

## FIRST INFORMATION REPORT IN INDIA

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### Abstract

The First Information Report (FIR) plays a critical role in India's criminal justice system, as it is the document that formally begins a police investigation into a cognizable offence. Anticipating its treatment under the 1973 Code of Criminal Procedure, Section 154 thereof, the FIR becomes a procedural vestige and a check on accountability and transparency in criminal proceedings. The present paper seeks to analyse the legal framework and procedural intricacies of FIR with the evidentiary value of FIR, types of FIRs and notable judicial pronouncements that have contributed to its application. It further explores the issues of delayed or false FIRs, police inaction, and documents' digitization. The following paper describes ways to reform the first stage of the criminal justice process through a critical lens so that citizens have adequate access to justice and the police are held accountable for the registration of FIRs and arrests.

**Keywords:** First Information Report, Investigation, Cognizable Offence, Criminal Proceedings, Evidentiary Value.

### INTRODUCTION: OVERVIEW OF FIR

The FIR<sup>1254</sup> is a fundamental aspect required for the technical legal domain of India. FIR is the first interface between a citizen and the law enforcement mechanism. In any country which runs on rule of law, the process towards justice begins with filing a FIR. FIR is the foundation of criminal law in India and its significance is vital as it provides foundation to the justice system to start functioning in the earliest possible time. It is more than a procedural formality. FIR is recognised under **section 154 (Code of Criminal Procedure)**<sup>1255</sup> which generally states it is the duty of police officer of the concerning police station to record in writing the information relating to cognizable offence<sup>1256</sup> given by the informant. Although it is a crucial aspect of the Indian criminal justice system, FIR registration is frequently plagued by bureaucratic

complications, police apathy and ignorance of the public. These challenges add years to obtaining justice, or sometimes even deny it. However, the legitimacy of FIR's role has had new debate in rapidly expanding world of accountability and transparency in law enforcement, aided by technology in the form of e-FIR systems.

#### What is FIR?

FIR is not mentioned in the code. It may be defined as follows:

- 1) It is the information provided to a police officer.
- 2) Each such information should be concerning cognizable offence.
- 3) It is a first in point of time information.
- 4) In fact, it is upon this information, that the investigation into the offence takes place.

<sup>1254</sup> First Information Report

<sup>1255</sup> Now Section 173 of Bharatiya Nagrik Suraksha Sanhita, 2023

<sup>1256</sup> Section 2(g) of Bharatiya Nagrik Suraksha Sanhita, 2023

### How does Police file an FIR?

- 1) First Information Report: FIR always should be in 'descriptive nature'.
- 2) FIR is registered on behalf of the informant on the basis of information which is given through electronic mode or physically.
- 3) FIR is only filed in cognizable offences.
- 4) Such information has to be reduced in writing. The Police Officer will always look up for those informant who can later be prosecution witness and could give their testimony in court.

### OBJECTIVE OF STUDY

The objectives of the study relevant to this research is mentioned below:

- 1) Understanding with legal framework of First Information Report under Code of Criminal Procedure.
- 2) To know the history of origin and evolution of FIR in India.
- 3) To know the essentials of FIR.
- 4) Analyzing the types of FIR.
- 5) To assess the evidentiary value of FIRs vis a vis criminal trials.
- 6) To understand the judicial interpretation and landmark judgements shaping the law on FIRs.
- 7) To determine challenges and problems like non-registration, delay, and abuse of FIRs.

### HISTORICAL BACKGROUND: ORIGIN AND EVOLUTION

First Information Reports (FIRs) in India have a historical background that dates back to the colonial period when the British established an organized judicial system in the subcontinent. However, FIRs have come a long way since then, addressing the changing dynamics of society, legal systems, and the complexities of modern-day policing.

A. **Colonial Roots:** FIRs were introduced under the **British Indian Police Act (Act of 1861)**. This Act formed the foundation of the contemporary policing system in India during British colonial rule. Previously, FIRs were introduced to legitimize reporting of crimes

and to initiate investigations. They standardized the documentation of the first information of a cognizable offence and were instrumental in centralizing the power of the colonial police force.

B. **Pre-Independence Era:** Use of FIR was to maintain law and order and control on the people during pre-independence era. The police had huge powers to file an FIR and start an investigation. FIRs were widely used during this time for the purposes of political repression as well as the management of civil unrest.

C. **Post-Independence Changes:** Soon after India was independent, there was a need for reforms in legal system of India's criminal justice system. With the adoption of Constitution of India in 1950's in result FIR was began to be more in 'democratic light' and essential as fundamental right for ensuring justice within citizen suffering from offences against them.

### LEGAL PROVISION OF FIR

Essentials of Section 154 of Code of Criminal Procedure, 1973 (2 of 1974)

- 1) This pertains to the commission of a cognizable crime.
- 2) The informant provides it either verbally or in writing.
- 3) If the statement is given orally, the officer in charge of the police station must write it down; if it is given in writing or has been reduced in writing, the person giving it must sign it.
- 4) The information must be read out for the informant that has been written down.
- 5) In the case of electronic communication, the information must be condensed, written down, and signed by the informant within three days.
- 6) If the information is provided by a woman who has been the victim of rape or sexual harassment under the sections of Indian Penal Code (45 of 1860), then such information shall be recorded by a female police officer; otherwise, the contents of the information shall be entered in the case diary.

7) If the individual against whom the aforementioned offense was initiated or attempted is temporarily or permanently mentally or physically incapacitated, the recording should be done at their selected location. Additionally, such statement must be recorded by a magistrate in accordance with section 164(1)(a) of the Crpc<sup>1257</sup>.

8) Section 154(2) states that the copy of information should be given to the informant or victim forthwith free of cost.

9) Upon receiving intelligence of a cognizable crime punishable for three years or more but less than seven years, section 154(3) specifies that the officer in charge with previous authorization from an officer of no less than the rank of DSP considering the nature of offence will proceed to carry out preliminary inquiry within 14 days to verify if there is a valid case to investigate further in the instance.

10) Remedies for people whose first information report was rejected to be registered are given by section 154(4).

#### REMEDIES IF FIR IS NOT REGISTERED

If there comes a case where an individual is refused by the Police Officer of a concerning Police Station to take it down the complaint, our code of 1974 provides remedies for such individuals against the police officer. The remedies are lawfully prescribed in the code under sub-section (4) of section 154 and that are:

1) If the PO refuses to record the grievance, then raise information to the Superior Police Officer/Superintendent of Police. If satisfied they must investigate the case personally or direct an investigation to subordinate officer.

2) If the Superintendent of Police fails to respond to the complaint, the victim or informant may seek magistrate's permission on their own. If the magistrate is pleased with the facts, he may direct investigation under section 156(3) of crpc or else consider the case a complaint case.

3) If no action/ response by the magistrate, the informant might ask the High Court for relief by means of a section 482 application.

#### EVIDENTIARY VALUE OF FIR

The established legal principle is that an FIR can only be considered an important piece of evidence and not a substantive one. The FIR is considered a crucial piece of evidence because it is the first report of any cognizable crime and aids in launching an investigation into the incident.

An FIR can be used as a substantive piece of evidence in certain exceptions, such as:

1) **For the corroboration:** FIRs are frequently useful in supporting the testimony of witnesses and the narrative of events given in court. They can identify the people engaged, give information about the crime's immediate aftermath, and present a vital chronology of events. When the specifics of a FIR match witness statements or other evidence, they bolster the prosecution's case and aid in establishing guilt. In this role, FIRs contribute to the construction of a logical narrative of the crime as a fundamental component of the evidentiary puzzle.

2) **To contradict:** Conversely, FIRs might also lead to contradiction and conflict. Discrepancies between the FIR and later declarations, especially those given during the trial, may cast doubt on the reliability of the prosecution's case. Defence counsel frequently examine FIRs for discrepancies, omissions, or errors that might undermine the reliability of the prosecution's story. These discrepancies might cast doubt on the FIR's evidentiary worth and make it more difficult to establish guilt or innocence.

3) **For refreshing memory:** It is possible that the informant has forgotten certain details by the time the case is finally heard in court, as I spend a long time investigating it. Here, the FIR is used as a substantive piece of evidence.

#### TYPES OF FIR IN INDIA

In this portion of paper, we are going to discuss about the types of First Information Report in

<sup>1257</sup> Code of Criminal Procedure, 1973 (2 of 1974)

India. Below are mentioned some FIRs and further we will discuss it more to know how India's criminal legal system deals with it and in addition we will see case laws supporting our FIR.

- A. ZERO FIR
- B. ANTE TIMED OR FALSE FIR
- C. MULTIPLE FIR
- D. CROSS FIR
- ZERO FIR

Zero FIR is an FIR that can be filed in any police station, even if the crime did not occur within its territorial jurisdiction. The serial number supplied to the FIR is what the terminology "Zero" refers to—it is first noted as "0" and then moved to the police department with the correct authority. Though the Code of Criminal Procedure, 1973 (CrPC), does not explicitly reference Zero FIR, its implementation has been accepted on the grounds of:

Section 154 CrPC: Requires the police to file FIRs on the basis of any knowledge of a cognizable crime.

Justice Verma Committee Report: Post-Nirbhaya case, the committee proposed steps to enhance reaction to crimes, especially against women, including the idea of Zero FIR.

CASE LAWS:

**CASE: KIRTI VASHISHT V STATE & ORS. (CASE NO. CRL.M.C.5933/2019)**

In this case it was stated that even if the information to be registered as FIR where the incident took place which is out of the jurisdictional area of the police station, the police is still obliged to take the information and register it as zero FIR and thereafter, transfer to the particular police station.<sup>1258</sup>

**CASE: STATE V HARNAM SINGH (20 MAY 2010)**

Harman Singh along with three men kidnaps a girl in school uniform. Later, upon receiving the information, both were taken to the police station situated at Parliament Street where

zero FIR was registered and a subsequent medical examination was done and taken to the Police Station at Tilak Nagar where the duty officer was given a copy of FIR.<sup>1259</sup>

Both the cases show the effectiveness of zero FIR and police officers compliances to their duty. And show that Zero FIR is a progressive system that helps guarantee justice is not denied for technicalities of jurisdiction.

• **ANTE TIMED OR FALSE FIR**

A necessary document starting the criminal law in motion is the First Information Report (FIR). Still, if FIRs are wrong or ante-timed (i.e., they are proven to be written earlier than they actually were), they not only run counter to the ends of justice but also threaten to penalize the innocent.

**An ante-timed FIR refers to an FIR that is:**

- 1) Backdated deliberately by the complainant or law enforcement officers, and
- 2) Revealed to have been recorded previously later than it was actually. This is sometimes used to make up proof, produce a fake narrative, or rationalize postponement of the FIR registration.

**False FIR: Definition and Significance**

A false FIR is an FIR:

- 1) Based on conjured data, or
- 2) Full of evil intention to wrongfully blame someone.

This is a misuse of the legal system that the Indian Penal Code (IPC) allows for strict punitive consequences.

CASE LAWS:

**CASE: VARUN BAGGA V STATE OF PUNJAB & ORS (12 SEPTEMBER 2024)**

The Punjab and Haryana High Court observed that it has become common place to misuse

<sup>1258</sup> Information of case taken from [https://blog.ipleaders.in/zero-fir-meaning-significance/#Case\\_Laws](https://blog.ipleaders.in/zero-fir-meaning-significance/#Case_Laws)

<sup>1259</sup> Information of the case was taken from [https://blog.ipleaders.in/zero-fir-meaning-significance/#Case\\_Laws](https://blog.ipleaders.in/zero-fir-meaning-significance/#Case_Laws)

the legal system by submitting False FIRs to stroke one's ego.<sup>1260</sup>

**CASE: MANOJ KR. GUPTA & 2 ORS V STATE OF UP & 3 ORS (CA NO. 343 OF 2009)**

It was held that if any judicial officer or Judge wants to become the first informant in his personal capacity in any FIR, he must take his concerned District Judge into confidence and after having the assent he can become the informant. Several exceptions were also laid down.<sup>1261</sup>

• **MULTIPLE FIR**

Multiple FIR refers to:

- 1) Several FIRs filed regarding the same event, occurrence or transactions.
- 2) Through sometimes the same informant, sometimes several informants, including overlapping offences.

CASE LAWS:

**CASE:T.T. Antony v. Kerala, ((2001) 6 SCC 181)**

This case was one of the leading case for multiple FIR, the court ruled that, once an FIR is filed and investigation begins, a second FIR for the same event not allowed. These are strictly allowable only if the second FIR refers to a different and separate crime.

**CASE: Surender Kaushik v. State of U.P ((2013)5 SCC 148)**

In this case it was held that, a counter FIR (cross-case) arising from the same incident by the opposite party is valid.

• **CROSS FIR**

A Cross FIR alludes to a counter to begin with Data Report recorded by the inverse party included within the same occurrence. In cases of shared attack, riots, or quarrels, both parties may record complaints giving diverse adaptations of the same event. The law grants this to guarantee a reasonable and unbiased examination into all points of view.

Meaning and Nature of Cross FIR:

A Cross FIR:

- 1) Is recorded against the complainant of the primary FIR or their partners.
- 2) Emerges from the same exchange or incident but presents a distinctive form.
- 3) Isn't a moment FIR in infringement of the T.T. Antony judgment, since it speaks to a unmistakable viewpoint, not a copy of truths.

Legal Acknowledgment of Cross FIRs:

**CASE: SURENDRA KAUSHIK V STATE OF UP ([2013]5 SCC 148)**

The Incomparable Court held that there's no lawful bar to recording a cross FIR. Both forms must be examined at the same time, and in a perfect world by the same Exploring Officer to preserve reasonableness.

**CASE: RAM LAL NARANG V STATE (DELHI ADMN) (1979 SC 1791)**

Upheld the rule of examining unique accounts emerging from the same occurrence.

**IS IT ESSENTIAL TO FILE FIR IN EVERY CASE?**

Is it essential to file FIR in every case? Let's understand the answer with case laws.

Yes, it is mandatory to file an FIR when any information disclosing a cognizable offence is laid before the officer-in-charge of a Police Station, he has no option but to register the case on the basis thereof. A cryptic and anonymous telephone message which did not clearly specify a cognizable offence cannot be treated as FIR, held in the case of **STATE OF HARYANA V CH. BHAJAN LAL (1992 AIR 604)**<sup>1262</sup>

In the case of **RAMESH KUMARI V STATE (NCT OF DELHI)** (AIR 2006 SC 1322) the Supreme Court reaffirmed public faith in India's legal system by upholding an individual's right to file an FIR when they suffered harm. The court also reinforced that the police cannot refuse to register an FIR from any individual seeking to report an offence.<sup>1263</sup>

Again in a landmark case for FIR, **LALITA KUMARI V GOVT OF UP ([2013] 14 SCR 713)**, the Hon'ble Supreme Court held that the registration of FIR is mandatory under section

<sup>1260</sup> Information taken from <https://www.drishtijudiciary.com/bharatiya-nagarik-suraksha-sanhita-&-code-of-criminal-procedure/false-first-information-report>

<sup>1261</sup> Information taken from <https://www.drishtijudiciary.com/bharatiya-nagarik-suraksha-sanhita-&-code-of-criminal-procedure/false-first-information-report>

<sup>1262</sup> Information of case taken from the Code of Criminal Procedure by SN Mishra (page no.)

<sup>1263</sup> Case information taken from <https://blog.ipleaders.in/case-analysis-ramesh-kumari-v-state-n-c-t-delhi-ors/>

154 of CrPC and no preliminary enquiry is permissible if the information received discloses the commission of any cognizable offence. The court further directed that the police officer abstaining from his duty of registering an FIR should be subjected to appropriate action.<sup>1264</sup>

### Challenges and Issues

- 1) Delay in Registration: Frequently results in the destruction of evidence or bungle in justice.
- 2) False FIRs and Misuse: FIRs can be abused for personal vendetta, particularly in cases of family disputes, dowry, or politics.
- 3) Police Discretion and Harassment: Police often refuse to file FIRs owing to outside pressure or internal bias.
- 4) Gender and Social Barriers: Victims belonging to marginalized communities still encounter obstacles in registering FIRs.

### CONCLUSION

The FIR is not just a simple process, but it is a roadmap to justice for the victims of crimes. In order for the rule of law to prevail, its immediate and impartial registration should be established. The framework is there, but its implementation is beset with challenges, requiring constant reforms in policing, digitisation, legal literacy, and judicial intervention.

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<sup>1264</sup> Case information taken from the Code of Criminal Procedure by SN Mishra