't be handled by themselves, at that time that person decides to self-homicide. Every crime is against the public, as per Indian Penal Code section 309 suicide attempt is a crime. The suicidal note is a note written by a deceased person which contains suicide-related matters or the cause of the suicide-related things, the suicidal note is one of the admissible types of evidence as per the Indian Evidence Act section 32. The maxim "Leterm Mortem" is the basic idea of the admissibility of a dying declaration, it means "whatever is said before the death", and it is commonly interchangeable with a dying declaration. The principle of "nemo mariturus presumuntur mentri" (Goyal, 2019) means that a man will not tell a lie while meeting his creator. The suicidal note has a similar value as a dying declaration. In *Mehiboobsab Abbasabi Nadaf v. State of Karnataka (Mehiboobsab Abbasabi Nadaf v/s State of Karnataka, 2007)* case stated the court of law must admit any statement made by the deceased, even in the form of suicide notes, as far as the declaration is free from any inconsistency or infirmity which might create a genuine question regarding its credibility.

2.2. Suicide is a crime

Indian penal code deals with the abetment of suicide in section 306 and attempt of suicide in section 309. Both these sections deal with suicide as a crime because they give punishment for attempting suicide, which may extend to two years. If an act wants to be a crime, it should cross 4 stages first intention, second preparation, third attempt, and fourth Commission of Crime or Accomplishment (writinglaw, n.d.), when an attempt has happened in some cases it is also crime like section 309 of Indian penal code, otherwise winning of the attempt is a crime it is punishable. Suicide is a social issue, it affects social order, social peace, and social stability, it impliedly affects many factors, and it leads encourages crime. So, in 1870 when the Indian Penal Code was enacted, this was inserted as a crime. Very recently in 2017, The Medical Health Care Act (Vasudevan Namboodiri, 2019) restrict section 309 of the Indian Penal Code, but still, it is criminal but it is not a punishable crime.

2.3. Dying Declaration

In the case of *Laxmi vs Om Prakash & Ors.* As stated, (*Smt. Laxmi vs Om Parkash & Ors, 2001*), at the time of making a statement, if the capacity of the person making the declaration is good then it is enough to convict the accused with this sole evidence. Dying Declaration is very much effective and credible evidence in the eyes of law, because based upon the general belief that most people who know that they are about to die "do not lie." So, this is the exception of hearsay evidence that is prohibited by law, but a dying declaration is acceptable whether it was taken by



the magistrate or not. Even the police have taken dying declaration also reliable it as stated in Dalip Singh And Ors. vs State Of Punjab this case (Dalip Singh And Ors. vs State Of Punjab, 1979). This declaration is a declaration made by a deceased person; it plays a major role in proceedings if it's admitted. At that time some essentials should be fulfilled to admit a dying declaration, In Smt. Laxmi vs Om Parkash & Ors (Smt. Laxmi vs Om Parkash & Ors, 2001) case court said that the deceased should be in a fit state of mind and capable of making a statement at that time of recording the dying declaration.

2.4 valid dying declaration

A valid dying declaration should record after the checking of the deceased person's state of mind and capability of making statements Smt. Laxmi vs Om Parkash & Ors, 2001 (Smt. Laxmi vs Om Parkash & Ors, 2001). A dying declaration when recorded by a Magistrate having proper authority has to follow a standard procedure Khushal Rao v. State of Bombay (Kushal Rao vs The State Of Bombay, 1957). Rule 33 of criminal rules of practice deals with the valid dying declaration, it states

1. Magistrate should disclose himself before getting a dying declaration
2. Magistrate should check the declarant's state of mind and capability of giving a declaration.
3. He can ask some basic questions to find the declarant state of mind
4. He should try recording the declarant words as much as possible.
5. After the declaration is made, it shall be read to the declarant and his sign obtained thereon, if possible.
6. He should also obtain whenever possible a certificate from the Medical Officer as to the mental condition of the declarant.
7. The Magistrate should try to obtain from the declarant the particulars necessary for the identification of the accused.

At that same time dying declaration will not be thrown away simply because of some small causes, it cannot be rejected merely because it was recorded in other languages than that deposed by the deceased stated in Ramesh, S/O Bisan Parteki vs The State Of Maharashtra (Ramesh, S/O Bisan Parteki vs The State Of Maharashtra, 2001). Although a dying declaration could not be rejected on the ground that in absence of any other person available it was recorded by a police officer as the deceased was in a critical condition, the dying declaration was left out of consideration as it contained a statement which was a bit doubtful. The court can reject a dying declaration merely because it was recorded by a police officer or recorded on other than declarant language. The statement cannot be held to be inadmissible only on the basis that the statement is in brief. Surajdeo Ojha & Ors. v. State of Bihar (Surajdeo Ojha And Ors. vs State Of Bihar, 1979).

2.5. constitutional provision



Indian Constitution guarantees many rights to people under part III. From article 12 to 32 guarantees so many rights to all and guarantees the negative of the rights like the right to speak includes the right to not speak, right to move includes the right to stay, but one of the fundamental rights is very much essential and play a major role to give the enormous right to people to get many rights with the help of court's interpretation, that is article 12 of Indian constitution, which guaranteed life and liberty of people. In *Bijoe Emmanuel & Ors vs State of Kerala & Ors* (*Bijoe Emmanuel & Ors vs State Of Kerala & Ors*, 1986), the supreme court held that the right to speak includes the right to remain silent, not only these all-fundamental rights have this feature but article 21 has not, as well as criminalized under section 309 of Indian Penal Code for attempt of suicide. In *Gian Kaur v State of Punjab* (*Smt. Gian Kaur vs The State Of Punjab*, 1996), the court stated right to life is not include the right to die, so as per the constitution provisions, the right to die wasn't given to peoples, but people has the right to lead a dignified life given by article 21, then why not die with the same dignity. In 2011, in *Aruna Ramchandra Shanbaug v. Union of India* (*Aruna Ramchandra Shanbaug vs Union Of India & Ors*, 2011), a writ petition was filed before the supreme court of India, to end his life from his suffering by removing artificial support which helps them to live long, the supreme court held that right to die with dignity is very well part of the right to life.

2.6. Other legal provisions

other than the Constitution Indian Penal Code, Indian Evidence Act, and the Mental Health Care Bill 2013 speaks about suicide. In the Indian penal Code section 309 attempts to suicide is a crime and it is a punishable crime that extends to two years. After the enactment of the Mental Health Care Act (Vasudevan Namboodiri, 2019), it makes decriminalized section 309 and create a duty to provide medical support to that person. On 24 February 2015, the Minister of State in the Ministry of Home Affairs, Haribhai Parathibhai Chaudhary, said that a proposal to delete Section 309 from the Indian Penal Code had been sent to the Legislative Department of the Ministry of Law and Justice for drawing up a draft Amendment Bill. In Indian Evidence Act section 32 deals with admission of dying declaration, it permits to admit dying declaration in sus section 1 which states, such statements are relevant whether the person who made them was or was not, at the time when they were made, under the expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question. This section gives a way to admit the dying declaration and suicidal note.

2.7. Suicidal note

The suicidal note is an important piece of evidence in such scenarios. Indian criminal justice system is not like English law, English law accepts a dying declaration only when a homicide has happened, but in Indian law as per the section 32(1) of Indian Evidence Act, such a statement is relevant when a person died and that statement on the cause of the death or related to any other which is the transaction of causing death, it should be made under the expectation of death. A dying declaration is not mandatory to be an oral statement to any person, it may be taken by even a police person also observed in *Bhagirath vs State Of Haryana*, 1996) (*Bhagirath vs State Of Haryana*, 1996). A dying declaration is a statement that is usually made orally or in writing by any person who died after making the statement that is related to the relevant fact and circumstances of his/her death stated in *Sant Gopal v. State of Uttar Pradesh* (*Sant Gopal Alias*



Bhagat (In Jail) vs State Of U.P., 1993). The Hon'ble Supreme Court of India in the case of Sharad Birdhi Chand Sardar vs State of Maharashtra (Sharad Birdhi Chand Sardar vs State Of Maharashtra, 1984), the court observed section 32(1) provides, it states, "the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question". Further several cases dealing with the scope of section 32(1), cases like Pakala Narayana Swamy v. Emperor (Pakala Narayana Swami vs Emperor, 1939) and the Locus Classicus of their own earlier judgment in Hanumant v. State of M.P (Hanumant vs The State Of Madhya Pradesh, 1952)²⁵, alongside considering the interpretation of S 32(1) Abide as made in Ratan Gond v. State of Bihar (Ratan Gond vs The State Of Bihar, 1958)²⁶ and other authorities present in the judicial system; the court clarified the language of Section 32(1) of the IEA. In the end, the very scope of the provision was widened with the main goal of providing justice to all the citizens of the country. It was observed that:

"(1) Section 32 is an exception to the rule of hearsay and makes admissible the statement of a person who dies. Whether the death is a homicide or a suicide, provided the statement relates to the cause of death or relates to circumstances leading to the death. In this respect, Indian Evidence Act, given the particular conditions of our society and the diverse nature and character of our people, has thought it necessary to widen the sphere of s.32 to avoid injustice." Sharad Birdhi Chand Sardar v. State of Maharashtra (Sharad Birdhi Chand Sardar vs State Of Maharashtra, 1984).

2.8. Validity of Suicidal Note

Like a deathbed statement, a suicide note cannot be explicitly acknowledged as the only piece of evidence supporting an accused person's conviction. The type of message that is written by the deceased in his or her final moments might differ depending on how well that person could have handled the situation. On the other hand, it is also necessary to examine the reality—or perhaps the gravity—of the circumstance that prompted the victim to act in such an extreme manner. Therefore, several conditions must be met before a statement may be considered acceptable under Section 32 of the IEA.

One of the most crucial requirements for the acceptance of a suicide note as a dying statement is the maker's excellent mental health. In *Laxmi v. Om Prakash & Ors.*, the Hon. Apex Court made the following observation: "If the court believes that at the time of making the statement, the person making the declaration's capacity about the facts and circumstances was impaired, or if there are some serious doubts regarding the maker being in a fit mental and physical state, the court may, without any corroborating evidence which gives the assurance to the authenticity of the statement, disregard the statement."

In *Rachana Ravindra Jain v. State of Gujarat and Others*, the court found that the deceased committed suicide as a result of the accused's mental torment. And the dead said in writing that the accused is the one who caused the death. Not even a week had passed when this message was written before the suicide. As a result, this suicide note might be seen as the deceased's deathbed declaration in which he or she named the accused and gave the court the information. Considering this finding, the court determined that the case did not qualify for an early complaint dismissal.



As a suicide note falls under the definition of a dying statement under the purview of Section 32(1) of the IEA, it may be claimed that a suicide note can also be used as evidence in court, as has been noted in multiple instances. However, when considering a suicide note as evidence, the court is far more conservative and cautious. This is because if there is a chance that the individual who committed suicide was weak-willed and just overreacted to circumstances that were not that serious, to begin with, a court cannot convict them based only on a suicide note.

2.9. conclusion

As a dying statement, a suicide note falls under the purview of Section 32(1) of the IEA. Both are almost identical but not quite. The court has always taken matters extremely seriously. Using suicide notes as the only proof. When a case is lodged with abetment, the main concern has always been whether a suicide note is admissible under Section 32 clause (1). as one of the charges, to commit suicide. The newest question before the Indian court is about using the suicide note as the only proof of guilt, despite the court's current position being extremely clear that section 32(1) of the law covers suicide deaths.

To address this issue, the court has established many criteria for the admission of suicide notes and dying pronouncements without any supporting evidence in several judgments. The mental state of the declarant, whether suicide was the deceased person's last option, and finally an examination of the connection between the accused's actions and the suicide are a few of the elements that go into convicting someone based only on a suicide note. India's criminal justice system. However, this list is not complete, thus it cannot be assumed that if all of these conditions are met, the accused would be found guilty. As with every other case in India's criminal justice system, the facts and circumstances of each case must be established beyond a reasonable doubt to condemn the accused.

Consequently, it can be concluded after discussing the technicalities and requirements on various grounds and factors that dying declarations and suicide notes may state the exact reason for the death, whether it was suicidal or homicidal; however, the truth in these statements cannot always be used as the way towards justice. However, if the court is pleased with its analysis and examination, it may convert the truth contained in the statement and recognize it as a step toward



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