

# Evidentiary Value of TIP | 18 Feb 2025

## Vinod @ Nasmulla v. The State of Chhattisgarh

“Unless the witness enters the witness box and submits himself for cross examination how can it be ascertained as to on what basis he identified the person or the article.”

Justice PS Narasimha and Justice Manoj Misra

Source: [Supreme Court](#)

### Why in News?

A bench of **Justice PS Narasimha and Justice Manoj Misra** held that witnesses who identified the appellant in TIP were not examined during trial, the TIP had no evidentiary value.

- The [Supreme Court](#) held this in the case of **Vinod @ Nasmulla v. The State of Chhattisgarh (2025)**.

### What was the Background of Vinod @ Nasmulla v. The State of Chhattisgarh Case?

- The case involves a **bus robbery (dacoity)** that occurred on 28th September 1993, around 11:30 PM on a bus belonging to Adarsh Transport Bus Service heading to Raipur.
- The prosecution alleged that one person, sitting behind the driver, put a country-made pistol to the driver's temple and ordered him to stop the bus.
- After the bus stopped, eight people in total (four who were already on the bus and four who boarded at the stop) began assaulting passengers and robbing them of their belongings.
- During the incident, a shot was fired, resulting in **injuries to one of the passengers**.
- The bus driver drove to Ambikapur Police Station where an FIR was lodged at 12:20 AM on 29th September 1993.
- Police set up barricades to prevent the culprits' escape. On 29th September 1993, at around 3:00 AM, police constable Khemraj Singh allegedly **arrested the appellant** Vinod @ Nasmulla, who was reportedly carrying a country-made pistol with five cartridges (two live and three empty).
- On 30th September 1993, a Test Identification Parade (TIP) **was conducted** where the bus driver Ram Sajeewan Sharma and Khalasi (cleaner) Ainul Khan allegedly identified the appellant. However, the bus conductor Kamal Singh failed to identify him.
- The appellant was **tried along** with one other accused, Mohd. Kalam Ansari, in the Court of Session, Surguja, Ambikapur.
- The **prosecution produced** several witnesses, including three eye-witnesses who were passengers on the bus.
- None of the stolen or looted articles were recovered from either the appellant or at his instance.
- The case **involved charges** under Section 395 read with Section 397 of the Indian Penal Code, 1860 (IPC) (dacoity with attempt to cause death or grievous hurt) and Section 25 of the Arms Act, 1959.
- The trial court convicted the accused of dacoity. The same was appealed before the High Court.
- The High Court upheld the Trial Court's judgment and dismissed the appellant's appeal. Found no reason to interfere with the Trial Court's findings
- The same has been appealed before the Supreme Court.



**CLAT**  
COMMON LAW ADMISSION TEST  
*Preparation for 2026*  
Offline & Live Online | English Medium Batch

**Admissions Open**

Karol Bagh

Free Demo Classes	Personalised Mentorship
Experienced Faculty	Mock Test Series

### What were the Court's Observations?

- The Supreme Court made the following observations:
  - **On Test Identification Parade (TIP):**
    - TIP is not substantive evidence but only corroborative evidence.
    - Since witnesses who identified the appellant in TIP were not examined during trial, the TIP had no evidentiary value.
  - **On PW-9's Testimony (Police Personnel):**
    - Found his dock identification unreliable because:
      - He couldn't explain his presence on the bus satisfactorily.
      - Despite being available, he wasn't used for TIP.
      - He admitted seeing the appellant before yet wasn't used for TIP.
  - **On Arrest and Recovery:**

- Found the arrest story implausible as:
  - It was unlikely that an armed person wouldn't use weapon to escape from a single policeman.
  - No injuries were reported despite claimed resistance.
  - 9-hour delay in preparing seizure memo was unexplained.
  - Discrepancy in pistol description was inadequately explained.
- **Final Conclusion:**
  - Prosecution failed to prove guilt beyond reasonable doubt.
  - Granted benefit of doubt to appellant.
  - Set aside both lower courts' judgments.
  - Acquitted the appellant of all charges.
  - Discharged the appellant's bail bond.
- The Supreme Court's judgment essentially highlighted how both lower courts failed to scrutinize the evidence critically and accepted the prosecution's case without testing it against probability and established legal principles.

## What is Test Identification Parade (TIP)?

### About:

One of the methods of establishing the identity of the accused is TIP which is received under **Section 9 of the [Indian Evidence Act, 1872 \(IEA\)](#).**

- Section 9 of the IEA deals with the **facts necessary to explain or introduce relevant facts.**
- The same section has been covered under Section 7 of [Bhartiya Sakshya Adhiniyam, 2023 \(BSA\)](#).

### Purpose:

- The idea of the parade is to **test the veracity of the witness** on the question of his capability to identify from among several people an unknown person whom the witness had seen in the context of an offence.
- It has two major purposes:
  - To **satisfy the investigating authorities** that a certain person not previously known to the witnesses was involved in the commission of the crime.
  - To **furnish evidence to corroborate the testimony** which the witness concerned tenders before the Court.

### Essential Elements:

- Identification parades shall be **conducted by a Judicial Magistrate** at the Jail as far as possible.
- 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.
- TIP is **not a substantive piece of evidence in law** and can only be used for **corroborating or contradicting evidence** of witness concerned as given in the Court.

### Section 310 of Bhartiya Nyaya Sanhita 2023 (BNS):

- This section deals with the **punishment for dacoity**.
- It states that whoever commits dacoity shall be punished with **imprisonment for life**, or with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.
- The offence of dacoity has been described under **Section 397 of IPC**.