

Between Memory and Proof: The Evidentiary Significance of Test Identification Parades in India

Author¹

¹Dr. Sidhartha Sekhar Dash, Associate Professor, School of Law,
KIIT Deemed to be University, Patia, Bhubaneswar, Odisha, 751024.
sidharthadash.1981@gmail.com

Abstract

The Test Identification Parade (T.I. Parade) is a long-standing investigative device used in Indian criminal procedure to test whether a witness who claims to have seen an offender can identify that person from among a group of similarly placed individuals. Although neither the Indian Evidence Act, 1872, nor the Code of Criminal Procedure, 1973, expressly mandates such a parade, the practice has acquired statutory support through Section 9 of the Evidence Act and Section 54A of the CrPC, and has been extensively shaped by Supreme Court jurisprudence. This article examines the legal framework, purpose, and evidentiary character of the T.I. Parade in India, with particular attention to the settled judicial position that identification made during a parade is corroborative rather than substantive evidence, serving only to support a witness's later identification of the accused in court. Drawing on landmark rulings — including *State of Andhra Pradesh v. K. Venkata Reddy*, *Santokh Singh v. Izhar Hussain*, *Heera v. State of Rajasthan*, *Rajesh v. State of Haryana*, *P. Sasikumar v. State*, and a 2025 Supreme Court ruling on the necessity of examining identifying witnesses at trial — the article traces the circumstances in which the parade is unnecessary, the consequences of an accused's refusal to participate, and the situations in which the parade loses evidentiary value altogether. It concludes that the T.I. Parade functions as a procedural safeguard bridging the uncertainty of eyewitness recollection and the solemnity of courtroom identification, rather than as freestanding proof of guilt.

Introduction: One of the most basic facts that the prosecution must prove in a criminal case is the identity of the accused. The identification is the first step, before a court can convict a person of an offence, it must be satisfied beyond reasonable doubt that the person in the dock is actually the person who committed the act complained of. When the accused is a stranger to the witnesses (the witness didn't know the accused before the crime), the issue of identity is particularly sensitive because human memory is notoriously unreliable when it comes to brief encounters with strangers. In this background, Indian criminal procedure has evolved a testing device, known as “Test Identification Parade” or “T.I. Parade” (as it is usually abbreviated) at the investigation stage that tests whether a witness who claims to have seen the offender can, in fact, pick out the offender from a group of similar looking persons.

The T.I. Parade has been a staple of police investigation practice in India for long but the evidentiary status has been a topic of ongoing judicial clarification. The courts in India have consistently held that the parade is only procedural and does not constitute substantive evidence on which a conviction can be founded. Instead, it serves a corroborative and confirmatory purpose and can help the investigating agency determine if they have the correct target in their sights and can help the court, later on, evaluate the reliability of a witness identification in court. This article looks at the law behind T.I.

Parades in India, their purpose, the evidentiary nature of T.I. parade as evolved through judicial interpretations, the rights of the accused in regard to such a parade and the new criminal law statutes enacted in 2023.

Concept and meaning of Test Identification Parade: A Test Identification Parade is a process whereby a witness who says that he or she saw an accused when an offence was committed is asked to identify the accused from a group of other people who are of a similar appearance to the accused and to whom no clues or hints are given. The basic reason is very comprehensible: a witness who in principle has seen the perpetrator of a crime should be able to see him again in a group of people who are not the person he is looking for. Thus, the parade is a test of power of observation and memory and of reliability of the ability of the witness to find a particular person, who is unknown to him or her, in a crowd of several people, whom the witness has seen in connection with an offence.

Here it is important to note that a T.I. Parade is meaningful only in the situation where the accused was not known to the witness before the offence. Where the accused and the witness are already acquainted to each other (as neighbour, relative or acquaintance), then ordinarily no parade is required because the identification by the witness does not rely on a first impression and therefore such identification does not require testing (State of H.P. v. Prem Chand, 2002, at Slideshare, n.d.).

The Statutory Framework to govern T.I. Parades : Surprisingly, there is no law in the Indian Evidence Act, 1872 or even in the Code of Criminal Procedure, 1973 (CrPC) that explicitly requires the holding of a T.I. Parade, nor does there exist a detailed procedure that has to be followed during a T.I. Parade. The Test Identification Parade is not as such provided for as a separate category of evidence; rather, it is a procedure that has developed as a part of the investigation, and has been given judicial notice and procedure over the years.

There are two provisions that are usually regarded as the statutory basis for the practice:

The facts or circumstances which are relevant for the purpose of explaining or introducing a fact in issue or a relevant fact are covered by Section 9 of the Indian Evidence Act, 1872, and expressly relevant facts which establish the identity of a person whose identity is in question are covered by the said section. The Indian Evidence Act, 1872, provides in Section 9 that the identification of the proper accused and of properties and admissible and relevant facts in a court of law but does not provide anything specific to the effect that the investigating officer should produce the suspect for the identification parade. This section is what lends evidentiary value to identification evidence, in general, whether it occurs at a pre-trial parade or in court.

The procedural gap mentioned above has been plugged by the introduction of Section 54A in the Code of Criminal Procedure, 1973 by the Code of Criminal Procedure (Amendment) Act, 2005. It provides that if a person is arrested on a charge of committing an offence, and it is considered necessary for the purposes of investigation that he be identified by any person or persons, the court having jurisdiction may, on the request of

officer in-charge of a police station, direct him to do so in such manner as the court may think fit. However, there is no provision in the Code of Criminal Procedure to enable an investigation agency to hold a parade, and to give the accused a right to demand a parade is to give him the very same right that is given to the investigating officer.

Section 162 of the CrPC also impinges upon T.I. Parades as the record of identification made by a witness before a police officer during investigation is considered to be a statement recorded during investigation and is thus subject to the restrictions laid down in that section upon the use of a statement recorded during investigation at the trial.

This framework has been materially re-enacted but not changed with the introduction of the new criminal law statutes in India in 2024. Now, Section 54A of the Code of Criminal Procedure, 1973 has been changed to Section 54 of Bharatiya Nagarik Suraksha Sanhita, 2023 and Section 9 of the Indian Evidence Act, 1872 has been changed to Section 7 of Bharatiya Sakshya Adhiniyam, 2023. This legislative continuity, commentators have noted, suggests that the courts are planning on continuing to treat the parade as what it always has been: a corroborative investigative tool as opposed to substantive evidence, and the identification of the accused in front of the court as primary evidence.

Identifying a Test ID Parade is used to determine the ID of a test: The T.I. Parade has two purposes, which are complementary and have been restated by the Supreme Court of India time and time again. First, it has an investigative role: the investigating agency can be satisfied that it has captured the person who committed the offence and not someone else, to make its investigation to the right person and to avoid the risk that it might be investigating the wrong person. Secondly, it is for evidentiary purposes at trial – it documents the witness's capacity to identify the accused at the time of the offence, and may be used to test and prove the value of the witness's identification of the accused in court.

The explanation of this dual purpose was given by Justice Arijit Pasayat in *Heera v. State of Rajasthan* (2007) when the Supreme Court noted that a parade is a test and it is desirable that the parade should be held as soon as possible after the arrest of the accused so that there is no doubt in the mind of the witness that the accused was shown to him before the parade or that the identification of the accused was tutored or suggested by some person, to raise a common defence. The Court noted that identification proceedings are tests in nature and there is no particular provision for them in the Code or the Evidence Act, and that delay, if not on its part, would not be fatal. This reasoning reinforces the importance of promptness as a key element to the reliability of the exercise: the more time that passes between the offence and the parade, the more likely it is that the parade will be inaccurate because the witness' memory of the event has eroded or outside information has affected the witness' recollection.

Likewise, courts have found that the parade serves the interests of the accused. A parade is a better method to avoid a “one-man show-up” because it allows the witness to identify the accused from a group of similar people, and gives the accused a chance to prove, in the presence of independent panch witnesses and a neutral Magistrate, that the identification was fair and free from police influence.

Not Substantive Character of T.I Parade Evidence and Corroborative: The single most important proposition laid down by the Indian case law on the point is that identification at a T.I. Parade is not substantive evidence of guilt, but at best it is corroborative evidence which bolsters the identification which the witness gives in the witness box during the trial. The difference between these two kinds of identification and the strength of the evidence has been pointed out by the Supreme Court in its various decisions.

The Supreme Court in *State of Andhra Pradesh v. K. Venkata Reddy* (1976) held that the evidence of a witness, recorded in the court, constitutes substantive evidence while the evidence of identification of the witness at a Test Identification Parade is only corroborative evidence. The practical effect of this holding is very important: a conviction cannot be based on a witness's identification of the defendant at a T.I. Parade, it must also be an identification of the defendant in the dock at the trial itself, and this is the operative identification. It is the in-court identification which is crucial, and the prior out-of-court identification is only a check on the reliability of that later identification, to test the witness's power to recognise the accused, and to do so at a time closer to the time the offence was committed.

This was again reiterated in *Santokh Singh v. Izhar Hussain* (1973) where the Supreme Court ruled that identification made during a parade could be used solely to corroborate the identification made in court and that it was only when the accused were not already known to the witnesses that an identification parade became necessary. In that case, the Court also gave its reasons for the exercise, explaining that the purpose of holding an identification parade at the investigation stage is to test the memory of the witnesses based on their initial impression and to enable the prosecution to determine whether all or any of them can be called as an eye-witness to the crime.

Corroboratory Value of T.I Parade: The T.I. Parade result is merely corroboratory, meaning logically the result of the T.I. Parade is not treated as a second source of proof as the same witness identified the accused in the parade, which are the same accused also identified in court, so there is no evidentiary value in the mere repetition. True corroborative force is found only when the parade identification and the identification by the court are looked upon as evidence of the accuracy and reliability of the witness' recollection from one time to another and not as evidence carefully distinguished, and mutually cumulative.

Another consequence of this doctrine is that a failure to identify in court (although the identification was successful at the T. I. Parade) is usually devastating to a witness' identification evidence. The Supreme Court in *Mahabir v. State of Delhi*, 2008, made it clear that if the witness fails to recognise the accused in the court, even though it was the same accused which the witness recognised in Test Identification Parade, then no conviction could be awarded based on the identification in the Test Identification Parade (Legal Service India, n.d.-b, citing *Mahabir v. State of Delhi*, 2008).

When not a T.I. Parade is required: Indian courts have always ruled that a parade is redundant if the witness already knew the accused prior to the offence and that it does

not harm the prosecution's case to dispense with a parade in such circumstances. The Supreme Court in the case of *State of H.P. v. Prem Chand* (2002) ruled that there was no need to conduct Test Identification Parade where the witness had already seen the accused and was able to identify him/her in court without the aid of such a parade (Slideshare, n.d., citing *State of H.P. v. Prem Chand*, 2002). Where this occurs, the witness's familiarity with the accused, based on a prior relationship or on repeated prior sightings, obviates the need for a parade and the in-court identification is independent and may be used as substantive evidence in the trial.

Similarly, courts have ruled that even if a parade is never conducted at all, first time identification by a witness in court is not an automatic bar to its use and a witness is held to be acceptable for first time identification even if otherwise found untrustworthy, on taking into account the circumstances of the case as a matter of prudence, a court proceeds with caution when a witness identifies for the first time in court, especially if he is a stranger to the accused (Legal Service India, n.d.-b).

Refusal by Accused to Participate: One of the problems which frequently arises in practice is the effect of an accused's refusal to join a T.I. Parade. The Supreme Court answered this question in *Rajesh & Anr. v. State of Haryana* (2020), by pronouncing that the mere failure of the accused to avail a trial identification parade could not be treated as a ground for conviction. The Court stated that the reason for the parade is to provide an identification of the accused and that a failure of the accused to take part in an identification parade does not, in itself, prove guilt. Such refusal, depending on the circumstances, may be considered as one of many, but cannot take the place of, or add to the prosecution's case of establishing identity through positive and reliable evidence. This position respects the accused's right against self-incrimination, but still allows a certain amount of flexibility on the part of courts to make the proper inferences where the accused is unreasonably uncooperative.

Conditions in which the T.I. Parade is of no evidentiary value: There are several cases where Indian courts have ruled that the results of a T.I. Parade will be deemed to be of no value, or of very little value, in determining the guilt of the accused.

First, where it is possible for the witness to have seen the accused person after he was arrested and before the parade, such as when the accused is brought to the police station or to court or appears in a newspaper photograph, the parade is destroyed and the entire theory behind it is moot, since it assumes that the identification was without assistance or prejudice. The Supreme Court has taken a clear stand on this question in *State (Delhi Administration) v. V.C. Shukla* (1980), and held that the first identification of the accused by the witness in circumstances indicative of earlier identification with the accused vitiates the identification.

Second, unreasonable and unexplained delay between the arrested accused's arrest and the parade significantly undermines the value of the parade because any delay would increase the risk of the witness seeing the accused, either through informal or inadvertent contact, or through fading of the witness's memory (Bar & Bench, as reported in *Legal Articles*, n.d., citing *Heera v. State of Rajasthan*, 2007).

Third, and most important in recent case law, the Supreme Court has ruled that the entire act of holding a T.I. Parade becomes "evidentially futile" if the witnesses who attended the parade are not later called as witnesses at trial. One of the benches, comprising of Justices P. S. Narasimha and Manoj Misra, in its 2025 judgment, found that a test identification parade was performed with the help of the driver, cleaner and conductor of a bus who were not examined at the trial and as such it could not have any evidentiary value. The decision confirms the settled principle that the parade is not proof in itself, it only becomes proof when the identifying witness steps into the witness box and restates and offers it as proof to the court and makes it subject to examination.

Fourth, if the accused is a total stranger to the witness and no T.I. Parade was held at all before the trial, the Supreme Court has ruled the following: "the identification of the accused by the witness for the first time in the courtroom without any prior test can ordinarily not be relied upon as good evidence upon which a conviction can be based. However, it was reiterated recently in *P. Sasikumar v. State* (2024), that the identification of the accused by a witness in court cannot be treated as good evidence for the decision of guilt in the absence of a Test Identification Parade, if the accused is a stranger to the witness. This decision shows that, in stranger-identification cases, the failure of the prosecution to offer any T.I. Parade may be as devastating as an actual parade because it provides no opportunity for the court to evaluate the witness's purported recognition before the accused is brought into the dock where suggestive cues are obviously present.

Procedural Safeguards: Indian courts, over time, have developed and laid great emphasis on a series of procedural safeguards, which are not necessarily exhaustive but are essential to the reliability of the exercise and to protect the accused from unfair or suggestive exercise. These are: that the parade be held by a Magistrate and not by the Police Officer investigating the case so that independence of the parade and neutrality of the Magistrate is preserved; that sufficient number of persons of broadly similar age, build and appearance are taken in the parade so that the accused cannot be identified; that the witnesses are kept separate from one another before the parade and are not allowed to talk to each other or take notes of the parade; that to the parade an opportunity is given to the accused to object to the composition of the parade or to the persons included in it; and that a contemporaneous memorandum of the proceedings is prepared and signed by independent panch witnesses. Failure to comply with these precautions does not automatically preclude proof of identification in a prosecution, but is a significant consideration in determining the reliability of the identification at all.

Critical Assessment: Decades of Supreme Court decisions have given rise to a doctrinal stance that is a finely crafted balance. On the other hand, the T.I. Parade is viewed as a crucial safeguard: it disciplines the investigation, provides a first opportunity to test the genuineness of the eye witness's claim and provides some protection for the accused from being found guilty based on suggestive first courtroom identification. Conversely, the courts, by always finding it appropriate to describe the parade as 'corroborative' and not substantive, have avoided the possibility that the parade of the police or the Magistrate of the subject's guilt – which is an extra-judicial parade and not subject of contemporaneous cross-examination – might become conclusive proof of guilt. It is a calibrated approach to

the real psychological constraints that empirical studies in all jurisdictions have demonstrated are present in eyewitness identification evidence and which are the source of those errors, especially in the case of strangers in stressful, fleeting or cross context situations.

Meanwhile, the necessity of actual examination of the identifying witnesses at trial before a parade has any evidentiary value creates a substantial evidentiary gap, for absent this requirement, which was reiterated in 2025, the parade could be the sole evidence on which a prosecution relies, without cross-examination of the witness, and the parade would become a tool for substantive proof rather than investigation. Indian courts have maintained the adversarial safeguard of cross-examination at the core of the fact finding process, in line with the general nature of the Indian law of evidence by demanding live testimony.

Conclusion: The Test Identification Parade is a well circumscribed but yet limited part in the system of Indian criminal evidence. It is not a requirement of the Evidence Act or the Code of Criminal Procedure (now Bharatiya Sakshya Adhiniyam and Bharatiya Nagarik Suraksha Sanhita) and it is not, by itself, sufficient to sustain a conviction. It has always been a corroborative function, as stated in the Supreme Court rulings in Santokh Singh, K. Venkata Reddy, Heera, Rajesh, P. Sasikumar and the latest in 2025, that it provides the investigating agency with some assurance that it is pursuing the right suspect and the trial court with some assurance that the witness's subsequent identification of the accused in court is not a hollow or suggestible act but is based on his ability to recognise a person seen transitorily in the stressful event of a crime. In this sense, the T.I. Parade is not evidence in itself but a procedural "handshake" to pass from a stranger's passing glance to the more formal identification in a courtroom that ultimately may be a condition of freedom and life.

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