

## A Study about First Information Report (FIR) and Its Various Aspects under Criminal Law.

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### Introduction

First Information Report (FIR) is a document which is prepared by the police in written when they receive information about the commission of a cognizable offence. The main objective of lodging FIR is to set the criminal law into motion and not to provide all the minute details of the instance. It is a report of information that reaches the police first in point of time and that is why it is called 'First Information Report'. It can be used only for limited purpose, like corroborating the maker thereof or as one of res-gestae or for being tendered in a proper case under section 32(1) of Evidence Act.

The Hon'ble Supreme Court of India, while delivering its judgment in the matter of T.T. Antony v. State of Kerala and Ors. Laid down certain important points regarding Section 154 of CrPC "Information given under sub-section (1) of section 154 of CrPC, is commonly known as the FIR, though this term is not used in the code... and as its nick name suggests, it is a earliest and the first information of the cognizable offence recorded by an officer in charge of a police station".

### Cognizable Offence – Section 2(c)

A cognizable offence is one in which the police may arrest a person without warrant. They are authorized to start investigation into a cognizable case on their own and do not

require any orders from the court to do so in accordance with first schedule.

Supreme Court defined FIR in Ravi Kumar v. State of Punjab as "FIR is a report giving information of the commission of the cognizable crime which may be made by the complainant or by the complainant or by any other person knowing about the commission of such offence.

FIR at the initial stage must disclose some cognizable offence so that the Police may proceed with the investigation of the case, as it is prerogative of the police to investigate the same.

### Contents of FIR

The condition which is prerequisite for recording a FIR is that there must be information and that information must disclose a cognizable offence. It is clear that if any information is laid before an officer-in-charge of a police station satisfying the requirements of Section 154(1) the said police officer has no other option except to enter the substance thereof in the prescribed form and to register a case on the basis of that information.

Section(1) and (2), CrPC lays down the following requirements of registering FIR:

1. The officer-in-charge of the police station shall reduce in writing every information relating to the commission of a cognizable offence;
2. Information should be read over to the informant by him;
3. And it should be signed by the informant, and the substance thereof shall be entered in a book to be kept

by such officer in such manner as the state government may prescribe in this behalf;

4. A copy shall be given free of cost, to the informant.

The FIR need not contain every detail of the case as said in *Umar Mohammad v. State of Rajasthan*. It does not contain minute details of the offence. It is just a information by which the Criminal Law set to the motion.

Sometimes, it may happen that more than one person go at or about the same time and make statements to the police about the same cognizable offence. In such a situation the police officer has to use common sense and record one of the statements as the FIR. As in *Shivashankar Singh v. State of Bihar*, the Supreme Court approved registration of two FIRs in respect of the same incident. The constitution bench of the Supreme Court has settled the position in *LalitaKumari v. State of U.P.* on the following lines:

1. On information of a cognizable offence, registration of an FIR is mandatory;
2. Arrest of the accused immediately on registration of an FIR is not mandatory;
3. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a time-bound preliminary inquiry may be conducted only to ascertain whether cognizable offences disclosed or not;

4. As to what type and in which cases preliminary inquiry I to be conducted will depend on the facts and circumstances of each case.

The Supreme Court of India has held that genuineness, reliability and credibility of the information is no ground to refuse to register the information.

In the case of *T.T. Antony*, it has been held by the Hon'ble Supreme Court of India that there can be no second FIR.

Importance and Objective of FIR

The FIR is the most important piece of corroborative evidence on which the entire structure of a prosecution case is built up. The value of FIR differ from case to case as it is given by the complaint or prosecutrix or eye witnesses to the crime or a mere stranger. Information recorded under Section 154 CrPC is a public document and a certified copy of it is admissible in evidence.

The importance of the First Information lies in the following reason.

1. It is a statement made soon after the occurrence hence the memory of the informant is fresh.
2. Informant not likely to have opportunities of fabrication.
3. It represents the case set up by the informant at that time
4. It puts the police in action.

It was observed by the court in *Mohan Lal v. State* that, "the principle object of the FIR is

only to make a complaint to the police to set the criminal law in motion. Its secondary though equally important object is to obtain early information of an alleged criminal activity to record the circumstances before there is time for such circumstances to be forgotten or embellished”.

Further it has been held in Emperor v. Khwaja Nazir Ahmed that Section 154 has 3-fold objective:

Firstly, the information should be given to the Magistrate of the District and District Superintendent of Police who are responsible to maintain peace and safety.

Secondly, to make known to the Judicial Officers before whom the case is ultimately tried what are the material facts on which the investigation is commenced;

Thirdly, to safeguard against the loss due to subsequent forgetfulness and embellishment on the part of the informant about the incidence.

#### **Where FIR can be lodged?**

The general rule is that ordinarily the information about the offence committed is to be given to the police station having territorial jurisdiction where the offence has been committed. But this does not mean that it can not be lodged elsewhere. In the case of A.P. v. Punati Ramube the police

constable refuse to record the complaint on the ground that the said police station had no territorial jurisdiction over the place of crime. It was held by the SC that refusing to record the complaint was a dereliction of duty on the part of the constable because any lack of territorial jurisdiction could not have prevented the constable from recording information about the cognizable offence and forwarding the same to the police station having jurisdiction over the area in which the crime was set to have been committed.

#### **Nature and Scope of Section 154 of Cr.P.C.**

The First Information Report is a first version of commission of a cognizable offence and on the basis of which investigation is commenced by the police. In Surjit Singh v. State of Punjab, the S.C. said, “it is not an encyclopedia of the entire case and it is, therefore not necessary that such information may be given by an eye witness, it may be here say also”.

In case of Youth Bar Association of India, the new concept of digitalization of FIR comes into picture. The FIRs will be uploaded online at the provided portal within 24 hours.

Delay in preparing Site Plan-  
Ante timed FIR

In *Lallan Chaubey v. State of U.P.* the investigating officer reached place of occurrence on the date of occurrence late in the evening and prepared site plan next day in the morning. It was held that delay in preparing site plan can not be ground to held that FIR was Ante Timed.

Any information forming the basis of FIR is found untrue and the later version given during investigation is found true and challan is put on that basis, the later version given in the same statement is not FIR. The FIR will remain the same on which the investigation was started the later statement being during investigation, even if found true can not become FIR.

### **Delay in filing FIR**

As per the law, the FIR is to be registered as soon as possible so that no time is wasted and the culprit is caught timely and no danger is present to others. The longer the delay, the stronger the suspicion delay in giving the First Information can be condoned if there is satisfactory explanation. If there is a delay on the part of police, they must provide substantial grounds for such delay. Where the delay in filing FIR is due to its being lodged at a wrong police station, it was held to be reasonable. In *Kulwant Singh and Others v. State of Punjab* it was held that delay in lodging in FIR is not a

ground to throw away entire prosecution cases.

In *BathulaNagamalleswara Rao and Ors. v. State Rep. by Public Prosecutor the Apex Court* held that: “delay in lodging FIR, if justifiably explained, will not fatal an undue delay in lodging a FIR is always looked with a certain amount of suspicion and should as far as possible be avoided’.

Delay in FIR can be of three types:

1. Delay by an informant in lodging FIR.
2. Delay in recording the FIR by the officer in charge of the police station.
3. Delay in dispatching the FIR to the magistrate.

### **Refusal to register an FIR**

The registration of an FIR under Section 154 (1) CrPC regarding the cognizable offence forms a strong basis of a valid criminal prosecution. It empowers the police to investigate the matter in accordance with the provisions of Chapter XII of CrPC. But refusal to register an FIR can have wider ramifications. As we know that the FIR is not a substantive evidence, however it can

not be denied that it has its own value and undue and unexplained delay in filing

the FIR can be inevitable to the prosecution case. Section 154 (1), CrPC leaves no option but to register an FIR on the receipt of an information related to the commission of a cognizable offence. As the Apex Court in the State of Haryana v. Bhajan Lal, held that at the stage of registration of a crime or case, the concerned police officer can not refuse registration of a case on the basis whether information laid by the informant is reliable and genuine in case of a cognizable offence. It is, therefore clear that if any information is laid before a police officer in charge of police station, disclosing the cognizable offence, satisfying the content of Section 154(1) CrPC, the said officer has no any other option except to enter the substance in the prescribed form, it means to register a case on the basis of given information.

Mohindro v. State of Punjab is a case of deliberate refusal to register an FIR. In the said case, the Supreme Court took a serious note of refusal to register a FIR on the basis of having conducted an inquiry, held, “though the learned counsel appearing for the State of Punjab stated that there have been an inquiry we fail to understand also how there can be inquiry

without registering a criminal case”.

### **Remedies**

1. If the concerned officer in charge refuses to file a FIR related to commission of a cognizable offence within his territorial jurisdiction under Section 154 (3) the informant or the person can go to the or approach the Superintendent of Police or the Commissioner of the police with a written complaint. If, after understanding or analysis of complaint, the S.P. or the Commissioner is satisfied that it discloses a cognizable offence, he may either investigate the case himself or direct his subordinate to do the same
2. If the above remedy go in vain, the informant is legally entitled to file a complaint to the Judicial Magistrate/ Metropolitan Magistrate u/s 156(3) read with Section 190 of CrPC there by praying FIR.
3. A Writ Petition in the respective High Court may be filed for the issuance of Writ of Mandamus against the defaulting police officer. Hon’ble SC, recently, in Lalita Kumari has held that the police must register FIR where the complaint

discloses a cognizable offence.

4. Refusing to register an FIR on the basis of jurisdiction could now cost a policeman a year in jail.
5. If non registration of FIR, has resulted in deprivation of life and liberty of any person guaranteed under Article 21, a Writ Petition may be filed in the concerned High Court for seeking damages/compensation.

### Zero FIR

Any police station can register FIR irrespective of jurisdictional area but the investigation will be taken up in which the place of occurrence reported in FIR. The police station register the zero FIR by marking its serial number as 'zero' and transfer to the concerned jurisdictional area which will carry out the investigation. It can be filed at any police station across India, irrespective of jurisdictional area. It is an important instrument in the hands of common man in our country to get their grievances registered with the police, which the police can not refuse. In case of cognizable offence, police is bound to register FIR. In case of *Satvinder Kaur vs. State (government of NCT Delhi)* the Supreme Court held that, police can investigate the case, which does not fall under their jurisdiction.

In another case, of *Bimla Rawal and Ors. v. State (NCT of Delhi) AND Ans.*, FIR was lodged in Delhi, despite the fact that all incidents occurred in Mumbai. Supreme Court quashed the FIR filed at Delhi and ordered to file a fresh FIR in Mumbai. In

this case the police misused the power of filing a zero FIR at the behest of the opposite party.

### Evidentiary value of FIR :

The police can make three different kinds of statements. The one is which can be recorded as an FIR, the second is which can be recorded during the investigation and the third one is which does not fall under any of the two categories mentioned above.

Evidence is the matter of testimony manifesting fact on particular precision or circumstances. FIR is a very important piece of Evidence in a case as it contains the very first version of the incident. However, it can not be treated as substantive piece of evidence as it is not given in trial, not recorded on oath & not tested by cross examination. But when the informant is called as witness in the court his former statement (FIR) can be used both, for corroborating or contradicting his testimony as per Section 145, 157 & 161 of The Indian Evidence Act, 1872.

But it cannot be used as evidence against the informant as it is hit by Section 25 of The Evidence Act.

FIR could be used for corroborating the information as per Section 157 & 161 of Evidence Act. But it could not be used for corroborating other prosecution witness or prosecution case in general.

In the case of *Nisar Ali v. State of U.P.* the Apex Court ruled that, "The FIR is a kind of evidence whose contradictory value is only for the person who has lodged the FIR (the informant) and it cannot be used to contradict the statement made by any other person, witness".

The decision delivered in the case of Damodar Prasad v. State of Maharashtra furthered strengthen this view of the court, which says:

“it necessarily has to be the person who is informing the police about the crime at the first instance.”

If FIR is made by accused himself then it could be used as per the normal rules of evidence unless it is in the nature of a confession, as then it will be hit by Section 25 of the Evidence Act. The position of such case has been discussed in detail in the case of AghnooNagesia v. State of Bihar as:

1. Such an FIR is not inadmissible in evidence.
2. If the information is non-confessional then it could be admissible under Section 21.
3. If it is confessional in nature, then it will become inadmissible except the portion which will come under Section 27 of the Evidence Act.
4. In this case, Supreme Court for the first time clarified that FIR will be admissible in evidence as a whole not in parts but with a rider that in case the non-confessional part has no connection with the confessional part then the former will be relevant under Section 18 and Section 21.

FIR by an accused cannot be treated as evidence against the co-accused. FIR can be used by the informant to refresh his memory under Section 159 of Evidence Act. It can be used for impeaching the credit of the informant under Section 155 of Evidence Act. It can also be used for proving the conduct of informant as per Section 8 of Evidence Act. FIR can be used to identify

the accused, witnesses, place and time of occurrence as per Section 9 of Evidence Act.

FIR cannot be used as a primary evidence of the truth of its contents as it cannot be substituted for evidence given or not. Therefore, FIR itself cannot lead to the conviction of the accused. But in certain circumstances FIR becomes substantive piece of evidence under Section 6 as Res-Gestae, Section 32, Section 160 of the Evidence Act.

On the basis of the above, it can be concluded the normally FIR is not a substantive piece of evidence but is a public document as per Section 74 of Evidence Act and its certified copy could be given as per Section 79 of the Evidence Act. However, it becomes a substantive piece of evidence under certain circumstances but S.H.O. cannot given copy of FIR to the accused unless the police report is ready or else he would be liable under Section 27 of Police Act, 1861.

### **Quashing of FIR**

The Supreme Court has recently ruled that the High Court can quash an FIR against a person if it did not prima facie disclose any offence. In inherent powers of HC under Section 482 CrPC could be exercised to quash proceedings, in appropriate cases either to prevent the abuse of the process of any courts or otherwise to secure the ends of justice.

The Apex Court after adverting to various precedents and summarized the following broad principles:

1. Section 482 preserves the inherent power of HC to prevent an abuse of the process of any court or to secure the ends of justice.

2. For quashing a criminal proceeding or a complaint, the HC, under Section 482, must evaluate whether the ends of justice would justify the exercise of inherent power.
3. Criminal cases involving offences which arrived from commercial, financial, or similar transaction with an essentially civil flavor may in appropriate situation fall for quashing where parties have settled the dispute.

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