

714-1

## THE HIGH COURT OF ORISSA, CUTTACK

CIRCULAR ORDER NO. 04 of 2021

(CRIMINAL)

In the Court's General Rules & Circular Orders (Criminal). Volume-I (1977 Edition)

1. Substitute the following heading in place of existing heading "Commitment of the Accused to the Court of Sessions" occurring in Chapter-VIII, page-13 of G.R & C.O (Criminal). Vol-I (1977 Edition);

### CHAPTER-VIII

**"Supply of copies of documents to the accused in all Criminal Cases, Commitment of the Accused to the Court of Sessions, Order framing Charge"**

2. Substitute the following for the existing provisions contained in Rule 50, Chapter-VIII, page-13 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**50. (1) Supply of copies of documents to the Accused in all Criminal Cases:-** Every Accused shall be supplied with copies of statements of witness recorded under Section 161 and 164 Cr.P.C and a list of documents, list of material objects and exhibits seized during investigation and relied upon by the Investigating Officer (I.O) in accordance with Sections 207 and 208 Cr.P.C.

**Explanation:-**The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer.

**(2) Procedure to be followed by the Magistrate committing an accused to the Sessions Court:-** A Magistrate, while committing the accused to the Court of Sessions, under Section 209 of the Code of Criminal Procedure, shall supply to the accused copies of statements of witness recorded under Section 161 and 164 Cr.P.C and a list of documents, list of material objects and exhibits seized during investigation and relied upon by the Investigating Officer (I.O) in accordance with Sections 207 and 208 Cr.P.C.

**Explanation:-**The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer.

All the commitment records of the Magistrate should also be sent to the Session Court immediately for being tagged with the records of the sessions trial and the Sessions Judge after final disposal of the case, should consign those papers to the Record Room along with the Sessions case record for preservation and destruction with the sessions case record as per the rules prescribed. The Committing Magistrate shall also supply to the Public Prosecutor and the State





Defence Lawyer, if any, a brief of the case records which shall consist of the following:-

- (a) The report of the Police Officer of the complaint
- (b) The First Information Report recorded under Section 154 of the Criminal Procedure Code or the complaint petition.
- (c) Statements recorded under Sub-section (3) of Section 161 of the Criminal Procedure Code of all persons cited as witnesses in the charge-sheet or the statements recorded under Section 200 or 202 of the Criminal Procedure Code of all persons examined by the Magistrate.
- (d) The confession and statements, if any, recorded under Section 164, Cr.PC.
- (e) Seizure List
- (f) Spot Map
- (g) Inquest Report
- (h) Post-mortem certificate or injury certificate
- (i) Dead body Chalan
- (j) Command certificate
- (k) Letter forwarding articles to the Chemical Examiner
- (l) Report of the Chemical Examiner and seizure list
- (m) T.I Parade report

The receipt of the above shall be obtained in Form No. (M) 24(A) and the same shall be forwarded along with the record to the Court of Sessions.

**(3) Order Framing Charge:-** In Criminal Cases other than Sessions Cases, the order framing charge shall be accompanied by a formal charge in Form- 32, Schedule-II, of Cr.PC which shall be prepared personally by the Presiding Officer after complete and total application of mind.

3. Substitute the following for the existing Rule 54, Chapter-IX, page-15 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**54. Order Framing Charge and Abstract of Charge in Sessions Case:-**

**(i)** In Sessions Cases, the order framing charge shall be accompanied by a formal charge in Form- 32, Schedule-II, of Cr.PC which shall be prepared personally by the Presiding Officer after complete and total application of mind.

**(ii)** Column 4 of (R) 23 is meant to contain an abstract of the charge, offences are to be stated as concisely as possible with the section of the Indian Penal Code or other law applicable. When a prisoner is charged with several offences, the heads of charge on which he has been convicted must be indicted by red underlining.





4. Substitute the following heading in place of existing heading "Mode of Recording Evidence" occurring in Chapter-XIII, page-23 of G.R & C.O (Criminal). Vol-I (1977 Edition);

#### CHAPTER-XIII

##### "Procedure and mode of Expeditious Trial and Recording of Evidence"

5. Substitute the following for the existing Rule 83, Chapter-XIII, page-23 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**83. Procedure and mode of expeditious trial:- (i)** In every enquiry or trial, the proceedings shall be held as expeditiously as possible, and, in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded as required under Section 309(1) Cr.PC. For this purpose, at the commencement, and immediately after framing charge, the Court shall hold a schedule hearing, to ascertain and fix consecutive dates for recording of evidence, regard being had to whether the witnesses are material, or eyewitnesses, or formal witnesses or are experts. The Court then shall draw up a schedule indicating the consecutive dates, when witnesses would be examined; it is open to schedule recording of a set of witness' depositions on one date, and on the next date, other sets, and so on. The Court shall also, before commencement of trial, ascertain if the parties wish to carry out admission of any document under Section 294, and permit them to do so, after which such consecutive dates for trial shall be fixed.

**(ii)** After the commencement of the trial, if the court finds it necessary or advisable to postpone the commencement of, of adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable. If witnesses are in attendance no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded, in writing (Section-309 (2) Cr.P.C).

**(iii)** Sessions cases may be given precedence over all other work and no other work should be taken up on sessions days until the sessions work for the day is completed. A Sessions case once posted should not be postponed unless that is unavoidable, and once the trial has begun, it should proceed continuously from day today till it is completed. If for any reason, a case has to be adjourned or postponed, intimation should be given forthwith to both sides and immediate steps be taken to stop the witnesses and secure their presence on the adjourned date.





6. Substitute the following for the existing Rule 84, Chapter-XIII, page-23 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**84. Manner and procedure of recording evidence:-**

(i) Depositions should be written on both sides of the paper, a margin of one-fourth of the sheet being left blank. Only one deposition should be written on each sheet of paper.

(ii) The depositions of witnesses shall be recorded, in typed format, if possible. The record of evidence shall be prepared on computers, if available, in the Court being used by the Presiding Officer himself/herself or by the person who records the depositions and memoranda of evidence to the dictation of the Presiding Officer in open Court and a certificate must be given that this has been done by the Presiding Officer or on his/her dictation. Each page of the record so made must be signed by the Presiding Officer.

Provided that in case the language of deposition is to be recorded in a language other than English or Odia, the Presiding Officer shall simultaneously translate the deposition either himself or through a competent translator/interpreter into English.

(iii) The deposition shall be recorded either in the language of the witness or in English language.

(iv) The depositions shall without exception be read over and explained to the witness in the language he/she understands by the Presiding Officer in the open Court. The presiding Officer shall personally sign the certificate at the bottom of the deposition of each witness to the effect that "Read over and explained to the witness in presence of the accused/pleader representing the accused and admitted to be correct". Hard copy of the testimony so recorded duly signed to be a true copy by the Presiding Officer/Court Officer nominated in this behalf shall be made available free of cost against receipt to the accused or an advocate representing the accused, to the witness and the prosecutor on the date of recording.

(v) A translator shall be made available in each Court and Presiding Officers shall be trained in the local languages, on the request of the Presiding Officer.

(vi) The Presiding Officer shall not record evidence in more than one case at the same time.

7. Substitute the following for the existing Rule 88, Chapter-XIII, page-24 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**88. Recording of Evidence and Format of Witnesses:-**

(i) Prosecution witnesses shall be numbered as PW-1, PW-2, etc, in seriatim. Similarly, defence witnesses shall be numbered as DW-1, DW-2, etc, in seriatim. The Court witnesses shall be numbered as CW-1, CW-2, etc, in seriatim

(ii) The record of depositions shall indicate the date of the chief examination, the cross examination and re-examination.





(iii) The Presiding Officers shall wherever necessary record the deposition in question and answer format.

(iv) Objections by either the prosecution or the defence counsel shall be taken note of and reflected in the evidence and decided immediately, in accordance with law, or, at the discretion of the learned Judge, at the end of the deposition of the witness in question.

(v) The name and number of the witness shall be clearly stated on any subsequent date, if the evidence is not concluded on the date on which it begins.

8. Substitute the following for the existing Rule 91, Chapter-XIII, page-24 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**91. Exhibiting and marking of documents and material objects/articles in evidence:-**

(i) Prosecution documents shall be marked as Exhibit P-1, P-2, etc in seriatim. Similarly, defence documents shall be marked as Exhibit D-1, D-2, etc in seriatim. The Court documents shall be marked as Exhibit C-1, C-2, etc in seriatim

(ii) To easily locate the witness through whom the document was first introduced in evidence, the exhibit number shall further show the witness number of such witness after the Exhibit number. If an exhibit is marked without proper proof, the same shall be indicted by showing in brackets (subject to proof)

**Explanation:-** If Prosecution witness no-1 (PW1) introduces a document in evidence, that document shall be marked as P-1/PW1. If proper proof is not offered for that document at the time when it is marked, it shall be marked as Exhibit P-1/PW1 (subject to proof). The second document introduced by PW1 will be Exhibit P-2/PW1.

(iii) When material objects/ articles connected with the offence charged are produced in a Criminal Court and, after being proved, are admitted in evidence, these shall be marked by the Court in seriatim as MO-1, MO-2 etc.

9. Substitute the following for the existing Rule 92, Chapter-XIII, page-24 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**92. Exhibiting and marking of series of documents of the same nature:-**

When a number of documents of the same nature are admitted, as for example a series of receipts for rent, the whole series shall bear one number or capital letters, a small number, or small letter being added to distinguish each paper of the series, thus:-

Exhibit P-1<sup>1</sup>, P-1<sup>2</sup>, etc  
P-1/a, P-1/b etc.  
Exhibit D-1<sup>1</sup>, D-1<sup>2</sup> etc.  
Exhibit C-1<sup>1</sup>, C-1<sup>2</sup> etc.





10. Substitute the following for the existing Rule 97, Chapter-XIII, page-25 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**97. Subsequent references to Accused, Witness, Exhibits and Material Objects:-**

(i) After framing of charges, the accused shall be referred to only by their ranks in the array of accused in the charge and not by their names or other references except at the stage of identification by the witness.

(ii) After recording the deposition of witnesses, marking of the exhibits and material objects, while recording deposition of other witnesses, the witnesses, exhibits and material objects shall be referred by their numbers and not by names or other references.

(iii) Where witness cited in the complaint or police report are not examined, they shall be referred to by their names and the numbers allotted to them in the complaint or police report.

**97-A. References to Statements under Section 161 and 164 Cr.PC:-**

(i) During cross examination, the relevant portion of the statements recorded under Section 161 Cr.PC used for contradicting the respective witness shall be extracted. If it is not possible to extract the relevant part as aforesaid, the Presiding Officer, in his discretion, shall indicate specifically the opening and closing words of such relevant portion, while recording the deposition, through distinct marking.

(ii) In such cases, where the relevant portion is not extracted, the portions only shall be distinctly marked as prosecution or defence exhibit as the case may be, so that other inadmissible portions of the evidence are not part of the record.

(iii) In cases, where the relevant portion is not extracted, the admissible portion shall be distinctly marked as prosecution or defence exhibit as the case may be.

(iv) The aforesaid rule applicable to recording of the statements under Section 161 Cr.PC shall mutatis mutandis apply to statements recorded under Section 164 of the Cr.PC, wherever such portions of prior statements of living persons are used for contradiction/ corroboration.

(v) Omnibus marking of the entire statements under Section 161 and 164 Cr.PC shall not be done.

**97-B. Marking of Confessional Statements:-** The Presiding Officers shall ensure that only admissible portion of Section 8 or Section 27 of Indian Evidence Act, 1872 is marked and such portion alone is extracted on a separate sheet and marked and given an exhibit number.





11. Substitute the following for the existing Rule 100, Chapter-XIV, page-26 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**100. Every Judgment be legibly written and shall contain the following:-**

Judgment should be written in superior quality A4 size paper (29.7 cm x 21cm) having not less than 75GSM with Font-Times New Roman; Font Size-14, in one and half line spacing (for quotations and indents-font size 12 in single line spacing), with margin of 5 cm on left & right side and 3 cm on top and bottom of the paper.

Every judgment shall contain the following:-

- (i) Start with a preface showing the names of parties as per the Form-A given below;

**FORM-A**

IN THE COURT OF ..... Present.....Magistrate/Sessions Judge [ Date of Judgment]  [Case No...../20.....]	
(Details of FIR/Crime and Police Station)	
Complainant	STATE OF.....  OR NAME OF THE COMPLAINANT
REPRESENTED BY	NAME OF THE ADVOCATE
ACCUSED	1. NAME WITH ALL PARTICULARS(A1) 2. NAME WITH ALL PARTICULARS(A1)
REPRESENTED BY	NAME OF THE ADVOCATE

- (ii) A tabular statement as per Form-B given below;

**FORM-B**

Date of Offence							
Date of FIR							
Date of Charge sheet							
Date of Framing of Charges							
Date of commencement of evidence							
Date on which judgment is reserved							
Date of the Judgment							
Date of the Sentencing Order, if any							
<b>Accused Details:</b>							
Rank of the Accused	Name of the Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of section 428, Cr.PC

12. Substitute the following for the existing Rule 102, Chapter-XIV, page-26 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**102. Language and contents of the Judgment:-**

(i) In compliance with Section 354 and 355 Cr.PC, in all cases, the Judgments shall be written in the language of the Court.

(ii) In all the cases, the Judgments shall contain, the point or points for determination, the decision thereon, and the reasons for the decision.

(iii) In case of conviction, the judgment shall separately indicate the offence involved and the sentence awarded. In case there are multiple accused, each of them shall be dealt with separately. In case of acquittal and if the accused is in confinement, a direction shall be given to set the accused at liberty, unless such accused is in custody in any other case.

(iv) In the Judgment the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not only by their names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their name, the number shall be indicated within brackets.

(v) The judgment shall be written in paragraphs and each paragraph shall be numbered in seriatim. The Presiding Officers, may, in their discretion, organize the judgment into different sections.





13. Substitute the following for the existing Rule 108, Chapter-XIV, page-27 of the G.R & C.O (Criminal). Vol-I (1977 Edition);

**108. List of witnesses, documents and material objects to be appended to the Judgment:-** An appendix giving the list of prosecution witnesses, defence witnesses and Court witnesses examined and documents marked as Exhibits and admitted in evidence on behalf of Prosecution, Defence and Court and Material Objects marked shall be appended to the judgment of every case in chronological order as per Form-C given below;

**FORM-C**

<b>LIST OF PROSECUION/DEFENCE/COURT WITNESSES</b>		
<b>A. Prosecution Witnesses</b>		
<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICIAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1		
PW2		
<b>B. Defence Witness, if any:</b>		
<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICIAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1		
DW2		
<b>C. Court Witnesses, if any</b>		
<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICIAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		
<b>LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS</b>		
<b>A. Prosecution Exhibits</b>		
Sl. No	Exhibit Number	Description
1	Exhibit P-1/PW1	
2	Exhibit P-1/PW2	
<b>B. Defence Exhibits, if any</b>		
Sl. No	Exhibit Number	Description
1	Exhibit D-1/DW1	
2	Exhibit D-1/DW2	
<b>C. Court Exhibits, if any</b>		
Sl. No	Exhibit Number	Description
1	Exhibit C-1/CW1	
2	Exhibit C-1/CW2	
<b>D. Material Objects:</b>		
Sl. No	Material Object Number	Description
1	MO1	
2	MO2	



14. Insert the following Chapter as Chapter-XIX, below the existing Chapter-XVIII, Part-I, page-49 of G.R & C.O (Criminal). Vol-I (1977 Edition);

**CHAPTER-XIX**

**MISCELLANEOUS**

**187-A. Hearing and disposal of Bail Application:-**

(1) The application for bail in non-bailable cases must ordinarily be disposed off within a period of 3 to 7 days from the date of first hearing. If the application is not disposed off within such period, the Presiding Officer shall furnish reasons thereof in the order itself. Copy of the order and the reply to the bail application or status report (by the police or prosecution) if any, shall be furnished to the accused on the date of pronouncement of the order itself.

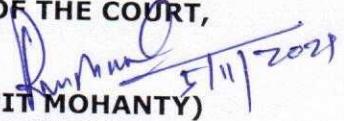
(2) The Presiding Officer may, in an appropriate case in its discretion insist on a statement to be filed by the prosecutor in charge of the case.

Memo No. 12955 (30) / Date 05-11-2021

Copy forwarded to the District & Sessions Judge, (All) ..... for information and guidance and for communication to all the Judicial Officers working under their control for information and strict adherence.

**ADMINISTRATIVE DEPARTMENT  
(Rules Section)**

**BY ORDER OF THE COURT,**

  
**(BISWAJIT MOHANTY)  
REGISTRAR (VIGILANCE)**