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Research Article

CONTEMPORARY ISSUES OF REGISTRATION OF FIRST INFORMATION REPORT IN INDIA

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ABSTRACT
A statement made to the police can fall into one of three categories such as a statement recorded as a First Information Report (FIR), a statement recorded in the course of an investigation by the police and a statement written by the police that does not fall into either of these categories. None of these statements can be regarded as substantial evidence, i.e., evidence of the facts stated in the FIR. As these statements are not made during trial, they cannot be given on oath or tested by cross-examination. However, if the person making the statement subsequently appears in court and gives evidence at the time of trial, their earlier statement may be used to confirm or deny their testimony, in accordance with the Indian Evidence Act, 1872.In this paper the contemporary issues of registration of first information report in India will be discussed elaborately.

Keywords: Crime, Evidentiary Value, Evidence, First Information Report, Investigation and Police.

Introduction

The first step in any investigation is to inform the police that an offence has been committed, and this can be done if someone comes to the police station and gives details about the offence. This is commonly referred to as the First Information Report (FIR). The FIR has been contemplated in section 154 of the Code of Criminal Procedure (Cr. P.C),1973 The basic requirements of FIR under this section are that in the case of cognizable offence if information is given orally to the police station's then, the document must be completed in writing by the designated officer and once information is collected, it will be told to the person who provided it; The informant must put his/her sign on the written copy ; The final process is entering the same in a dairy or book which is used only for this purpose by the responsible officer. The copy of the written information is handed over to the informant under clause (2) of this section. In most cases, a FIR is not considered as evidence, but in some situations—such as when a deathbed statement is involved—it may be. These conditions have been brought up in the examples that are discussed at pertinent points. *Veer Kuer Paswan and Others v.*

State of Bihar[1] case the honorable Supreme Court ruled that the First Information Report cannot be utilized as Substantive piece of evidence. A number of FIR-related principles have been established by case laws, including the following: it is sufficient if a FIR demonstrates that an offense has been committed.[2] When filing a FIR, the identities of the perpetrator and any witnesses are not needed to be revealed. The informant does not have to know every little detail or have firsthand knowledge of the occurrence; in fact, it may be provided by anybody who sees the crime being done, learns about a crime being committed[3] from someone else, etc. An FIR essentially starts the investigating process in a criminal matter. A further significant concern with First Information Reports (FIRs) that has long troubled the legal system is the anonymity of FIRs, particularly when they are submitted over the phone. That is, if the FIR would be important for the aim of the investigation in such circumstances, if the person who provides the initial information report over the phone withholds their name. Furthermore, would the material be acceptable in such circumstances if it were ambiguous or cryptic? These have been topics of great concern by the Courts and many diverse opinions have arisen in the course of time.

However, it does not appear like the matter has been resolved. Under Section 154(1) of the Code of Criminal Procedure,1973 the law mandates that any information pertaining to the commission of a "cognizable offence" (as defined by Section 2(c) of the Code) must be given in writing to "an officer in charge of a police station" (as defined by Section 2(o) of the Code) and signed by the informant. This writing must be done in a book that the officer keeps, in a format that the State Government may specify. This form is commonly referred to as a "First Information Report," and the act of entering the information in the said form is known as registration of a crime or a case. It is therefore evidently clear that if any information disclosing a cognizable offence is laid before an officer-in-charge of a police station satisfying the requirements of Section 154(1), the said police officer has no choice but to enter the substance of the information in the prescribed form, that is, to register a case on the basis of such information. The condition which is *sine qua non* for recording a First Information Report is that there must be information, and that information must disclose a cognizable offence.[4] From the informant's point of view, the primary goal of the FIR is to initiate legal action, and from the investigating authorities' point of view, it is to gather information about the alleged illegal activity so that appropriate action can be taken to track down and prosecute those responsible. It is important to note that the first information report, while unquestionably important in conveying the earliest information about the event, does not constitute substantive evidence. It can only be used as a previous statement, though, to support the maker's testimony under Section 157 of the Indian Evidence Act,1872 or to refute it under Section 145 of the same Act. It cannot be used to support or contradict other witnesses.[5] That being said, it has been decided that the police do not need to receive or register a FIR in order to begin a criminal investigation. This means that if a police officer begins looking into a cognizable offense and records the information immediately after learning of a crime, as required by Section 154, the prosecution or trial that follows cannot be thrown out on the grounds that a FIR was not filed.[6] Even though the information may not be accepted as substantive evidence, if it is received and documented in line with Section 154, the FIR serves as the foundation for the case that the informant establishes. However, if someone approaches an officer-in-charge of the police station to provide information about a crime, they are required under Section 154(3) to register the FIR. The informant may forward the information in question to the Superintendent of Police (SP) if the officer declines to file a formal police report (FIR).

[1] Available at https://lawschoolnotes.wordpress.com/2017/04/23/evidentiary-value-of-first-information-report-f-i-r/. Last visited on 08.11.2023.
[2] *Bishan v. State of Punja*b, AIR 1975 SC 573
[3] *Arpen v. State of Kerala*, AIR 1973 SC 1
[4] *State of Haryana and others v. Ch.Bhajan Lal and others*, AIR 1992 SC 604
[5] *Hasib v. State of Bihar*, 1972 (78) CRLJ 0233 SC
[6] *Khan v. State*, AIR 1962 Cal 641

The SP may then take appropriate action or request that the investigating officer begin an inquiry based on the information provided. As a result, even if the FIR is not a prerequisite, it cannot be denied if the subject is ready to provide the information.

However, it is crucial to highlight that such failure to file a FIR when the informant contacts the officer in charge and such non-compliance with Section 154 have not been forbidden or subject to penalties under the Cr. P. C and to be treated as dereliction of duty. This implies that even after learning of the information, the responsible official is not required to document it or carry out the inquiry. Furthermore, it has been decided that although while the FIR is a significant and vital record, it cannot be regarded as the prosecution's last word because full information and the presence of an eyewitness are not necessary. It just signifies the start of the inquiry; thus, the specifics of each case will determine its worth Including the type of crime, the informant's role, and his chance to see the entire or a portion of the offense being committed. Being the initial account of the incident, it holds significant value as it discloses the materials that the investigation starts with and the original version of the story. It has high practical value since the information is from the earliest instance, when the memory is clear and vivid. But as explained above, it is not essential and if it is not recorded then it would not prejudice the trial in any way. However. I would want to propose that this might result in a situation where the police officer, even after learning about the incident, acts indolently in making a formal complaint and does not take any initiative to initiate an investigation into the crime. In *State of Haryana v. Bhajan Lal*[7], it was decided that the police were forced to file a formal complaint (FIR) when the petitioner approached them and asked them to do so. This prompted the police to begin their investigation. As a critic of FIR notes "there are many examples of abusing these entries and not inputting all the relevant facts, even if the FIR's contents and details are quite plain. Even when detailed information is provided, the police frequently neglect to take any further action or to record a statement". The police officer in charge of a station has an obligation to note the information and take necessary action. But the commanding officer frequently does not carry out his responsibilities. There are several causes, including nepotism, corruption, and a lack of accountability.

For whatever reason, the system that should be in place just does not function, and justice is not served. When a police officer is registering a crime or a case based on information that reveals a criminal offense, as required by Section 154 (1) of the Code, they are not permitted to investigate whether the information provided by the informant is credible or not, nor can they decline to register a case on the grounds that the information is untrustworthy. However, if the officer in charge of a police station has reason to believe that an offense has been committed, he is required by law to file a case and carry out the investigation. He is also authorized to do so by Section 156 of the Code, subject to the proviso to Section 157. If an officer in charge of a police station declines to use the authority granted to him and to file a case based on information about a reported cognizable offense, violating the statutory duty placed upon him, the person aggrieved by such a refusal may send the information in writing and via postal mail to the Superintendent of Police in question. Moreover, the denial of information may be communicated to higher up as per Sec.36 of the Code of Criminal Procedure,1973. If the Superintendent is satisfied that the information sent to him discloses a cognizable offense, he may choose to either look into the matter personally or assign any police officer under his supervision to investigate in accordance with subsection (3) of Section 154 of the Code. In this regard, it should be noted that while a police officer cannot conduct an independent investigation into a non-cognizable offense as they would with a cognizable offense, they may do so on the directive of a magistrate who has the authority to try such a non-cognizable case or commit it for trial within the parameters specified by Section 155 of the Cr.PC. It is also pertinent to note about value of first information report here. The FIR is not substantial evidence, as was previously stated, but it is indisputable that it is important in providing the first

[7]*State of Haryana v. Bhajan Lal* 1992 CrLJ 527

information on the commission of a crime. In addition, under Section 157 of the Indian Evidence Act of 1872, it can be utilized to support the informant or refute the witness under Section 145 of the same Act in the event that the informant is summoned as a witness during the trial. Information provided over the phone cannot now be signed in accordance with S. 154 regulations. However, this has no bearing on the document's admission, and this criterion might merely be viewed as a formality. Consequently. In *Tapinder Singh v. State of Punjab*[8], the Supreme Court the question of whether the phone message qualifies as a First Information Report (FIR) or not, it was determined that an oral communication that was initially ambiguous, anonymous, and did not expressly state that an offense was committed could not be regarded as a First Information Report.

This material does not automatically have the characteristics of a first information report just because it was the first at the time. Each case's unique set of circumstances must be taken into consideration when determining whether a certain document qualifies as a formal complaint (FIR). The information that the Police Station received and entered into its daily notebook was the subject of the lawsuit before the Supreme Court. It was an anonymous, cryptic oral communication, though, and it made no mention of any crimes that might be prosecuted. In a different instance of *Soma Bhai v. State of Gujarat*[9], the complainant had reported the crime to the Sub-Inspector. However, the Sub-Inspector attempted, with great caution, to obtain additional guidance via phone from the Surat main police station prior to putting the report in writing. It was decided that the facts related to the S.L., which were later put in writing, definitely made up the FIR. However, the communication sent to the Surat Police Station was intended solely to get more instructions and was too vague to qualify as a First Information Report under S. 154 of the Code. The Court went on to say, "A cryptic message by itself could not satisfy such a requirement. The FIR is required to state all necessary facts." However, in *Tohal Singh v. State of Rajasthan*[10], the Rajasthan High Court noted that "if the telephonic message has been given to officer-in-charge of a police station the person giving the message Is an ascertained one or is capable of being ascertained the information has been reduced to writing as required under S. 154 of Cr. P.C. and it is a faithful record of such information and the information discloses commission of a cognizable offence and is not cryptic one or incomplete in essential details, it would constitute FIR." *Dhananjoy Chattejee v. State of West Bengal* [11], nevertheless Their Lordships of the Supreme Court ruled that the investigation agency could not be recognized as a First Information Report under Sec.154, Cr. P.C. due to the ambiguous and imprecise information provided over the phone, which prompted them to immediately rush to the location of the incident. Their Lordships noted in a different case of *Ram Singh Bavaji Jadeja v. State of Gujarat*[12] that any telephone information regarding the commission of a cognizable offence, regardless of the type and details of such information, is not a formal complaint (FIR) but rather is considered a statement made by an individual to a police officer during the course of an investigation covered by S. 162, Cr. P.C. However, a number of High Courts have concluded recently that if a phone message contains the information necessary by S. 154. Cr.P.C. about the occurrence of a cognizable offense, it can be regarded as a First Information Report (FIR).

The Karnataka High Court, for example, held in *S.G. Gundegowda v. State*[13] that the learned Addl. P.P.'s argument that the telephone message cannot be a FIR because it does not bear the informant's signature is not acceptable, given that S. 154's requirements regarding the reduction of the oral complaint to writing and the complainant's signature are merely procedural. The fact that a police officer did not put information in writing, which is actually the initial piece of information, does not

[8] *Tapinder Singh v. State of Punjab* AIR 1970 SC 1566
[9] AIR 1975 SC 1453
[10]1989 Cri LJ 1350 (Raj)
[11] AIR 1995 SCW 510
[12] *Ram Singh Bavaji Jadeja v. State of Gujarat* 1994 CrLJ 3067
[13]*S.G. Gundegowda v. State* 1996 CrLJ 852

diminish the significance of that information if it relates to the commission of a crime. Simultaneously, the High Court ruled that vague information obtained over the phone that provided no specifics about the incident could not be filed as a formal complaint. Therefore, the appellant's attorney argued that the phone message that was left at the police station served as the initial source of information about the offense, and that the FIR ought to have been filed solely on the basis of that information. The SHO made the proper decision in arriving at the scene and recording the First Information Report based on the incomplete information they obtained over the phone about the offense, which could not have been considered the first information in such a situation. Consequently, for evident reasons, a phone message needs to be regarded as the initial source of information on a specific offense and appropriately documented in accordance with S. 154 of Cr.P.C. The act of not signing the document does not compromise its legitimacy or admissibility as proof. The criminal inquiry would get underway in response to such information. if it is authentically and completely created, documented, and not in any way mysterious. S. 177 of the I.P.C., on the other hand, allows for conviction in the event that the informant is found by the police to be a simple crank caller and the information provided is incorrect.

Extraordinary Powers of the High Court

The High Court may intervene in proceedings pertaining to cognizable offenses under the following kinds of cases in order to avoid abuse of any court's process or to further the goals of justice: under Article 226 of the Indian Constitution, under S. 482, or under the Cr. P. C. Power ought to be used, but only in the most exceptional circumstances. When the First Information Report or complaint's accusations, even if they are accepted in full and taken at face value, do not first establish the existence of an offense or establish a case against the accused; When the claims in the First Information Report and any additional materials, if any, accompanying the F.I.R. do not disclose a cognizable offense, justifying a police investigation under S.156(1) of the Code, unless under a magistrate's order falling under S.155(2) of the Code; The uncontroversial accusations included in the First Information Report (FIR) or complaint, along with the supporting evidence, do not reveal the commission of any offense and do not establish a case against the accused; No police investigation is allowed without a magistrate's order, as per S.155(2) of the Code, in cases where the charges in the F.I.R. exclusively relate to non-cognizable offenses rather than cognizable offenses; When the accusations in the formal complaint or FIR are so ludicrous and implausible that it is impossible for a reasonable person to conclude that there is enough evidence to bring charges against the accused; Where a specific provision in the Code or the relevant Act provides effective redress for the grievance of the aggrieved party, or where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the establishment and continuation of the proceedings and when a criminal case is obviously handled dishonestly and/or when it is intentionally started with the intention of exacting revenge on the accused and spitting him because of a personal or private grudge. Subsequently, a crucial inquiry that has to be addressed is whether the filing of a criminal case under Section 154(1) of the Code automatically justifies the opening of an investigation under Chapter XII of the Code. According to Section 157(1), an Officer in Charge of a Police Station who, based on information received or otherwise, has reason to suspect the commission of an offence—that is, an offence that he is authorized to investigate under Section 156—must send a report to a Magistrate who is empowered to take cognizance of the offence upon a police report. The Magistrate may then proceed in person or designate any of his subordinate officers who are not below the rank that the State Government may specify by general or special order. This allows the Officer in Charge of the Police Station to go to the scene, investigate the facts and circumstances of the case, and, if necessary, take action to find and apprehend the offender. A proviso that is divided into parts (a) and (b) qualifies this clause. According to clause (a), if information about the commission of a crime is provided against a specific individual and the case is not of a severe character, the officer in charge of a police station is not required to proceed in person or assign a subordinate officer to investigate immediately. Clause (b)

states that the Officer in Charge of a Police Station must not examine a matter if it appears to him that there is insufficient justification for opening an inquiry. Clause (a) and (b) of the proviso require in each of the instances listed in subsection (2) of Section 157.

In this regard, we might consult a ruling made by this Court in *State of Bihar v. Saldanha*[14], which expanded the magistrate's authority under Section 156(3) to order additional inquiry following the investigating officer's submission of a report according to Section 173(2) of the Code. The aforementioned finding says this "As previously stated, the authority of the State Government is not in conflict with the authority of the Magistrate under Section 156(3) to order additional inquiry. Section 156(3) grants the Magistrate the authority to exercise that power even after the investigating officer submits a report. This implies that the Magistrate retains the discretion to reject the investigating officer's findings and order additional research. The investigating officer's ability to look into the case further, even after the report has been submitted in accordance with Section 173(8), is unaffected by this provision." In *Emperor v. Khwaja Nazir Ahmad*[15], the Privy Council addressed the police's statutory authority under Sections 154 and 156 of the Code within the scope of their investigation of a cognizable offense. It noted the following: It follows that it is crucial that the courts refrain from interfering with the police in cases that fall under their purview and for which the law requires them to investigate. The police in India are mandated by law to look into the circumstances surrounding an alleged crime that is eligible for prosecution, and they are not dependent on the court authorities for this authority. As demonstrated by previous cases, Lordships believe that it would be a regrettable outcome if it were determined that the Court's inherent authority might be used to infringe upon those fundamental rights. The roles of the police and the judiciary are complementary rather than overlapping, and the only way to achieve both individual liberty and proper observance of law and order is to let each pursue its own goals. The following are the different facets of first information report; Together with other evidence, the omissions in the FIR should be examined to see if the withheld facts were ever true in the first place[16]; Although the witness made certain remarks after filing the FIR, it was decided that they were not important enough to include in the case diary.

The court determined that the prosecution's case would not be lost since the witness's statement under section 16l would not be available.[17]; The prosecution's case before the court is not fundamentally affected by a witness's simple refusal to be questioned.[18] ; F.I.R. to a Police Officer: If any information is revealed to a police officer prior to their arrival, they may use that information to file a case [19]Accused is entitled to a certified copy of the F.I.R. as it is a publicly available document[20] And Declaration turning into the FlR: A crowded marketplace was the scene of a murder. The deceased's brother drove him to the hospital. The hospital's on-duty constable called the police station with a message. When the Police Sub-Inspector arrived at the hospital, he took down the brother of the deceased's statement, in which he identified the accused as the attacker. It was decided that this declaration, rather than the constable's (previous) cryptic phone call, should be regarded as the F.I.R.[21] In *Kurukshetra University v. State of Haryana*[22], Chandrachud, J. voiced the following opinions even though he disagreed with the premature quashing of a First Information Report: "We find it extremely surprising that the High Court believed it could suppress a First Information Report by using its innate authority under Section 482 of

[14] (1980) 1 SCC 554
[15]AIR 1945 PC 18
[16] *Rattan Singh v. State of HP*, 1997 (1) Supreme (Cr.) 4
[17] *Meharban & Ors. v. State of MP,* 1997 Cr LJ 76& (SC)
[18] *Habil Mia v. State of T ripura, 1997 Cr LJ 1866 (Gau)*
[19] *State of Haryana v. Bhajan Lal, AIR 1992 (SC) 601*
[20] *Jayantibhai Lalubhai Patel v. State of Gujarat, 1992 CrLJ 2377 (Guj)*
[21] *Ramsinh Bavaji Jadeja v. State of Gujarat, 1994 Cr LJ 3067 (SC)*
[22]*Kurukshetra University v. State of Haryana (1977) 4 SCC 451*

the Code of Criminal Procedure. The University Warden's complaint had not even been investigated by the Police, and there was no court case at all that was in progress in response to the F. I. R. It should be understood that the High Court's inherent powers do not grant it the authority to act arbitrarily or at its whim. This statutory authority must only be used in the most extreme circumstances and with great caution." In *State of Bihar v. J. A. C. Saldanha*[23], the Supreme Court considered whether the High Court had the right to use its extraordinary jurisdiction under Article 226 of the Constitution to interfere with the investigation while it was underway and to forbid or restrict further investigation. Based on the case's facts, this Court overturned the High Court's order quashing the Magistrate's order to delay considering the report that was submitted to him until the State Government's final report of the investigation was submitted to him.

It found that the High Court had erred gravely in using its extraordinary jurisdiction to order the State Government to complete a further investigation, and that the order amounted to mandamus. *State of West Bengal v. Swapan Kumar Guha*[24] is the case that provides the classic explanation of the law. In this case, Chandrachud, CJ, stated in his concurring separate judgment that "the Court would be justified in quashing the investigation on the basis of the information as laid or received if the FIR does not disclose the commission of a cognizable offence." The legal argument in the case, which was agreed upon by Chief Justice Chandrachud and Justice Varadarajan, was spelled forth by Justice A.P. Sen, who authored the primary decision. "The legal situation has been resolved. According to the legal position, if an offence is revealed, the Court will typically not obstruct the investigation into the case and will allow the investigation into the alleged offence to be finished; if the materials do not reveal an offence, no investigation should typically be allowed. In the interest of justice, an inquiry into an offense must inevitably come after it is made public. However, if no offense is reported, an investigation cannot be approved since, in the absence of an offense, any probe will cause needless harassment to a party, endangering their property and liberty for no reason at all. Every person's property and freedom are inviolable and holy.

Emerging Issues of e-FIR

Nowadays people can lodge the complaint through Online also. The filing of an online Complaint has been differed from state to state and each states have different pattern. In some states, the filing of an online FIR can be done only in the cognizable cases. The state of tamil nadu is one among it to provide the services and crime and criminal tracking network and system is useful for the same. 22nd Law Commission of India has recommended through submission of Report No.282 permitting the filling of online first information reports for all cognizable offences when the accused persons are not known and also said that it may be permitted to file on e-FIR for the offences which is punishable for up to three years when the accused person is known[25] but the main issues is that sometimes it may be misused also for taking revenge against enemy. Another moot question is that whether e-FIR can be useful mechanism to solve the disputes regarding delay in registration of First Information Report.

Conclusion and Suggestions

The first information report is considered as vital for investigation and important piece of evidence in any criminal prosecution, useful for balancing out witness testimony or supporting other evidence. As a result, it becomes essential that this kind of report be kept on file in all situations, particularly when the individual is visiting the police station to file a formal complaint (FIR) on a specific offense. However, a clear reading of S. 154 does not require the police officer to file a formal complaint. Therefore, it is strongly advised that, in the event that a police officer declines to file a formal

[23] *State of Bihar v. J. A. C. Saldanha* AIR 1980 SC 326

[24] *State of West Bengal v. Swapan Kumar Guha* AIR 1982 SC 94

[25] Available at https://www.hindustantimes.com/india-news/law-commission-backs-phased-e-fir-rollout-.html.Last visited on 18.11.2023.

complaint, the higher authorities in the Police Department should take strict action against that officer, including departmental inquiries and other measures for the officer's dereliction of duty. Additionally, it is proposed that the clause (Section 154 Cr.P.C.) be severely read, treating "must" to mean "must" in all circumstances and forcing police officers to record the informant's report. Senior police officers should also often visit the police stations to ensure that the officers-in-charge and other personnel working there have not neglected their duty. Furthermore, as the topic of anonymous telephone messages has already been covered in the project, there is no reason to assume that they are cryptic just because some procedural requirements (like the informant's signature, for example) have not been met. Any complaint that accurately reveals the circumstances surrounding the conduct of an offense should be treated as a legitimate first information report (FIR), and the police officer should begin an investigation as soon as they receive it. Every police officer has a responsibility to stop crimes from being committed, uphold law, and order in the community, and safeguard the public. Maybe he or she sent the police an anonymous message because they did not want to be involved in any police investigations and did not want to reveal who they were. Since a first information report (FIR) is the official record of a crime, the telephone message that is received the earliest should be regarded as a FIR. From the above it can be said that though there are lacuna while filing the first information report, now it has reached to the next level due to the technological development that it can be communicated in any form and process has been started to ensure that there will not be any delay for the registration of the same.