

Evidentiary Value of Facts of an Identification Parade in Sri Lankan Law and Right to a Fair Trial; An Exploration of Current Trends in Criminal Trials

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Abstract

The law of evidence is fundamentally a procedural law, but in certain parts, it acts as substantive law as well. The evidence offered to support a fact in issue, as to the necessary elements of the case, as opposed to evidence that goes to procedural or collateral issues are termed substantive evidence. Reliance can be placed on such evidence to arrive at a decision. Non-substantive evidence is such that it either corroborates the substantive evidence to increase its credibility or contradicts substantive evidence to discredit it. Substantive evidence can take many forms; such as witness testimony and, statements made by individuals who have firsthand knowledge of the events in question. Witness testimony can be either direct (witness saw or heard something through his own senses) or circumstantial (witnesses can provide information that indirectly supports a claim). Physical evidence; objects, documents or other materials can be presented to the court to support a claim. Expert testimony is opinions given by qualified experts in a particular field that can help explain complex issues or provide insights into technical matters. If a witness testifies that they saw the defendant commit the crime, their testimony would be considered substantive evidence that supports the prosecution's case. Identification of the accused at Identification Parade (ID) as substantive evidence is a common method in procedural law in most common law jurisdictions. However, when observing the recent trends in adjudications in Sri Lanka, it was understood that the probative value given to facts of an ID parade in Sri Lanka was something less than substantive evidence. Given the fact that, Sri Lanka's Criminal Procedure Code does not provide a comprehensive procedure for the conduct of an ID parade, a question arises as to whether a fair trial could be ensured when different procedures are adopted in different cases allowing a trial judge the discretion of admission or non-admission of such evidence at the trial. This paper analyses the legal position of Sri Lanka relating to ID parades in comparison with the Indian Law and UK law. This is doctrinal study where a comparison of landmark cases from the UK, India and Sri Lanka were critically evaluated to understand the judicial stance of these jurisdictions with regard to the evidentiary value given to facts of an ID parade. Descriptive analysis method was used to analyze the data.

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