

TEST IDENTIFICATION PARADE

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The role of the witness is very important in establishing the identity of the accused. One of the methods of establishing the identity is "Test Identification Parade" required

Under Section 9 of Indian Evidence Act. The idea of the parade is to test the veracity of the witness on the question of his capability to identify from among several persons, an unknown person whom the witness had seen in the context of an offence.

When a witness says that he can identify accused persons or others connected with the case under investigation, the Investigating Officer shall record in the case diary their description in detail, noting the following points:-

- (a). their descriptions;
- (b). the extent of prevailing light at the time of the offence (daylight, moonlight, flashing of torches, burning kerosene, electric or gas lights, etc.);
- (c). details of opportunities of seeing the accused at the time of the offence; anything outstanding in the features or conduct of the accused which impressed him (identifier);
- (d). distance from which he saw the accused; and
- (e). the extent of time during which he saw the accused.

When a parade has to be held for the identification of a person or persons by a witness such person or persons shall be carefully kept out of the view of the witnesses, and mingled with a considerable number of other persons of a like class.

Identification parades shall be conducted by a Judicial Magistrate at the Jail as far as possible. While making arrangements for the parade, the Police Officers should completely efface themselves,

leaving it to the Magistrate to conduct the actual identification proceedings.

The accused should as far as possible be mingled with persons of similar description, status, build and age in the proportion of a minimum of 1:5 and a maximum of 1:10, and they must be made to take their positions along with the persons with whom they are mingled up in a line. They should not be made to stand together. The Magistrate or other persons conducting the parade should satisfy himself or themselves that no Police Officer takes part in the actual identification proceedings, that witnesses are kept out of view from the premises where the parade is taking place and that it is not possible to communicate with them by signals or other communications. Witnesses should then be called in, one by one, and they should be asked to go round the persons assembled for the parade and point out the accused, if any. If the identification is held by a Magistrate the proceedings should be drawn up and signed by him. Statements made by the identifying witness during the identification parade should be recorded in the proceedings. Even if a witness makes a mistake, it should be recorded. In short, the proceedings must contain a complete record of all that takes place in the identification parade. After the identification by one witness is over, care should be taken to see that the witness does not mingle or communicate with the other witnesses for whom identification parade is yet to be conducted or other outside persons and the whole parade will be reshuffled and the accused made to take different positions. If the accused so desire, they should be allowed to change their dress also. The same procedure will be repeated in the case of other witnesses also. Any well-founded objection by any accused during the identification parade should be recorded. After the completion of the identification parade and the drawing up of the proceedings, a certificate must be appended as follows and signed by the Magistrate who conducted the Test Identification Parade.

- (1). "I, the undersigned, took all necessary precautions, and am satisfied that no police Officer was present at any time of the proceedings, when the parade was held.
- (2) No opportunity was given to the witnesses to see or know about the proceedings of the parade." The proceedings of an identification parade cannot be used as evidence against accused persons, unless the Magistrate who recorded it has been called as a witness.

Since the identification parade is held in the Jail, the following should be ensured:-

- (1). the Jailor on admission of the suspect should be informed of the coming identifications;
- (2). the Jailor should prohibit any change in the appearance of the prisoner from that in which he was admitted to jail, e.g., beard not to be shaven or grown and the same clothes to be worn as at the time of the entry;
- (3). the conducting officer should keep a detailed record of the proceedings;
- (4). if any person injured and admitted into a hospital is an in-patient, the Investigating Officer should ascertain in writing from the concerned medical authority whether the injured is in a fit condition to identify his assailants;
- (5). if the medical authority certifies that the injured is in a fit condition to be present at parade and also to identify, the Investigating Officer should arrange for the identification parade without any loss of time;
- (6). if, for such parade, the injured cannot be taken near a Police Station, court or such other place, the parade should be held in the premises of the hospital itself;
- (7). if, on the contrary, the concerned medical authority certifies that the injured is not in a fit condition to be present at a parade and identify his assailants, the Investigating Officer should wait till such time as may be necessary and only after the medical authority issues the necessary certificates, arrange for the parade; and
- (8). if the injured is certified to be not fit to be present at a

parade and to identify his assailants and the parade therefore, cannot be held, evidence should specifically be adduced in the court explaining all the reasons why the parade could not be held.

SALIENT POINTS TO BE REMEMBERED

The following are the salient points to be borne in mind by Police Officers arranging identification parades:-

- (1). Warn the accused person that he will be put up for a parade and he could keep himself veiled;
- (2). Secure the services of a Magistrate for holding an identification parade; If this is not possible, secure two or more respectable and independent persons of the locality to hold the parade; do not select persons already known to the identifying witnesses to stand along with the suspects in the parade; arrange for the identification parade immediately an accused is arrested. There should be no delay.
- (3). when one accused is arrested in a case in which more than one accused is required to be identified, do not postpone the parade of the arrested accused, till the others are secured. As each accused is arrested, go on arranging for the parade.
- (4). other persons participating in the parade should be of the same build, age, dress and appearance as the suspects;
- (5). maintain a minimum proportion of 1;5 and a maximum proportion of 1;10, distribute the accused among others. They should not be made to stand together;
- (6). keep the accused out of the view of the witnesses and take precautions to prevent their being seen by others from the time of their arrest, if they are to be put up for identification parade subsequently;
- (7). shuffle the persons in the parade after identification by each witness and make a record of having done so in the proceedings;
- (8). in respect of each accused persons are required to be identified, the innocent persons mixed up with one accused at one parade, should not be mixed up with another accused at a second parade. They should be changed, with every change of an accused person.

IDENTIFICATION BY PHOTOGRAPHS

- (1). Photographs of certain classes of criminals are maintained in the District Crime Record Bureau and the Police Stations (History Sheets) Photographs exist also for dossier criminals. Witnesses may be shown the photographs and asked to identify. In cases where criminals are identified through photographs, a regular identification parade should also be held after the apprehension of the accused.
- (2). When identification is sought to be made through photographs, single and individual photographs should not be shown to witnesses. Photographs of as many persons as possible, among which should be the suspect's photograph, should be shown to the witness, who should be asked to pick out from among them the suspect's photograph, if it is there.

Note:

It shall be ensured that the photograph of the accused who is to be identified is not published in the print media, nor exhibited in the electronic media before the conduct of the Test Identification Parade. (TIP).

IDENTIFICATION THROUGH FINGER AND FOOT IMPRESSIONS

Identification can also be established from finger impressions left on the scene. Finger impressions found on the scene can be developed and tested to find out whether they tally with those of the suspected persons or not. Foot impressions left on the scene can also be lifted and compared later with foot impressions of the suspects.

PREVIOUS CONVICTION OR ACQUITTAL, HOW PROVED

As prescribed by Section 298 of the Cr.P.C. a previous acquittal can be proved by a certified extract from the court record and the previous conviction either by such extract or by a certificate from the jailor or the warrant of commitment together with evidence in each of such cases, as to the identity of the accused persons with the person so acquitted or convicted.

IDENTIFICATION OF PROPERTY

- (1) During investigations it may sometimes be necessary to conduct test identifications of articles involved in criminal cases.
- (2) It should be noted that –
 - (a) a test identification of properties which do not bear any special marks of identification is of immense value in enhancing the credibility of identification evidence in court; and
 - (b) a test identification of properties which bear definite marks of identification is not necessary.
- (3) When a witness states that he can identify properties connected with a case under investigation, the following should be ascertained:-
 - (a). their descriptions and other marks of identification,
 - (b). the circumstances under which he had previously seen them,
 - (c). the several occasions during which he had previously handled them, and
 - (d). any other relevant circumstances,

The following procedure should be followed in holding a test identification of property;

- (1). Ascertain and record whether or not at the time of the sale, there was any bargaining.

Note:

The purchase of the property at a much lower price than its market price on the relevant day without any bargaining will be indicative of the receiver's intention and of the nature of the transaction.

- (2). The date, time and place of such transactions should be clearly ascertained and recorded in the case diary.

Note:

- (i). The date will help to establish the interval between the date of theft and date of sale.
- (ii). If the time and place of the transaction are unusual, they will help to establish that the transaction was not bonafide.

(3) Make a clear record in the case diary, of the following:

- (a). the nature of the article
- (b). age of the seller,
- (c). his status in life
- (d). his social group,
- (e). age of the receiver,
- (f). his status in life

Note::

- (i). These circumstances will again help to establish that the transaction was not bonofide but dishonest.
- (ii). Remember that the sale of a valuable article by an ordinary person which is beyond his means or of a jewel not worn by the members belonging to his social group, is an indication to the receiver that the seller has come by it by dishonest means.
- (iii). There is a similar indication when an young boy sells a valuable article

(4). Make a clear record in the case diary and the search list of the places from which and how the stolen property was recovered. Evidence that the stolen property was buried under ground or was concealed in the walls or secreted in back yards or houses, etc., will help to establish the receiver's belief as to the nature of the property.

(5). During the investigation, please do not fail to collect evidence about the previous and subsequent conduct of the receiver especially on the following points;

his expression of anxiety –

- (i). before the search of his house
- (ii). at the time of the search, and
- (iii). after the search;

When questioned by you about the stolen property, his attempts –

- (i). to remove such property,
- (ii). to gain time to do away with it,
- (iii). to prevent or obstruct you from making a search and Recovering it,
- (iv). to refuse to open the door of his house to facilitate search,
- (v). to refuse to produce the key of a box or safe from which stolen property is subsequently recovered,

- (vi). to run away with the stolen property,
 - (vii). to eradicate identification marks, and
 - (viii). to tamper with the form of stolen articles.
- (6). If the receiver has already done or got done any of the acts described in (vi) to (viii) of sub Clause (b) of clause -5, collect evidence of witnesses to prove such acts
- (7). Attempt to collect evidence about
- (i). the display of the seller's anxiety in the presence of the receiver to get rid of the property by some means or the other; and
 - (ii). his conduct in the presence of the receiver to avoid being seen with the property and others.

Note:

Such conduct on the part of the seller gives indication to the receiver of the nature of property received by him.

- (8). Collect evidence of previous convictions of the receiver for receiving stolen property.

Note:

Such conviction will be helpful to prove the state of mind of the receiver in his trial.

VERIFICATION OF DESCRIPTION GIVEN IN THE CASE DIARY

- (9). After the identification parade of person or property is held, proceedings are drawn up and received by the Investigating Officer, it should be verified and ensured that description of such identified person or property tallies with the description recorded in the case diary.

Note:

The Investigating Officer should remember that the Magistrate who recorded the Identification Parade of the accused person (s) is cited as a witness in the memo of evidence to speak about the conduct of the Identification Parade and to mark the report of the parade.

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