

# “Comparative Study On Sections 451 and 457 of Criminal Procedure Code”

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## **ABSTRACT**

*When dealing with a criminal case, the police come across various articles which are then seized by it. These articles are of utmost significance and act as evidence. These are presented before the court and become an important element in a successful trial. The term property applies to all such documents or articles which are submitted before the court and marked as documentary exhibits or material objects.*

*Once the trial ends, however, these articles or documents need to be disposed of. Chapter 34 of the Code of Criminal Procedure, 1973 (CrPC) deals with this disposal. This process of disposal is governed by Section 451 to 459 of the code.*

**Keywords:** *Articles, Properties , Documents, Suspicious, Seizure*

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## **INTRODUCTION**

Chapter 34 of CrPC deals with disposal of 4 kinds of properties. This includes:

- Properties or documents which have been used in committing an offence.
- Properties or documents on which an offence has been committed.
- Properties or documents which have been produced before the court.
- Properties or documents which are in the custody of Police or Court.

These properties can be categorized as:

- Articles found when arresting a person;
- Those found under suspicious circumstances with regards to the commission of a crime;
- Those which have been allegedly stolen.

**IN SUNDERBHAI AMBALAL DESAI V. THE STATE OF GUJARAT :-**

**Facts:** In this case, it was alleged that while working at the police station in Gujarat, the accused replaced several articles, misappropriated a certain amount of money and conducted an unauthorised auction of property which was seized and kept in police custody pending trial. The learned counsel for the parties also submitted that many such articles are kept at the police station for a long period, which creates difficulties for keeping them in safe custody.

**Judgement:** The Supreme Court explained the object and scheme of the various provisions of the Code as to the disposal of case property. It was explained that the object and scheme of the provisions of the Code of Criminal Procedure (CrPC) with regard to the disposal of property is that where a property which has been the subject-matter of an offence is seized by the police, it must not be retained in the custody of the police or court, unless and till when it absolutely necessary to be kept with the court or police.

The ratio laid down, in this case, makes it absolutely clear that unless keeping of the case property is absolutely necessary, neither the court nor the police can retain the case property in its custody for any more time. Therefore, it becomes the duty of the court to pass appropriate property orders according to appropriate law without any delay

### **KEY PROVISIONS**

#### Section 451 of the Code of Criminal Procedure

Section 451 of the Code deals with the disposal of property before the conclusion of the case. Thus, this section deals with interim disposal of the property. According to this, when a property is produced before any Criminal Court during any inquiry or trial and according to the Court it is fit for it to be placed in proper custody before the trial or inquiry is concluded it can give an order for the same. Also, if the property is subject to speedy and natural decay, the Court may record necessary evidence and order it to be sold or disposed of.

The Section also clearly defines the property which can be disposed of with this regard as:

- Property produced during inquiry or trial;
- Property in regards to which an offence has occurred or which has been used for committing an offence.

The court must decide whether the property can be given for safe interim custody during the inquiry or trial based upon the facts and circumstances of the case.

To understand the application of this case better, we can refer to the case of *Abdurahiman v the Excise Inspector*.

**Facts:** In this case, the petitioner challenged the court for rejecting the request for the interim release of his auto-rickshaw in connection to a crime whereby it was alleged that the autorickshaw was used for transporting contraband articles. However, the court denied the release under the Akbari Act.

**Judgement:** On appeal, the higher court held that under Section 451 of CrPC and provisions of Akbari Act, either the magistrate or authorised officer has the jurisdiction to release any property, vehicle etc which was used for commission of an offence punishable under the Akbari Act, if the long detaining of the vehicle will cause prejudice to the owner. Accordingly, the appellate court ordered the lower court to reconsider its order and allow release.

#### **451. Order for custody and disposal of property pending trial in certain cases.**

When any property is produced before any Criminal Court during any 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.

Chapter XXXIV of Criminal Procedure Code 1973 explains the provisions relating to case property under sections 451 to 459. Besides these provisions, the Criminal Rules of Practice provides under rules 220 to 234. Sections 451 to 459 of the Code of Criminal Procedure Act, 1973 deals with the Power of Courts in the matter of disposal of property. In any order to be passed by a Criminal Court must come under above sections. What order should be passed by a Court depends upon the section under which it passed the Order, and that under which section it should passed the Order, depends upon the circumstances in which the property was seized or produced before the Court. Sections 451 to 459 of the Code of Criminal Procedure Act, 1973 to be read with 110 of Indian Evidence Act. The Honourable Apex Court, in *Sunderbai Ambalal Desai Vs. State of Gujarath*, 2002 10 SCC 283, explained the object and scheme various provisions of the code as to disposal of case property. The Honourable Supreme Court, in the above case observed as follows: "The object and scheme of the various provisions of the code appear to be that where the property which has been the subject matter of an offence is seized by the police, it ought not to be retained in the custody of the court or of the police for any time longer than what is absolutely necessary". In view of the ratio laid down by the Honourable Apex Court it is clear that unless the case property is absolutely necessary, Court cannot retained the case property either in the custody of court or in the custody of the police for any time longer. Therefore it is the duty of the court to pass appropriate property orders according to law without any delay.

### **SECTION 457 OF THE CODE OF CRIMINAL PROCEDURE**

Section 457 talks about the procedure to be followed by the police upon the seizure of property.

This Section applies to the scenario when a property is seized by the police but has not been produced before the magistrate during the inquiry and/or trial. In such circumstances, on receiving a report or information regarding the seizure of the property, the magistrate can order for the disposal of property or delivery of such property to an entitled person.

Further, in the case of *Ghaffor Bhai Nabu Bhai Tawar v. Motirao Kesaorao Bongirwar*, The Bombay High Court explained that under this Section, a magistrate can make an order regarding the seized property only once the inquiry or trial has been concluded and the seized property has not been produced in the inquiry or trial. He cannot make an order regarding the seized property under this section while the investigation is still going on.

#### **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.

This section applies when case property is reported to a Magistrate by any police officer. Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Court, and such property is not produced before a Criminal Court during an inquiry or Trial, the Magistrate may make such order regarding disposal, delivery of such property, to the person entitled to the possession thereof. Under this section during an inquiry or trial, the Magistrate may order disposal or delivery of such property to the person entitled to. Scope of Magistrate has power to pass orders as to disposal or delivery of property seized by police during investigation and brought to his notice before commencement of inquiry or trial. *M.Muniswamy Vs. State of A.P.* 1992 (3) ALT 50. Magistrate has no jurisdiction under Section 457 of the court to pass an order for custody of vehicle not produced before him in an inquiry or trial. *Voruganti Seshachala Venkateswarlu Vs. Government of A.P.* 2003 (2) ALT 444

Besides the procedure contemplated under section 451 and 457 of Cr.P.C, the Rules provided in Criminal Rules of Practice also deals with concept of custody in Rules 220 to 222 of Criminal Rules of Practice, submission of

material objects in Rules 223 to 226 of Criminal Rules of Practice and disposal of case properties in Rules 227 to 234 of Criminal Rules of Practice.

Rules 220 to 222 of Criminal Rules of Practice :- Presiding Officers are personally responsible for the safe custody of case properties. Immediately after receipt of property Presiding Officers shall inspect the property and concerned clerk shall enter the same in Property Register. The Presiding Officer shall check valuable and Non valuable properties periodically regarding its safety and order of disposal was promptly carried. At the time of taking over the property by succeeding officer, he shall examine all properties certified the register by himself that he has taken over the properties and shall affix necessary certificate in that register. All valuable properties should be separated and kept in strong box with a good lock and key to protect against damage and should invariably be deposited in Sub Treasury Office.

Rules 223 to 226 of Criminal Rules of Practice :- The Sessions Judge shall in his discretion submit material objects to the Honourable High Court by enclosing list under Form No.129-A with case records. If any material object is retained that will form a part of the record submitted to Honourable High Court. Articles received from Lower Courts such as sticks, stones, knives, axes, guns, rags of clothing, earth etc., which are ordinarily retained in the Honourable High Court and destroyed there. If any property which are omitted to return by Honourable High Court to Lower court, an application seeking such property should be made within one month from the date of receipt of Lower Court record. The Properties in Sessions cases which have to be dealt with under Section 452 of the Code may be sent to Committal Magistrates for disposal, except in such cases where the Sessions Judge directs otherwise.

Rules 227 to 234 of Criminal Rules of Practice:- Material objects exhibited at the trial of Criminal cases should be retained by the Court till the expiry of appeal time and satisfied that no appeal has been preferred or that any appeal has been disposed of. But when a case is disposed of by Honourable High Court, the material objects shall ordinarily be disposed of after expiry of 90 days from the date of Judgment of Honourable High Court, unless the practice interested obtained a direction on any application from the Honourable High Court for preservation of such object, pending disposal of case in Honourable Apex Court. After that they may be destroyed or otherwise disposed of according to the rules.

As per Rule 229, destruction of case property should be carried out in the presence of Presiding Officer. It is not desirable to order destruction of valuable property. It should, if it is not ordered to be delivered to the person entitled to it, be confiscated or otherwise disposed of.

As per Rule 230, this Rule applies to Sessions Cases, Weapon other than a fire arm or ammunition which unusual character or of special interest, it should be sent to medical college or police museum. Before sending the same the Court should ascertain whether it is required or not. If the article is required by both the medical college will have priority. If it is not required by both, it should be destroyed. The Court shall ascertain before sending art objects and antiquity pieces, to the Director of Archeology and Museums. In case of gold ornaments the same shall be sent to Mint Master through responsible officer.

As per Rule 231 : When any property is ordered to be delivered to a party, notice should be issued to him under form No.60 and also should informed that if he does not appear on the date prescribed in the notice, the property will either be destroyed nor sold and the sale proceeds credited to government. If the party appears after the sale of property, the sale proceeds may be paid to him deducting expenses of the sale.

As per Rule 232 : Sale of property should be conducted by an Officer of the Court in public auction, it should be conducted and confirmed as per the manner prescribed by the Code of Civil Procedure and Civil Rules of Practice.

As per Rule 233 : In case of excisable goods in the custody of Criminal Courts notice of date of auction or method of disposal shall be issued to the Excise Authorities concerned for arrangement of collection of duty leviable if any on the goods or for the issue of transport permit where necessary. The Excise Authority may also be required to satisfy itself that the purchaser in auction or otherwise is licensed to deal in such goods.

As per Rule 234 : Criminal Rules of Practice, Counter feit coins they shall be forwarded together with dyes, moulds etc., which may have been produced to the nearest Treasury or Sub Treasury with request, they may be remitted to

the Mint for examination. A concise and accurate report should also be sent containing a description of the case and the sentence imposed. With regard to forged currency is matter for the decision of the Court which tries the case, deliver the same to the police for destruction or if they are of special interest police may make them over to criminal investigation department, all forged currency notes brought before the court shall be handed over to the police to forward the same to Reserve Bank of India with a brief report of the case. In case of arms and ammunitions, it should be sent to the nearest Arsenal for disposal.

Property in Sessions Cases :- The case property of Sessions Courts should be submitted to the Sessions Court with sealed. The Magistrate can order interim safe custody of such property before committing the case to the Sessions Court, Notice should be issued to that person to whom the property was given for interim custody, to produce the said property.

Disposal of Case Property after lapse of appeal time :- Where the case property is still pending even after the lapse of appeal time, a Notice as in form 61 of Criminal Rules of Practice should be given to the person to whom the property belongs to. If such person fails to receive the property or where the owner is not traced out or where the property is unclaimed or where police could not find out legal heirs of such property and when no complaint is reported regarding such property then the said unclaimed property is to be disposed of as per the procedure prescribed under sections 457, 458 and 459 of Cr.P.C. XIV. In a recent judgment, in Manjit Singh Vs. State in Crl.M.C. 4485/2013 and Crl.M.A. 16055/2013, dated 10.09.2014, the Honourable High Court of Delhi laid guidelines for Disposal of Case Property:-

1. Whenever a property seized by the police during investigation or trial, the same has to be produced before the competent court within one week of the seizure and the court has to expeditiously pass an order for custody of the said property within one month.
2. The court has to ensure that the property seized by the police should not be retained in the custody of the Court for longer period.
3. If the property is subject to speedy and natural decay or if it is otherwise expedient to do so, the court may after recording evidence as it thinks necessary order it to be sold or otherwise disposed of.
4. The valuable articles seized by the police may be released to the person who is lawfully entitled to claim such as the complainant in theft, robbery or dacoity cases, after preparing detailed panchanama of such articles and by taking photographs and surety bond. The photograph should be attested by the complainant, accused as well as by the person to whom the custody is handed over.
5. The actual production of the valuable articles during the trial should not be insisted and the photographs alongwith panchanama is sufficient for the purpose of evidence.
6. Where such articles are not handed over either to the complainant or to the person from whom such articles were seized, and then the court may direct to keep the articles in locker. In Sundarbai Ambalal Desai Vs. State of Gujarath, the Honourable Apex Court has directed to ensure the powers under Section 451 Cr.P.C. are being properly and promptly exercised by the Magistrates. Responsibility of the Commissioner of Delhi Police to check the compliance by police stations.

#### **OBJECT AND SCHEME OF PROVISIONS OF THE CODE AS TO DISPOSAL OF THE PROPERTY.**

The Hon'ble Apex Court, in SUNDERBHAI AMBALAL DESAI VS STATE OF GUJARATI , succinctly explained the object and scheme of the various provisions of the Code as to disposal of case property. The Hon'ble Supreme Court, in the above case, observed as follows: "The object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by the police, it ought not to be retained in the custody of the Court or of the police for any time longer than what is absolutely necessary." In view of the ratio-laid down by the Hon'ble Apex Court, it is clear that unless the caseproperty is

necessary, court cannot retain the case property either in its custody or in the custody of police for any time longer. Therefore, it is the duty of court to pass appropriate property orders according to law without any delay. T

he question of proper custody of the seized article is raised in number of matters. In SMT BASAWA KOM DYANMANGOUDA PATIL VS STATE OF MYSORE AND ANOTHER2 , the Hon'ble Supreme Court dealt with a case where the seized articles were not available for being returned to the complainant. In that case, the recovered ornaments were kept in a trunk in the police station and later it was found missing. The question was with regard to payment of those articles. The object and scheme of the various provisions of the code appear to be that where the property which has been the subject-matter of an offence is seized by the police, it ought not to be retained in the custody of the Court or of the police for any time longer than what is necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a Government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases. It is manifest that there may be two stages when the property may be returned to the owner.

In the first place it may be returned during any inquiry or trial. This may particularly be necessary where the property concerned is subject to speedy or natural decay. There may be other compelling reasons also which may justify the disposal of the property to the owner or otherwise in the interest of justice. The High Court and the Sessions Judge proceeded on the footing that one of the essential requirements of the code is that the articles concerned must be produced before the Court or should be in its custody. The object of the code seems to be that any property which is in the control of the Court either directly or indirectly should be disposed of by the Court and a just and proper order should be passed by the Court regarding its disposal. In a criminal case, the police always acts under the direct control of the Court and has to take orders from it at every stage of an inquiry or trial. In this broad sense, therefore, the Court exercises an overall control on the actions of the police officers in every case where it has taken cognizance."

The Court further observed that where the property is stolen, lost or destroyed and there is no prima facie defence made out that the State or its officers had taken due care and caution to protect the property, the Magistrate may, in an appropriate case, where the ends of justice so require, order payment of the value of the property. To avoid such a situation, the powers under Section 451 Criminal Procedure Code should be exercised promptly and at the earliest.

In that regard, the observations of the Hon'ble Supreme Court in Sunderbhai Ambalal Desai vs State Of Gujarat (3rd supra) are very much relevant which read thus: 1) Owner of the article would not suffer because of its remaining unused or by its misappropriation. 2) Court or the police would not be required to keep the article in safe custody; 3) If the proper Panchnama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and 4) 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. 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 police custody, it would be open to the Station House Officer that after preparing proper Panchnama to keep such articles in a bank locker. In any case, such articles should be produced before the Magistrate within a week of their seizure. If required, the Court may direct that such articles be handed over back to the Investigating Officer for further investigation and identification, However, in no set of circumstances, the Investigating Officer should keep such articles in custody for a longer period for the purpose of investigation and identification.

Important observations of the Hon'ble Supreme Court in the case of Sundherbai Ambalal Desai (3rd supra) with regard to the VEHICLES SEIZED: "It is of no use to keep suchseized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession

of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.”

**PRECAUTIONS WHILE TAKING PANCHNAMA** 1) Panchnama for return of the property shall be made taking all same precautions while preparing panchnama for seizure of property. 2) In addition to the same, photographs of the articles of the property shall also be taken. 3) A bond from the petitioner shall be undertaken stating that the property shall be produced at the time of the trial and a proper security shall also be taken. As observed by Hon'ble Apex Court in Sunderlal Ambalal's case that the bond and security should be taken so as to prevent the evidence being lost, altered or destroyed. 4) The photographs or such articles shall be attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. 5) The court in the interest of justice and from circumstances of the case impose any other conditions as may find appropriate. 6) It is further clarified by Hon'ble Apex Court that if the accused disputes that he is not involved in the alleged incident and no article was found from him, such an endorsement to be taken on the photograph. 7) In respect to the vehicle, it was made clear that it is not necessary to produce the vehicle before the court during trial and that the seizure report may be sufficient.

### **RULES COVERED UNDER CRIMINAL RULES OF PRACTICE WITH REGARD TO PROPERTIES**

Rule 230 to 234 of Criminal Rules of Practice deals with disposal of properties. 1) Rule 230 (2) CrI.R.P :- Art objects and antiquity: The Court shall send the art objects and Antiquity to the Director of archaeology and Museums, if he desires otherwise they should be confiscated to the state.

2) Rule 230(3) CrI.R.P :- Gold ornaments: The Court shall send the Gold Ornaments to Mint Master through a responsible Officer by pre-arrangement.

3) Rule 234(1) CrI.R.P :- Counterfeit coins: They shall be forwarded together with any dies, moulds etc., which may have been produced in the case to the nearest Treasury or SubTreasury, with request that they may be remitted to the Mint for examination. A concise and accurate report should also be sent containing a description of the case and the sentence imposed. 4) Rule 234(2) CrI.R.P:- Forged Currency Notes: It is a matter for the decision of the Court which tries the case. (1) deliver the same to police for destruction; or (2) If they are of special interest, police may make them over to the Criminal Investigation Department for this purpose; (3) All forged currency notes brought before the Court shall be handed over to the Police for being forwarded to the Issue Department of the Reserve Bank of India, with a brief report of the case. 5) Rule 234(4) CrI.R.P: Arms and ammunitions: They should be sent to the nearest Arsenal for disposal.

### **DELIVERY OF CASE PROPERTY TO THE PERSON ENTITLED**

When any property is ordered to be delivered to a party, notice should be issued to him. He should also be informed that if he does not appear on the date specified in the notice, the property will either be destroyed or sold and the sale proceeds should be credited to the Government. If the Party appears after the sale of the property, the sale proceeds may be paid to him deducting expenses of the sale. (Rule 231). Sale of Case Property as per provisions of CPC:- Sale of property should be conducted by an officer of the Court and should be public auction. It should be conducted and confirmed as far as may be in the manner prescribed for the sale of movable property by the Code of Civil Procedure and Civil Rules of Practice. (Rule 232).

### **PROCEDURE FOR DISPOSAL OF PROPERTY AFTER EXPIRY OF APPEAL PERIOD**

1. If the property is still pending even after the expiry of appeal time, a notice as in the form no 61, of Criminal Rules of Practice (The form shall contain the date of appearance and the next date of course of action) shall be served on the person to whom property is ordered to be returned.

2. Such notice shall indicate the date on or before which the person has to appear before the court and it shall also contain a warn to the claimant if he does not appear by the specified date, then the property shall be confiscated to the state.

3. The police shall be strictly directed to see that the notices are served at least one week in advance and file the reports before the court.
4. If no one appears before the court within the given date in notice to claim the property, then a note shall be put up by the clerk and a suitable order shall be passed by the concerned Magistrate.
5. In case of unclaimed property, the ownership or legal possession of it cannot be traced by the police and no complaint is received with regard to such property.
6. Such unclaimed property has to be disposed-off as per the procedure provided Under Section 457,458 and 459 Criminal Procedure Code.
7. Before disposing the unclaimed property the concerned Magistrate has to take the below steps: i) The officer should see the steps taken by the police to trace any complaint regarding such property is satisfactory.
  - ii) he should also ascertain whether there is any person entitled to the possession of the property.
  - iii) he should issue a proclamation u/sec 457 Criminal Procedure Code as in Form No.62, If no person is ascertained with regard to unclaimed property.
  - iv) Such Proclamation may be carried on by affixture before the court by the police and the places where the property was seized and some conspicuous place of the town and by way of tomtom.
  - v) Such report of due proclamation shall be submitted by the police before the court and the court shall wait until six months from the date of proclamation actually made.
  - vi) After expiry of six months, no claimant appears ,then the court shall pass the orders for disposing such property in any one of the modes provided under the Criminal Procedure Code and Civil Rules of Practice.
  - vii) All such property orders passed from time to time have to be entered in the registers concerned.

#### **HOW TO DEAL WITH THE CASE PROPERTY WHEN RIVAL CLAIM IS MADE:**

Sometimes we may notice that not only the victim but also the accused would claim right over the case property. Particularly, in theft cases, the accused after committing the theft of the property would pledge the same with any bank or financial institution. In those cases, the financial institution also claims the said property on the ground that it was not aware at the time of pledging the property that the said property was a theft property. For that, the observations of the Hon'ble High Court in the case of RAJALINGAM V. VANGALA VENKATA RAMA CHARY ( 1996(2) ALD (CrI) 868) are very much relevant.

The facts in the said judgment would disclose that both the accused and the complainant laid serious claim of ownership in respect of the seized property. In those circumstances, the Hon'ble High Court by relying on the judgment of the Hon'ble Madras High Court in the case of MUTHAIAH MUTHIRIAN V. VAIRAPERUMAL MUTHIRIAN (AIR 1954 MADRAS 214) observed that the parties would be directed to approach civil court to establish the claim of their right of ownership in respect of the said property. The observations of the Hon'ble High Court reads thus: "When there was rival claim as to the ownership of the property the learned Sessions Judge instead of embarking upon to decide it once for all and ordering to hand over the same to complainant, should have directed the parties to establish their claim before the competent Civil Court as to the ownership of the property".

#### **CONCLUSION AND RECOMMENDATIONS**

The Code of Criminal Procedure, 1973 lays out, in detail, the procedure to deal with a property used for committing an offence or one pertaining to which an offence has been committed. It clearly lays down that the property must be disposed of as soon as possible, i.e., as soon as it is no longer absolutely required.



The property cannot be retained by the police unless it is absolutely necessary to do so. Section 451 to Section 459 of the Code clearly lays down the law pertaining to this and explains how the Magistrate should deal with the property. With this regard, it becomes a duty of the court to ensure that appropriate orders are passed for the disposal of the property.

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