

**ODISHA POLICE**  
**C.I.D. CRIME BRANCH, CUTTACK.**

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**C.B.Circular No. 08 /2012**  
**"Return of Seized vehicles and the articles"**

Large number of seized vehicles involved in commission of various offences or abandoned vehicles or vehicles recovered during investigation of theft cases. are lying in different police stations. How they should be quickly put to use has been a matter of some concern. Hon'ble Supreme Court in Sunderbhai Ambalal vrs State of Gujrat (10 Sec 283-2002) interpreted mode of implementation of Sec. 451 & 457 Cr.P.C. in this context. However different General Insurance Companies made further petition before the Supreme Court for further direction, orders and clarification. Accordingly Supreme Court has given certain directions in General Insurance Council and others vrs State of Andhra Pradesh and others. This judgment has been circulated to all Dist. Ss.P. & others vide this office letter No.18380/CB-PS dtd.29.5.2010.

It will be relevant to reproduce provisions relating to **Disposal of Property** in Cr.P.C. i.e. Section 451 and 457 of Cr.P.C. which were interpreted by the court in the judgement of Sunderbhai Ambalal case.

**451. Order for custody and disposal of property pending trial in certain cases.** – when any property is produced before any Criminal Court during an inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation – for the purposes of this section, "property" includes –

- (a) Property of any kind or document which is produced before the Court or which is in its custody,
- (b) Any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

**457. Procedure by police upon seizure of property** – (1) whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) if the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim

thereto, to appear before him and establish his claim within six months from the date of such proclamation.

Supreme Court noted in *Sunderbhai Ambalal* case that the powers under Section 451 Cr.P.C. should be exercised expeditiously and judiciously. It would serve various purposes, namely.

- Owner of the article would not suffer because of its remaining unused or by its misappropriation;
- Court or the police would not be required to keep the article in safe custody;
- **If the proper panchanama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during trial.** If necessary, evidence could also be recorded describing the nature of the property in detail; and
- **This jurisdiction of the court to record evidence should be exercised promptly** so that there may not be further chance of tampering with the articles.

**For valuable articles and currency notes** Supreme Court passed following orders.

To safeguard the interests of the prosecution, Supreme Court directed that following measures should be adopted.

“11. With regard to **valuable articles, such as, golden or silver ornaments or articles studded with precious stones**, it is submitted that it is of **no use to keep such articles in police custody for years till the trial is over**. In our view, this submission requires to be accepted. In such cases, Magistrate should pass appropriate orders as contemplated under Section 451 at the earliest.

12. For this purpose, **if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after :**

1. Preparing detailed proper panchanama of such articles;
2. Taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and
3. After taking proper security.

13. For this purpose the Court may follow the procedure of recording such evidence, as it thinks, necessary, as provided under Section 451 Cr.P.C. The bond and security should be taken so as to prevent the evidence being lost, altered or destroyed. The Court should see that photographs of such articles are attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Still however, it would be the function of the Court under Section 451 Cr.P.C. to impose any other appropriate condition.

14. In case, **where such articles are not handed over either to the complainant or to the person from whom such articles are seized or to its claimant**, then the Court may direct **that such articles be kept in bank lockers**. Similarly, if articles are required to kept in

