

Raghubir Singh And Ors. vs State on 18 April, 1951

Equivalent citations: AIR1952ALL589, AIR 1952 ALLAHABAD 589

ORDER

Brij Mohan Lall, J.

1. This is an application in revision. The applicants are under arrest on a charge under Section 395/397, I. P. C. Identification proceedings are about to be held. Their counsel made an application to the learned Magistrate to be allowed to be present at the time of the identification parade. That permission was refused. Thereupon the applicants went up in revision to the learned Ses. J. The learned Judge rejected the revision but made an observation that it would be expedient in the interest of justice if the learned Magistrate allowed the applicants to be represented by a counsel at the time of the identification parade. A copy of this order was produced before the learned Magistrate who said that he would pass orders at the time of the identification proceedings.

2. The applicants have come up in revision & they take their stand on Clause (b) of para. 443 of the U. P. Jail Manual which says that :

"Before the proceedings begin, the Prosecuting Inspector & the counsel for the defence, who shall be permitted to be present, may satisfy themselves that all the rules in this para have been observed."

3. It will, therefore, appear that not only the applicants' counsel has a right to be present at the time of the identification parade but he has further a right to satisfy himself that all the requirements of law as laid down in para. 443 have been fully complied with. In the circumstances, refusal on the part of the learned Magistrate to admit the applicants' counsel at the time of the identification parade was a negation of the right granted to him by law.

4. In the circumstances, the revision is allowed & the learned Magistrate is directed to permit the applicants' counsel to be present at the time of the identification parade & to satisfy himself that the requirements of para. 443 of the U. P. Jail Manual have been complied with.