

## FIR: LEGAL SIGNIFICANCE AND JUDICIAL SAFEGUARDS AGAINST MISUSE

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### Abstract

*The First Information Report (FIR) occupies a pivotal position in the Indian criminal justice system, acting as the foundation upon which the investigative process is initiated. Rooted in Section 154 of the Code of Criminal Procedure, 1973 (now Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the FIR serves as the earliest formal record of information relating to the commission of a cognizable offence. Its legal significance extends beyond procedural formality, as it safeguards the interests of victims, ensures prompt police action, and provides a check against arbitrary or delayed investigations.*

*However, despite its importance, the FIR mechanism has been increasingly susceptible to misuse, including the registration of false or motivated complaints, abuse for personal vendetta, political targeting, and harassment of individuals through criminal process. Such misuse not only undermines the credibility of law enforcement agencies but also threatens the fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India. Recognising these concerns, the Indian judiciary has played a proactive role in evolving safeguards to prevent abuse while preserving the utility of the FIR as a tool for justice.*

*This article undertakes a comprehensive doctrinal and judicial analysis of the FIR, examining its legal nature, evidentiary value, and procedural framework. It critically analyses landmark judicial pronouncements that have shaped the law relating to registration, quashing, and misuse of FIRs, including guidelines laid down to protect against arbitrary arrests and malicious prosecutions. The article further evaluates the balance struck by courts between individual liberty and societal interest, and concludes by suggesting reforms to strengthen judicial safeguards while ensuring effective criminal administration.*

**Keywords** – First Information Report, Criminal Procedure, Misuse of FIR, Judicial Safeguards, Fundamental Rights, Police Powers

### 1. Introduction

The administration of criminal justice in India begins with the registration of a First Information Report (FIR). The FIR represents the first formal step through which the machinery of criminal law is set into motion. It is not merely a procedural requirement but a substantive safeguard that ensures transparency, accountability, and fairness in criminal investigations. By recording information at the

earliest point in time, the FIR minimizes the possibility of embellishment, fabrication, or manipulation of facts during investigation and trial.

Despite its foundational role, the FIR has often been criticised for being misused as an instrument of harassment and coercion. The ease with which an FIR can be lodged in respect of cognizable offences has, in several instances, resulted in false accusations, abuse of police

powers, and infringement of personal liberty. This tension between accessibility and abuse has compelled courts to continuously reinterpret and refine the legal framework governing FIRs.

The judiciary, while acknowledging the necessity of FIRs in maintaining law and order, has emphasized that criminal law should not become a weapon in the hands of private individuals or state authorities. Judicial intervention has thus been instrumental in establishing safeguards to prevent misuse, including the power to quash FIRs, guidelines on arrest, and restrictions on mechanical registration in certain categories of cases.

This article explores the dual dimensions of the FIR its legal significance and the judicial safeguards developed to prevent its misuse through a detailed examination of statutory provisions, constitutional principles, and judicial precedents.

## 2. Concept and Legal Framework of FIR

### 2.1 Meaning and Nature of FIR

An FIR is the earliest information given to the police relating to the commission of a cognizable offence<sup>262</sup>. It is not expected to be an encyclopaedia of facts but must disclose essential details sufficient to set the investigative process in motion.<sup>263</sup> The FIR reflects the initial version of events and often serves as a reference point against which subsequent evidence is evaluated.<sup>264</sup>

The FIR is fundamentally an information report rather than a substantive piece of evidence. Its primary purpose is to inform the police of the alleged offence and enable them to initiate investigation without undue delay.

### 2.2 Statutory Basis

Under Section 154 of the Code of Criminal Procedure, 1973, the police are mandated to register an FIR upon receiving information

disclosing a cognizable offence.<sup>265</sup> This provision has now been substantially retained under Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023.<sup>266</sup> The mandatory nature of registration has been emphasized to prevent police discretion from becoming arbitrary or discriminatory.<sup>267</sup>

Failure to register an FIR may attract departmental action against the concerned police officer and, in appropriate cases, judicial intervention through writ jurisdiction.<sup>268</sup>

## 3. Legal Significance of FIR in Criminal Proceedings

### 3.1 FIR as the Foundation of Investigation

The FIR marks the commencement of criminal investigation. It ensures that the investigation is conducted under legal authority and in accordance with procedural safeguards<sup>269</sup>. An investigationS conducted without a registered FIR may be viewed with suspicion and may vitiate subsequent proceedings.<sup>270</sup>

### 3.2 Evidentiary Value of FIR

Although the FIR is not substantive evidence, it plays a crucial corroborative role. It can be used to:

- Corroborate the testimony of the informant
- Contradict the informant under the law of evidence
- Test the veracity and consistency of the prosecution case<sup>271</sup>

Courts have consistently held that undue delay in lodging an FIR may weaken the prosecution case unless satisfactorily explained.<sup>272</sup>

### 3.3 FIR and Protection of Victims' Rights

For victims, the FIR represents recognition of their grievance by the state. It triggers access to

<sup>262</sup> Code of Criminal Procedure, 1973, § 154 (India)

<sup>263</sup> State of Haryana v. Bhajan Lal, 1992 Supp. (1) S.C.C. 335, 354–55 (India)

<sup>264</sup> Thulia Kali v. State of Tamil Nadu, (1972) 3 S.C.C. 393, 395–96 (India)

<sup>265</sup> Code of Criminal Procedure, 1973, § 154 (India)

<sup>266</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, § 173 (India)

<sup>267</sup> Lalita Kumari v. Gov't of Uttar Pradesh, (2014) 2 S.C.C. 1, 14–16 (India)

<sup>268</sup> Id. at 52–54

<sup>269</sup> H.N. Rishbud v. State of Delhi, A.I.R. 1955 S.C. 196, 201–02 (India)

<sup>270</sup> State of Uttar Pradesh v. Bhagwant Kishore Joshi, A.I.R. 1964 S.C. 221, 224–25 (India)

<sup>271</sup> State of Rajasthan v. Om Prakash, (2002) 5 S.C.C. 745, 751 (India)

<sup>272</sup> Thulia Kali v. State of Tamil Nadu, (1972) 3 S.C.C. 393, 395–96 (India)

the justice system and provides a formal mechanism for redressal. Denial or refusal to register an FIR may amount to a violation of the victim's fundamental rights.<sup>273</sup>

#### 4. Problem of Misuse of FIR

##### 4.1 False and Motivated FIRs

One of the most significant challenges associated with FIRs is their misuse through false or malicious complaints. FIRs have been used as tools of:

- Personal vendetta
- Political rivalry
- Commercial disputes
- Matrimonial conflicts<sup>274</sup>

Such misuse not only harms the accused but also burdens the criminal justice system.<sup>275</sup>

##### 4.2 Impact on Fundamental Rights

The registration of an FIR can lead to arrest, social stigma, professional harm, and psychological distress<sup>276</sup>. Arbitrary or mala fide FIRs directly impinge upon the right to life and personal liberty under Article 21 of the Constitution.<sup>277</sup>

The Supreme Court has repeatedly emphasized that criminal law should not be used as a means of oppression or harassment.

##### 4.3 Police Discretion and Abuse of Power

Although registration of FIRs is mandatory for cognizable offences, discretionary misuse by police authorities either through over-registration or selective registration—has raised concerns regarding impartiality and fairness.

#### 5. Judicial Safeguards against Misuse of FIR

##### 5.1 Power of Courts to Quash FIRs

High Courts, under Article 226 of the Constitution and Section 482 of the CrPC (now Section 528 of BNSS)<sup>278</sup>, possess inherent powers

to quash FIRs to prevent abuse of process or secure the ends of justice.<sup>279</sup>

Courts have laid down parameters to determine when quashing is justified, including cases where

- Allegations do not disclose any offence
- FIR is manifestly mala fide
- Criminal proceedings are purely civil in nature<sup>280</sup>

##### 5.2 Guidelines on Mandatory Registration and Preliminary Inquiry

While emphasizing mandatory registration of FIRs, the judiciary has allowed preliminary inquiry in limited categories of cases such as matrimonial disputes, commercial transactions, and medical negligence. This ensures that frivolous complaints do not automatically translate into criminal prosecution.<sup>281</sup>

##### 5.3 Safeguards against Arbitrary Arrest

The Supreme Court has issued detailed guidelines to prevent unnecessary arrests following the registration of FIRs.<sup>282</sup> Police officers are required to apply their mind to the necessity of arrest, balancing the seriousness of the offence with the rights of the accused.

##### 5.4 Protection against Harassment in Matrimonial and Special Laws

Judicial scrutiny has been particularly significant in cases under special statutes, where allegations are prone to exaggeration. Courts have emphasized caution to ensure that genuine victims are protected while preventing misuse.

#### 6. Balancing Individual Liberty and Social Interest

The judiciary has consistently attempted to strike a balance between two competing interests:

<sup>273</sup> Lalita Kumari v. Gov't of Uttar Pradesh, (2014) 2 S.C.C. 1, 13–14 (India)

<sup>274</sup> Preeti Gupta v. State of Jharkhand, (2010) 7 S.C.C. 667, 676–77 (India)

<sup>275</sup> Armesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273, 281–82 (India)

<sup>276</sup> Joginder Kumar v. State of Uttar Pradesh, (1994) 4 S.C.C. 260, 267–68 (India)

<sup>277</sup> INDIA CONST. art. 21

<sup>278</sup> INDIA CONST. art. 226; Code of Criminal Procedure, 1973, § 482 (India); Bharatiya Nagarik Suraksha Sanhita, 2023, § 528 (India)

<sup>279</sup> State of Karnataka v. L. Muniswamy, (1977) 2 S.C.C. 699, 703–04 (India)

<sup>280</sup> Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 S.C.C. 749, 758 (India)

<sup>281</sup> Jacob Mathew v. State of Punjab, (2005) 6 S.C.C. 1, 21–22 (India)

<sup>282</sup> Armesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273, 279–82 (India)

- The need for effective investigation and maintenance of law and order
- The protection of individual liberty and prevention of abuse of power

This balance is reflected in judicial insistence on procedural fairness, reasoned decision-making, and proportionality in the use of police powers.

## 7. Contemporary Developments and Reforms

The evolving nature of crime, technological advancement, and constitutional jurisprudence have necessitated continuous reform of the FIR mechanism. Recent legislative and judicial developments reflect an attempt to modernize criminal procedure while strengthening safeguards against misuse.

### 7.1 Transition to Bharatiya Nagarik Suraksha Sanhita, 2023

The replacement of the Code of Criminal Procedure, 1973 with the Bharatiya Nagarik Suraksha Sanhita, 2023 marks a significant shift in India's criminal procedural framework.<sup>283</sup> While retaining the core principles governing FIR registration, the new law seeks to enhance efficiency, accessibility, and accountability.<sup>284</sup>

#### Key objectives of the reform include:

- Streamlining investigation processes
- Reducing procedural delays
- Enhancing transparency in police functioning<sup>285</sup>

The continuity of FIR-related principles ensures legal certainty while allowing space for procedural modernization.<sup>286</sup>

### 7.2 Digital Registration and Accessibility of FIRs

One of the most notable reforms is the increased emphasis on digital modes of FIR registration.<sup>287</sup> Online FIRs and electronic communication aim to:

- Improve accessibility for victims

- Reduce physical barriers and intimidation
- Create an auditable digital trail<sup>288</sup>

Digital registration also minimizes discretionary refusal by police officers and ensures time-bound acknowledgment of complaints.

### 7.3 Use of Technology in Investigation Post-FIR

Technological integration extends beyond FIR registration to investigation and documentation. Tools such as electronic case diaries, digital evidence management, and automated tracking systems enhance efficiency and reduce scope for manipulation.

However, the use of technology must be accompanied by strong data protection safeguards to prevent misuse and ensure privacy.

## 8. Suggestions for Strengthening Safeguards

The increasing concerns regarding the misuse of First Information Reports necessitate a multi-dimensional reform strategy that addresses legislative gaps, administrative shortcomings, and judicial limitations. While courts have evolved important safeguards through interpretation, a more structured and institutional response is essential to ensure that the FIR remains a tool of justice rather than oppression. The following suggestions aim to strengthen existing safeguards while maintaining the efficacy of criminal investigation.

### 8.1 Statutory Codification of Judicial Guidelines

Many safeguards against the misuse of FIRs currently exist in the form of judicial precedents rather than explicit statutory provisions. Although judicial guidelines are binding, their absence from codified law often leads to inconsistent application at the ground level.

There is a pressing need to incorporate key judicial principles such as the requirement of reasoned satisfaction before arrest, proportionality in police action, and the

<sup>283</sup> Bharatiya Nagarik Suraksha Sanhita, 2023 (India); Code of Criminal Procedure, 1973 (India) (repealed)

<sup>284</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, § 173 (India)

<sup>285</sup> Statement of Objects and Reasons, Bharatiya Nagarik Suraksha Sanhita, 2023 (India)

<sup>286</sup> State of Haryana v. Bhajan Lal, 1992 Supp. (1) S.C.C. 335, 354–55 (India)

<sup>287</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, § 173(1)–(3) (India)

<sup>288</sup> Statement of Objects and Reasons, Bharatiya Nagarik Suraksha Sanhita, 2023 (India)

conditions for preliminary inquiry directly into the Bharatiya Nagarik Suraksha Sanhita, 2023. Codification would:

- Reduce ambiguity in police functioning
- Ensure uniform implementation across jurisdictions
- Minimize reliance on discretionary interpretation

Statutory recognition of these safeguards would also enhance accountability by providing clear legal benchmarks for judicial review and departmental action.

### 8.2 Mandatory Preliminary Scrutiny in Vulnerable Categories of Cases

While mandatory registration of FIRs remains the general rule for cognizable offences, certain categories of disputes are particularly prone to false or exaggerated allegations. These include matrimonial disputes, commercial transactions, property disputes, and professional negligence cases.

A structured preliminary scrutiny mechanism, with clearly defined timelines and scope, should be institutionalized for such cases. This scrutiny must:

- Be time-bound and non-adversarial
- Focus on determining the existence of criminal intent
- Avoid converting civil disputes into criminal proceedings

Such a mechanism would strike a balance between access to justice and prevention of harassment, ensuring that genuine complaints proceed without unnecessary delay while frivolous ones are filtered at an early stage.

### 8.3 Strengthening Penal Consequences for False and Malicious FIRs

Although provisions exist under criminal law to penalize false complaints, they are rarely invoked in practice. The absence of effective deterrence encourages misuse of the FIR process as a strategy for intimidation or coercion.

**Legislative reform is required to:**

- Introduce specific provisions addressing malicious FIRs
- Prescribe proportionate penalties including fines and compensation
- Enable courts to initiate proceedings suo motu upon finding abuse

Importantly, such penalties must be applied cautiously to avoid discouraging genuine victims from approaching the police. The focus should be on intentional misuse rather than bona fide errors.

### 8.4 Enhanced Judicial Oversight at the Pre-Trial Stage

Judicial intervention often occurs only after significant harm has already been caused to the accused through arrest, investigation, or public stigma. Introducing structured judicial oversight at an earlier stage could significantly reduce this harm.

Specialized magistrate-level scrutiny for sensitive FIRs could be mandated, particularly where:

- Arrest is sought immediately after registration
- Allegations involve severe reputational consequences
- FIR appears to stem from ongoing civil disputes

Such oversight would act as an institutional check on police discretion while reinforcing the constitutional principle of fairness in criminal administration.

### 8.5 Rationalisation of Arrest Powers Post-FIR Registration

The automatic linkage between FIR registration and arrest remains one of the most problematic aspects of criminal procedure. Arrest, though legally permissible, should not be treated as a routine consequence of FIR registration.

Police authorities must be statutorily required to:

- Record written reasons justifying arrest
- Demonstrate necessity based on objective criteria

- Prefer alternative measures such as notice of appearance

Periodic training and performance evaluation of police officers based on lawful arrest practices can further ensure compliance with constitutional standards.

## 9. Conclusion

The First Information Report occupies a central position in the Indian criminal justice system, serving as the gateway through which the power of the State is invoked to investigate and prosecute crime. Its legal significance lies not merely in its procedural function but in its constitutional role as a safeguard for both victims and accused persons. While the FIR ensures prompt recognition of grievances and facilitates effective investigation, its potential for misuse poses serious challenges to the principles of fairness, equality, and personal liberty. The ease of registration, if left unchecked, risks transforming criminal law into an instrument of harassment rather than justice.

Judicial intervention has been instrumental in addressing these challenges by evolving safeguards that prevent abuse without diluting the effectiveness of law enforcement. Through the development of doctrines relating to mandatory registration, preliminary inquiry, proportionality in arrest, and the power to quash malicious proceedings, the judiciary has sought to balance individual liberty with societal interest. These safeguards reflect a constitutional commitment to ensuring that criminal procedure remains just, reasonable, and non-arbitrary, thereby reinforcing public confidence in the rule of law.

However, judicial safeguards alone are insufficient to address systemic misuse. A holistic approach involving legislative codification, administrative accountability, technological transparency, and continuous capacity-building of law enforcement agencies is essential. The future of the FIR mechanism lies in its ability to adapt to changing social realities

while remaining anchored to constitutional values.

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