

(1973) 07 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 575 of 1973

Joginder Singh alias Naginder Singh

APPELLANT

Vs

The Punjab State

RESPONDENT

Date of Decision : 30-07-1973

Acts Referred:

Citation : (1973) 07 P&H CK 0004

Hon'ble Judges : M.R. Sharma, J

Bench : Single Bench

Advocate : D.S. Kang, for the Appellant; K.R. Chaudhri, for Advocate-General, Punjab, for the Respondent

Final Decision : Allowed

Judgement

M.R. Sharma, J.—This revision petition is directed against the order dated 29th May, 1973, passed by the learned Chief Judicial Magistrate, Ludhiana, whereby he declined the request of the petitioner regarding the holding of an identification parade. The learned Additional Sessions Judge did not recommend this revision. On behalf of the prosecution it has been submitted that since the accused was known to the prosecution witnesses, therefore, it was not necessary to hold an identification parade. I fail to understand how a request made on behalf of the accused person can be declined on a ground like this. Had it been within the powers of the police and the magistracy, to control the defence evidence which the accused wanted to lead, then Perhaps no person standing trial in a criminal Court could get justice. This is a case in which the accused says that he has been wrongly involved in the case and the eye witnesses cannot possibly identify him. The prosecution has come forth with the plea that identification need not be held because the prosecution witnesses already knew him. If the prosecution witnesses already knew the petitioner and they were unable to identify him in an identification parade, then there would be greater reason for discarding the testimony of such witnesses. Denial of this right to the petitioner tantamounts to stopping him from setting up a defence which he wants to set up in a criminal

case it is against the elementary principles of criminal law. The order passed by the learned Chief judicial Magistrate cannot be allowed to stand. I, therefore, allow this petition and direct the learned trial Magistrate to have the identification parade of the accused conducted expeditiously preferably within fifteen days of the receipt of this order. The learned counsel for the petitioner requests that till such time as the identification parade is conducted, the petitioner should not be taken out of the jail. Let it be so done.