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C.B. CIRCULAR NO. 6 OF 2012.**

Sub- Common defects in Investigation of NDPS Cases and suggested remedies.

(1) Acquittal in N.D.P.S. Act cases investigated by Odisha Police appear to be high. Some of this could be addressed by improving investigation. Thus 58 number of acquittal judgments (mostly cases registered during 2005 to 2010) were analyzed by Crime Branch officials. Following are the common reasons of acquittal in these judgements and suggested remedial measures.

(2) **Most acquittal can be attributed to one or more of three major reasons ascertained during analysis -** **A.** Failure to prove seizure or chain of custody of contraband drug. **B.** Defects relating to witnesses and their examination/deposition. **C.** Non-compliance to statutory provisions. These three major reasons are discussed in greater detail below in para 3 to 16. Moreover some more defects were noticed which are explained later in para 17 to 22.

Failure to prove seizure or chain of custody

(3) Since conscious and exclusive possession by itself can lead to conviction, courts are insisting on proof of chain of custody of the contraband article from the time of seizure to its examination in the lab and its production in the court. Many cases have failed due to our failure to prove the chain of custody. The following would indicate specific omissions need to be rectified.

(4) **Non production of Station Dairy and Malkhana Register:-** In many cases the I.Os have failed to produce the relevant extract of Station Dairy and Malkhana Register regarding keeping the seized articles in safe custody in PS Malkhana I.O's must include extracts of Station Diary & Malkhana register in case record submitted to the court and prove the same during trial .

(5) **Failure to produce seized articles before the court:-** In many cases seized contraband articles were not produced before the court during trial leading to acquittal of the case. Timely production of seized contraband articles before the trial court should be ensured.

(6) **Failure to affix paper seal on the seized exhibits:-** In some cases I.O failed to affix paper seal with signature of witnesses on the seized exhibits along with the PS Malkhana reference, which contributed to acquittal. This is avoidable omission.

(7) **Non production of brass seal of the I.O :-** Some times the brass seal used for sealing was not produced during trial before the court which

