
(1985) 05 AHC CK 0087
In the Allahabad High Court
Case No : Criminal Revision No. 458 of 1985

Ramesh and Others

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 21-05-1985

Acts Referred:

Evidence Act, 1872 — Section 9
Penal Code, 1860 (IPC) — Section 201, 302

Citation : (1985) ACR 496

Hon'ble Judges : N.N. Sharma, J

Bench : Single Bench

Advocate : J.N. Chaturvedi, for the Appellant; S.C. Srivastava and AGA, for the Respondent

Final Decision : Dismissed

Judgement

N.N. Sharma, J.—This revision is directed against the order dated 27-2-85 recorded by Sri. U.S. Gupta, learned Sessions Judge, Bareilly in Criminal Revision No. 28 of 1985 by which the learned Judge allowed the revision and set aside the order of learned Chief Judicial Magistrate, Bareilly, Sri Om Prakash Misra dated 10-1-1985 by which the revisionists were ordered to be put up for identification in District Jail Bareilly in connection with the crime committed in Pilibhit u/s 302/201, IPC.

2. It appears that revisionists Ramesh and Suresh are residents of district Bareilly but revisionist Sukhpal is resident of district Shahjahanpur. All the revisionists were in district jail Bareilly in connection with their trials in Bareilly district under various counts.

3. As the revisionists are wanted in criminal case under Sections 302/201 IPC of P.S. Kotwali Pilibhit and a warrant B was received for their transfer to Pilibhit Jail for the purpose of test identification parade, the revisionists moved an application before the learned Chief Judicial Magistrate, Bareilly to direct the police of Pilibhit to conduct their test identification parade in Bareilly District Jail

and not to transfer them to District Jail Pilibhit to allay their apprehension that in transit they would be shown to identifiers as was done in the case of co-accused Hiralal. The learned Magistrate accepted the prayer of the revisionists as just and fair and so recorded the order which was reversed in revision by learned Sessions Judge on the ground that it was not for the Chief Judicial Magistrate, Bareilly to direct the Investigating agency Pilibhit to conduct the test identification parade in Bareilly jail and not in Pilibhit. It was exclusive outlook of Investigating Agency to decide the matter.

4. I have heard learned Counsel for the parties and considered over the matter.

5. On behalf of the revisionists it was argued that the Investigating Agency should not feel shy in arranging the test identification parade in District jail Bareilly to allay such apprehension of the revisionists. It was in consonance with the principles of fair play and justice that the revision of the revisionists should be allowed.

6. On behalf of the State it was pointed out that the revisionists were hardened Criminals and the safety of identifiers shall be in danger if they were escorted even by the police from Pilibhit to Bareilly jail in connection with the test identification parade.

7. A mere look at Chapter XII of the Code of Criminal Procedure (Act No. 2 of 1974) and Section 9 of Indian Evidence Act shall go to disclose that there is no provision in the Code which entitles an accused to demand that an identification parade should be held at or before enquiry or the trial. An identification parade belongs to the stage of investigation by the police. Identification parades are held not for the purpose of giving defence advocates material to work on, but in order to satisfy the Investigation Officer of the bonaides of the prosecution witnesses. The accused are not entitled as of right to demand that an identification should be held by the witnesses at places mentioned by them vide *In Re. Sangiah* 49 CriLJ 89 at pages 90-91. The statements of identifiers at the test identification parade are not substantive evidence at the trial. Such statements have got corroborative value. Substantive evidence is the evidence of the witnesses examined in the Court at the stage of trial only. Identification proceedings provide corroborative circumstances only to add cogency to the testimony of such a witness examined at the trial. If a witness unknown to the accused picks him up for the first time at the trial stage only but failed to pick him up at the earlier test identification parade, credibility of his testimony shall loose weight while the testimony of a witness consistently picking up an accused both at the stage of trial and earlier at the stage of identification parade shall be trustworthy.

8. This point is not *res integra*. In *Kailash Chandra v. State* 1967 AWR (H.C.) 419 Criminal Misc. Case No. 3259 of 1964 decided on 8-2-1965 it was held that an accused had no right to demand his identification much less a right to demand that identification should be held at a particular place. This view was affirmed by

a Division Bench of this Court in The State Vs. Raghuraj Singh, .

9. I am bound by the said authority.

10. In this view of the matter the revision is dismissed. Interim order dated 14-3-1985 is vacated.

Revision dismissed.