



## CASE COMMENT: PAKALA NARAYAN SWAMI VS. EMPEROR (1939)

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### INTRODUCTION

The decision in *Pakala Narayana Swami v. Emperor*<sup>1</sup> is one of the most cited precedents in Indian evidence law, particularly for two reasons: first, its wide interpretation of what constitutes a "dying declaration" under Section 32(1) of the Indian Evidence Act<sup>2</sup>, and second, its strict interpretation of Section 162 of the Code of Criminal Procedure<sup>3</sup>. This case addressed fundamental questions: What constitutes a *dying declaration*? Can *police recorded statements* be used as evidence against an accused? What evidentiary weight does *circumstantial evidence* hold? At its core, the case involved a conviction for murder based purely on circumstantial evidence without eyewitnesses and heavily relied on a statement made by the deceased to his wife shortly before his death, as well as a statement made by the accused to the police during the investigation. Before this ruling, Indian courts held divergent views on both points. On dying declarations, some courts demanded a direct, death-imminent context to admit such statements, while others were more flexible. On police statements, there was confusion about whether statements made before arrest but during investigation could be admitted into evidence.

### FACTS OF THE CASE

- In March 1937, the body of one Kuree Nukaraju was discovered in a mutilated state inside a steel trunk left unclaimed in a third-class railway compartment at Pur. The body had been dismembered and packed in seven parts, leaving no doubt about the occurrence of a brutal murder. Initial investigations yielded no conclusive evidence, but the deceased was later identified by his widow.

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<sup>1</sup> [1939] 41 BOMLR 428

<sup>2</sup> Indian Evidence Act 1872

<sup>3</sup> Code of Criminal Procedure 1973

- He had previously served as a peon under the Dewan of Pithapur and was acquainted with the accused, Pakala Narayana Swami, whose wife was the daughter of the Dewan.
- Significantly, the deceased had lent a sum of approximately ₹3000 to the accused's wife in multiple transactions between 1936 and early 1937, as evidenced by over fifty promissory notes and letters. On March 20, 1937, the deceased received a letter-unsigned but believed to be from the accused's wife, asking him to come to Berhampur to collect the payment.
- According to his widow, the deceased had read the letter and expressed his intention to travel to Berhampur the next day. He was never seen alive again. On March 23, his body was found in the aforementioned trunk.
- Subsequently, the investigation turned toward the accused and his household. Several pieces of circumstantial evidence emerged: a trunk matching the one used to conceal the body was purchased by the accused's dhobi from a local shop on March 22; a jetka (horse cart) driver testified that he transported the accused and a similar trunk to the railway station on the morning of March 23. Witnesses also claimed to have seen the accused at the station that day.
- A statement allegedly made by the accused to the police on April 4, 1937, before his formal arrest contained details admitting the deceased's visit to his house and his journey to the railway station. The defence contested the admissibility of this statement under Section 162 of the CrPC<sup>4</sup> and Section 25 of the Evidence Act<sup>5</sup>.

## ISSUES RAISED

1. Whether the deceased's statement to his widow was admissible under Section 32(1) of the Indian Evidence Act, 1872.
2. Whether the statement made by the accused to the police before arrest was admissible under Section 162 of the Code of Criminal Procedure, 1973.
3. Whether the cumulative evidence was sufficient to uphold the conviction.

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<sup>4</sup> Criminal Procedure Code 1973

<sup>5</sup> Supra note 2

## ARGUMENTS OF PETITIONER

- The defence argued that the statement made by the deceased to his wife on March 20 did not qualify as a "*dying declaration*" since it was made days before the death and at a time when the deceased was under no apprehension of imminent death.
- The appellant challenged the use of his pre-arrest police statement as evidence, contending that it was recorded during investigation and was hence inadmissible under Section 162 of CrPC as the term 'any person' encompasses the accused.
- The defence pointed out the absence of eyewitnesses and stressed that the conviction was solely based on circumstantial evidence. They argued that the evidence was not compelling enough to exclude other hypotheses consistent with innocence.
- Statements made by the appellant to the police during custody do not qualify as a confession under Section 25 of the Evidence Act and are therefore inadmissible.
- The dhobi and jetka driver were unreliable and inconsistent, particularly regarding the dates and timeline of the events.

## ARGUMENTS OF RESPONDENT

- The prosecution maintained that the chain of events--from the letter received by the deceased, his departure for Berhampur, the purchase of the trunk, and the accused's presence at the station-- created an unbroken chain pointing to the accused's guilt.
- The wife's statements, considered as dying declarations under Section 32 of the Indian Evidence Act, are admissible because they were made in circumstances leading to the deceased's journey to Behrampur, where he met his demise.
- The prosecution contended that even without the accused's police statement, the circumstantial evidence was strong enough to secure a conviction. The evidence included the purchase and use of the trunk, transport of the trunk to the station, and the accused's proximity to the trunk on the day it was found.
- The discovery of clothes with blood spots is admissible under Section 27 of the Evidence Act.

- Statements made by the accused do not fall within the purview of Section 162 of the CRPC.

## DECISION AND RATIONALE

The Privy Council in *Pakala Narayana Swami vs. King-Emperor* rendered its opinion, asserting that the statement provided by the accused was a mixture of confession and an attempt to explain his innocence. The Court ruled that the deceased's statement to his wife was admissible as a dying declaration. It held that Section 32(1) covered not just statements made in *immediate anticipation of death* but also those describing circumstances directly related to the fatal incident. The deceased's declaration that he was going to Berhampur to collect money was seen as part of the transaction that led to his death. "Circumstances of the transaction" is a phrase, no doubt, that conveys some limitations. It is not as broad as the analogous use in "circumstantial evidence", which includes evidence of all relevant facts. It will be observed that "the circumstances of the transaction which resulted in the death of the declarant. There doesn't need to be a known transaction other than that the death of the declarant has ultimately been caused, for the condition for the admissibility of the evidence is that the cause of the declarant's death comes into question. The transaction is one in which the deceased was murdered on March 21 or March 22, and his body was found in a trunk proven to have been bought on behalf of the accused.<sup>6</sup> The accused's police statement, made before his arrest, was held to be inadmissible under Section 162, which bars the use of any statement made to a police officer during investigation unless recorded under Section 164 before a magistrate. Despite the exclusion of the police statement, the Privy Council found the circumstantial evidence sufficient for conviction. The sequence of events, including the invitation, the deceased's travel, the purchase and transport of the trunk, and the accused's unexplained conduct, was found to create an unbroken chain pointing to the guilt of the accused person.

## ANALYSIS OF THE JUDGMENT

Before this case, dying declarations were narrowly interpreted as the final words of a person on their deathbed.<sup>7</sup> The Privy Council's interpretation brought flexibility to this doctrine by allowing statements not directly anticipating death, but still forming part of the narrative

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<sup>6</sup> *Pakala Narayana Swami vs. Emperor* [1939]

<sup>7</sup> *Queen Empress vs. Abdullah*, ILR [1885] 7 All 385

leading to it. The Court held that Section 32(1) of the Indian Evidence Act was not limited to deathbed declarations. It included any statement "as to the cause of death or circumstances of the transaction" which resulted in death, regardless of whether the declarant was under the expectation of death.

At the time, there was a split among the Indian High Court; some allowed statements made to police before arrest to be admitted. The Privy Council overruled this lenient approach and held that any statement made to the police during an investigation, regardless of whether the person was formally an accused at that point, is inadmissible unless recorded under judicial supervision, preventing police misuse, manipulation, or coercion of suspects during informal custodial interrogations.<sup>8</sup> The ruling clarified that circumstantial evidence, if forming a complete and consistent chain, is sufficient for conviction. The absence of direct evidence is not fatal to the prosecution if the circumstantial evidence points unerringly to the accused. The circumstantial evidence must point "only to the guilt of the accused" and be inconsistent with any other reasonable hypothesis<sup>9</sup>. This decision laid the groundwork for later cases like *Sharad Birdhichand Sarda v. State of Maharashtra (1984)*,<sup>10</sup> where the Supreme Court formulated the "five golden principles" for circumstantial evidence.

The judgment clarified what constitutes a "confession" and what does not:

- A confession, by definition, either expressly admits to the offence or, at the very least, substantially admits all the facts constituting the offence.
- <sup>11</sup>An admission of gravely incriminating facts, even if not conclusively incriminating, cannot be classified as a confession.
- A statement containing self-explanatory matter cannot qualify as a confession; it must either be accepted in its entirety or rejected.<sup>12</sup>

## CONCLUSION

Pakala Narayana Swami v. Emperor remains a touchstone in Indian criminal law. It reshaped the understanding of dying declarations and affirmed the importance of procedural integrity

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<sup>8</sup> Khatri vs. State of Bihar, [1981] 1 SCC 627

<sup>9</sup> Bhogilal Chunilal Pandya vs. State of Bombay, AIR 1959 SC 356

<sup>10</sup> 1984 AIR 1622, 1985 SCR (1) 88

<sup>11</sup> State of Uttar Pradesh vs. Deoman Upadhyay, AIR 1960 SC 1125

<sup>12</sup> <https://lawbhoomi.com/pakala-narayana-swami-v-king-emperor/> > accessed on 13 June 2025

by limiting the admissibility of police statements. The Privy Council's thorough examination of facts and interpretation of law serves as a model of judicial reasoning, balancing the goals of justice and the rights of the accused. This case demonstrates that procedural correctness and substantive justice are not mutually exclusive but are complementary pillars of a fair legal system clarifying that a "confession" made to a police officer or in police custody is inadmissible, but a dying declaration, if made in anticipation of death and relating directly to the cause of death, is valid under Section 32(1). The ruling significantly shaped the understanding of what constitutes a confession and the evidentiary value of dying declarations in criminal trials, ensuring a clearer balance between the rights of the accused and the pursuit of justice.