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## Registration of FIR

### INTRODUCTION ::

The information recorded under Section 154 is usually known and referred to as the first information report or simply as F.I.R.. "First Information Report" is not mentioned in the Criminal Procedure Code but these words are understood to mean information recorded in this section. It is the earliest report made to the police officer with a view to his taking action on the basis of which information has commenced. It is an important document and maybe put in evidence to support or contradict the evidence of the person who gave the information.

The principal object of the first information report from the point of view of the informant is to set the criminal law in motion and from the view of the investigating authorities is to obtain information about the commission of a cognizable offence with a view to taking suitable steps for tracing and bringing to book the offender. Another important objective of the first information report is to record the early information of the alleged offence from the informant in writing before he forgets it or has a chance to make up a story. The information is important for the accused in the sense that it protects him from future changes and variations in the facts.

### **Tulsiram V. State Of Madhya Pradesh**

In this case presided over by J. Gyani and J. Tiwari, the issue was whether the police can use its discretion not to register an FIR based on an ex parte preliminary enquiry conducted by them. The police refused to register an FIR even though the petitioner had submitted a report alleging cognizable offenses. Hurt by their refusal the petitioner sought a writ of mandamus commanding the respondents to obey the law and register the offenses. The respondents contended that they had conducted a preliminary enquiry and had found the report to be false. Due to this they did not find it necessary to register it and conduct a full scale investigation. Justice Tiwari delivered the judgement for the Court. In *State of Uttar Pradesh v. Bhagwant Kishore Joshi* it was mentioned in Pg 145 of the judgement that preliminary enquiries conducted to check on the correctness of the information collected from an anonymous source did not amount to collection of evidence and thus could not be regarded as investigation. There was no dispute regarding the allegations made in the report constituted cognizable offenses. The only problem was that the police had already conducted an enquiry and the allegations were found to be untrue. The court did not accept these contentions on the following grounds: firstly, since there was no justification for an enquiry like the one which was conducted. Secondly, it violated the principles of natural justice by not registering the case without participation of the maker of report ex facie. Thus the Court ordered the Police to register the case and then conduct investigations. The enquiry and its conclusion being ex parte were to be treated non est.

### **Munna Lal V. State Of Himachal Pradesh**

The petitioner's eldest son Rakesh Kumar was married to Sham Lal's daughter Santosh. Rakesh Kumar died in mysterious circumstances. The day before his body was found Sham Lal had come to his house to take him away to Jatol Dispensary. He did not let Santosh accompany her husband nor let her pack food for him for the journey. It was also known that he was against the marriage between his daughter and Rakesh. The police refused to register an FIR. he filed a writ petition under Article 226. The Director General Police submitted an affidavit where the enquiries made revealed that there was no motive for killing Rakesh and he had died due to exposure to extreme cold and as a result of consuming alcohol. The Court was not happy with the manner in which the investigation was conducted. It stated that the police should have registered the FIR when the petitioner approached them and then should have conducted the investigations. The police cannot refuse to file a FIR in lieu

of the fact that they have already conducted investigations. The police do not have discretion regarding the registration of FIR in a case concerning a cognizable offense.

### **Susadima Amarolpam V. The Director General Of Police And The Inspector Of Police, Thirumullaivayal Police Station**

The petitioner had filed an writ petition directing the concerned authorities to investigate into the crime. The Court turned down the contention of the respondent that the police did not register the FIR due to inordinate delay. While Maria had died on 12/8/2006 the complaint was filed on 23.8.2006. the Court cited State of Haryana v. Bhajan Lal where the learned judge was of the view that whenever anyone discloses any information disclosing a cognizable offense in front of an officer in charge satisfying the requirements of Section 154(1) he has no other option but to register the case. The same was also said in Ramesh Kumari v. State 9NCT of Delhi) and Ors. Discretion does not lie with the police to refuse to register an FIR and proceed with the investigation. It directed the respondents to register an FIR and carry out investigations.

### **Sandeep Rammilan Shukla V. The State Of Maharashtra**

The view taken by the Division Bench of the Bombay Court was not in conformity with the ratio decidendi of the Supreme Court in Prakash Singh Badal. Therefore it constituted a larger bench to consider the question whether it is necessary for the officer in charge to register an FIR or can he conduct a preliminary inquiry pre registration. The court very clearly said that Section 154 casts an "absolute obligation" upon an officer in charge that whenever information regarding a cognizable offense is brought to his notice he shall follow the procedure as laid down in Section 154. In the case of Kotak Mahindra Bank Ltd. v. Nobiletto Finlease and Inv. Pvt Ltd. held that the police can hold a preliminary enquiry to check whether the accusations prima facie appear to disclose a cognizable offense if the accusation in the complaint appear to be doubtful, but after conducting their enquiry they would make a record of it in the station diary. The Bench in Kalpana Kutty's case passed a similar judgement. In Lallan Choudhary and Ors. V. State of Bihar and Anr. It was held that the reliability, genuineness, credibility of the information are not the conditions precedent for registering a case under Section 154 of the code. In Sandeep Shukla the judges agreed and stated that an officer in charge hardly has any discretion in registering a case once information regarding a cognizable offense is disclosed to him. The discretion given to him is restricted to a bare minimum so that it does not allow them to abuse the power given to them. But the court allowed police officers to conduct a limited enquiry in exceptional and rare cases but only after making an entry in the Daily Diary/Station Diary/ Roznamachar instantaneously with reasons as well as the need for adopting such a course of action. Such inquiry should not take more than two days. Thereafter the FIR should be recorded in the prescribed book.

### **Gurmito V. State Of Punjab**

The husband and his father were allotted two plots of land bearing Nos. 56 and 76 adjacent to each other. Sharif Kumar, the husband of the petitioner was defeated in the Gram Panchayat election by Madan Lal. It was alleged that Madan Lal and the other respondent came to Sharif Kumar's house and threatened to dispossess him. The petitioner tried to register a FIR at the police station but no case was registered against them. Rule 24.4 of the Punjab Police Rules, 1934 contends that the Officer in charge was not bound to record the FIR on the information given by the petitioner and instead could enter the information in the station diary. The Bench was of the opinion that the rule was enacted in 1934 and had since lost its statutory force in view of Section 154 of the Code of Criminal Procedure 1973. In State of Haryana v. Bhajan Lal, the Lordships said that the reasonableness or credibility of the information was not a condition precedent to registering a case. The only condition for which is sine qua non for recording a first information report is that there must be an information and that information must disclose a cognizable offense. The Court said that the investigation which were conducted were not in accordance with the law as laid down in Section 154 of the Code. It directed the police to register a case and conduct fresh investigations.

### **Mohindro V. State Of Punjab And Oths.**

The appellant approached the authority for registering a case against the alleged accused person but the police never registered a case. The learned Counsel for the State contended that there had been an enquiry. The Bench stated that there could be no enquiry without registering a criminal case. It

directed the Police to register the case and then start investigations.

### **Palwinder Singh And Anr. Vs State Of Punjab And Ors**

The petitioner was repairing a religious building in their village when Kuldip Singh and others, armed with weapons attacked them. The petitioners were moved to the hospital and their statements could not be recorded. But the third injured Sukhdev Singh's was declared fit to give a statement. The officer on further investigation found that no weapons were used and the statements of the injured were contradictory to each other. Since the matter was doubtful a report was recorded in the daily diary. The Court summed up State of Haryana v. Bhajan Lal and said that the legal information which emerged from that judgement was that a police officer cannot refuse to register a case on the grounds that the information was not credible or reliable. After registering the FIR on the complaint of a cognizable offense, the police officer can make up his mind whether he would conduct an investigation under Section 157 or not. the case cited Gurmito v. State of Punjab and held that the rule 24.4. of the Punjab Police Rules 1934 had lost its statutory force after the enactment of Section 154 in the Code. The Bench said that the investigation done by the officer in charge "hardly inspired any confidence". They asked the police to register the case and carry out fresh investigations.

### **Naurata Ram V. State Of Haryana And Ors.**

The basic question set before the Court was whether the police has any discretion to conduct an enquiry to find out if the information is reliable or not before registering a case disclosing cognizable offense. the petitioner's son had died while he was in police custody. The post mortem examination said that death had occurred due to a severe blow to the head. The petitioner had approached the District Administration to register the case, but no case was registered. A writ petition filed by the petitioner was disposed of by the Division Bench which gave an order to the Director General of Police of Haryana to register a case against the alleged guilty police officials. The police conducted an enquiry but no case was registered. Another writ petition was filed by the petitioner. The bench said that the police authorities were not allowed to sit in judgment and pronounce a verdict whether a case should or should not be registered. A police officer has to register a case once there is information regarding a cognizable offense given to him. According to the judgment given in State of Haryana v. Bhajan Lal the Bench said that it made it obligatory upon the police officers to register a case before conducting an enquiry. In Kuldip Singh v. State the Court held that the police had no right to refuse a registration of a case on information about commission of a cognizable offense and instead proceed with an enquiry and refuse registration as a result of the said enquiry. The Bench in this case asked the CBI to register a case and investigate the same.

### **Lalita Kumari V. Govt. Of UP & ORS.**

A written report was submitted by the petitioner to the officer in charge who did not register it. The Superintendent of Police was moved and then an FIR was registered. Even thereafter there were no steps taken to apprehend the accused or to recover the minor girl child. Judge Agarwal spoke from experience of being the Judge of the Patna High Court and the Chief Justice of the Orissa High Court when he said that the police do not register FIR's unless some direction is given to them by the Chief Judicial Magistrate or the High Court or the Supreme Court. He said that police does not take steps even after registering a FIR, its only when matters are brought to the notice of the Inspecting Judge of the High Court that FIR's are registered. In the above case the petitioner alleged that the station House Officer was pressurising him to withdraw the complaint. The Judge called this a very "disturbing state of affairs". The Court directed the Director Generals of police and Commissioners of Police to register FIRs and give the copies to the complainant. If this is not done then they could approach the magistrate to pass an order directing the police. if the police do not take appropriate steps then the concerned magistrate can initiate contempt proceedings against the delinquent officers and punish them for the violation of his orders.

### **Conclusion**

The FIR initiates the criminal investigation. According to Section 154, whenever a citizen informs the police or the police have a suspicion that a cognizable offense has been committed, it should record that in writing. This is the 'first information report'. The Courts place a lot of importance on the FIR. it is accepted by the Courts without further corroboration.

But it is seen that the citizens of our country face a number of problems while registering the FIR. a

corrupt police officer may refuse to register the FIR or may actually reduce it to a non cognizable crime. The police can conduct investigations only for cognizable crimes. The police in these situations has power to arrest the person without a warrant. Examples of cognizable offences are kidnapping, murder, dacoity etc. but in a non cognizable offense the police cannot arrest the person without an order from the magistrate. Therefore to avoid arresting the alleged criminal the police may reduce it to a non cognizable crime and refuse to act on the complaint. If he had recorded the FIR in a cognizable case then he would have had no option but to register the complaint and conduct investigations.

Sometimes the police officers also conduct preliminary investigations into the case before filing an FIR. this has been strictly condemned by the Court in the strictest of language. In *State of Haryana v. Bhajan Lal*, the Court declared there to be an "absolute obligation" on the police to register the FIR. In *Naurata Ram v. State of Haryana*, the Bench declared that the police cannot sit and decide whether the information disclosed was reliable or not. The police are obliged to register the FIR. In *Gurmito v. State of Punjab*, it was contended that Rule 24.4 of the Punjab Police Rules, 1934 allowed the police officer to record the information in the station diary and he was not bound to register the FIR. The Court was of the opinion that the rule had lost its statutory force with regard to Section 154 of the Criminal Procedure Code which made it mandatory to record the FIR.

Thus by analysing the above ten cases the researcher is of the view that the police do not have any discretion regarding the registration of FIR.

## References ::

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