

POLICE CIRCULAR ORDER NO. 248/82

SUBJECT—Completion of investigation within 60 days or 90 days—Submission of C.S.—Section 167 (2) Cr.P.C., 1973—Orissa High Court decision published in 1982 C.L.T. 259—Mangal Hemrum and others versus State of Orissa.

Honourable High Court of Orissa has held in the above-noted case as follows:—

(1) Detention beyond 60 days or 90 days, as the case may be, when no charge-sheet has been filed, is unwarranted and illegal under section 167 (2) Cr.p.C. and the accused should be released on bail on expiry of the period.

(2) No application for bail is necessary for release of the accused on bail under section 167 (2) Cr. P.C. It is the duty of the court to ascertain the desire of the accused and release him on bail, if he furnishes security.

(3) Section 167 (2) Cr.P.C. does not cease to apply if charge-sheet is submitted after prescribed period and

(4) There is no distinction between bail granted under section 167 (2) Cr.P.C. and bail granted on merits under Chapter XXXIII (Provisions as to Bail and Bonds) and the bail can only be cancelled on grounds well-established in law and not on mere filing of a charge-sheet.

In view of the above it is necessary to ensure that investigation is completed within the stipulated period of 60 or 90 days as the case may be, and charge-sheet is submitted wherever the result of investigation justified such a course of action. In order to achieve this objective, greater control and supervision should be exercised by superior officers over the investigation of cases and no I.O. should be allowed to carry on the work in a dilatory or casual manner.

Arrangement should be made by holding periodical discussions with the authorities concerned with a view to ensuring that submission of charge-sheet is not delayed on account of delay in receipt of medical opinion and reports from F.S.L., M.V.I. and other experts. Failure to complete the investigation within the prescribed period should be treated as a gross negligence on the part of Investigation Officer. It should be the responsibility of the supervisory officers concerned to supervise cases promptly and to pursue with the I.Os. about completion of the investigation expeditiously and also to take necessary action to remove the handicaps which are likely to cause delay in the investigation or retard its progress.

With a view to keeping track of cases, a register known as "Arrested persons Register" containing the following columns should be maintained, datewise, by the C.S. Is. at the relevant page allotted for the date, on which the prescribed period of 60 days or 90 days, as the case may be, will over.