Jamshed et al. International Journal of Institutional & Industrial Research ISSN: 2456-1274, Vol. 1, Issue 3, September-December 2016, pp. 21-25

First Information Report (F.I.R.): A Critical Study

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Abstract: **To start any examination, it is very clear that the police need to realize that an offence has been submitted. This can be conceivable on the off chance that somebody approaches the police headquarters and gives the points of interest of the offense conferred. This is frequently called as the First Information Report (so, FIR) and has been pondered under Section 154 of the Criminal Procedure Code of 1973 (hereinafter alluded to as "Cr.P.C."). The main data report is the data recorded under Section 154 identifying with the commission of a cognizable offense on which the examination is initiated. FIR gets the criminal law framework under way. FIR, notwithstanding, require not be all encompassing. It require not contain all points of interest of the episode described in that. The source is not required to give all the minutest subtle elements of commission of wrongdoing. FIR must be held up at the soonest in purpose of time.**

Keywords: **F.I.R..**

1. Introduction

F.I.R. is a report relating to the commission of a cognizable offence given to the police and recorded by it under Section 154, CrPC.[1] It is the earliest report made to the police officer *with a view to his taking action*.[2] In fact, it is an information given to a police officer by an informant on which the investigation is commenced.[3]

Requirements or Contents of FIR

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. It is, therefore, manifestly 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 other option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information. The parliament has, in order to safeguard the authenticity of the version made by informant at the earliest point of time, without giving any room for any complaint of tampering with it and also to protect it from any subsequent variations or additions, introduced sub-section (2) to Section 154, CrPC.

Section 154 (1) and (2), CrPC provides the following requirements or mode of registering FIR:

1. Every information relating to the commission of a cognizable offence, shall be reduced in writing by the officer-in-charge of the police station;

2. It should be read over to the informant by him;

3. It shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Stete Government may prescribe in this behalf and

4. A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

2. Object and Importance of F.I.R.

The F.I.R. is the most important piece of corroborative evidence on which the entire structure of a prosecution case is built up. It is in the nature of foundation of a building. The whole object of FIR is to obtain early information of alleged criminal activity, to record the circumastances before there is time for them to be forgotten or embellished.[4] In the words of Supreme Court, "the object of a first information report from the point of view of the informant is to set the criminal law in motion. From the point of view of investigating authorities it is to obtain information about the alleged criminal activity so as to be able to take suitable steps for tracing and bringing to book the guilty party"[5].

It was observed by the Court in Mohan Lal v. State[6] that, "the principal object of the first information report 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[7] that Section 154 has three-fold objective:

[1] Apren v. State, AIR 1973 SC 1.
[2] Soma v. State, AIR 1975 SC 1453.
[3] State v. Rusy, AIR 1960 SC 391.
[4] Sessions Trial pg. 19.
[5] Hasib v. State of Bihar AIR 1972 SC 283.
[6] AIR 1961 Raj. 24.
[7] AIR 1945 PC 18.

Firstly, to inform the Magistrate of the District and the District Superintendent of Police who are responsible for the peace and safety of the district.

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

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

It is valuable document which throws much light on the state of affairs which were known at the time of its making at least to the persons making it. Consequently, if at the trial a story is given which differs in material particulars from the one given in the first report, it has always been treated with great suspicion. Its importance lies in the fact that it si a statement which is made soon after the occurrence of when memory is fresh and there is want of opportunity for successful fabrication. The implication is that once the prosecution case is put in the FIR, opportunities for improving it are considerably reduced because any prosecution case that may be subsequently set up can be checked in the light of the first report particularly when it is made by the complainant himself. It also shows on what materials the investigation commenced and what was the story then told.[8]

3. Evidentiary Value of First Information Report:

It is well settled law that a first information report is not substantive evidence, that is to say, it is not evidence of the facts which it mentions.[9] However, its importance as conveying the earliest information regarding the occurrence cannot be doubted.[10] Though the FIR is not a substantive piece of evidence but it can be used to corroborate the statement of the maker under Section 157, Evidence Act or to contradict the maker thereof under Section 145, Evidence Act or to show that the implication of the accused was not an after-thought or as one of the *res gestae* or for being tendered in a proper case under Section 32 (1) of the Evidence Act or as part of the informant's conduct under Section 8 of the Evidence Act.[11] It cannot be used as evidence against the maker at the trial if he himself becomes an accused, not to corroborate or contradict other witnesses. [12] Where the FIR is used as an admission against the maker thereof, it has to be taken as a whole and not in part. It would not be permissible to take a part of it and to reject the rest. [13] Moreover it can be used to corroborate the statements of eye-witnesses.[14]

Other important points to be noted here so far as the evidentiary value of the FIR is concerned are:

- The inconsistency between the statements in the FIR and the evidence of the informant at the trial would discredit the evidence of the informant to that extent but does not make the statement in FIR the evidence upon the matter in the case.[15]
- When there is a complete variance between the FIR and the case for which the accused has been committed, the case will be thrown out as unreliable.[16]
- Where the FIR is not the product of the brain of an illiterate and inexperienced rustic in whose case there may be a legitimate excuse of confusion or forgetfulness or incapacity to distinguish between material and immaterial facts, but was prepared by an experienced police officer who had personal knowledge of all the facts, in such case prosecution cannot take shelter behind the plea of confusion or forgetfulness or lack of intelligence.[17]
- Ordinarily speaking, the FIR can be used for corroborating only the maker therof. In certain cases it has been regarded as a part of *res gestae* and the evidence of witnesses other than the person who lodged the FIR has also been sought to be corroborated or contradicted by it.[18]
- Prosecution cannot be thrown out on the mere ground that in the FIR an altogether different version aws given by the informant.[19]
- Discrepancies in the FIR and evidences are not always fatlal. Where the FIR showed beating by four persons but the evidence showed that only two beat out of four, held such a discrepancy would not throw doubt if the evidence is otherwise substantially true.[20]
- Evidence of the accused cannot be rejected merely for his failure to mention names of

[8] Mahendra Pal v. State, 1955 Cr. L.J. 892.
[9] State of Assam v. U.N. Rajkhowa, 1972 Cr.L.J. 354.
[10] R.V. Kelkar's, Criminal Procedure Code, 126 (Eastern Book Company, Lucknow, 5th edn., 2008).
[11] Balaka Singh v. State of M.P., AIR 1975 SC 1962.
[12] Nisar Ali v. State, 1975 Cr.L.J. 550.
[13] State v. Kartar Singh, 1958 Cr.L.J. 129.
[14] Abdul Gani v. State, 1954 Cr.L.J. 323.
[15] Narayan v. State, 1953 CrL.J. (Mad) 610.
[16] Narayan Reddy v. State, 1953 Cr.L.J. 29.
[17] Tahsildar v. State, 1958 Cr.L.J. 424.
[18] State v. Anil Ranjan Dutt, 1952 Cr.L.J. 1154.
[19] Dharma Rama Bhagare v. State of Maharashtra, (1973) 1 SCC 537.
[20] D.V. Reddy v. State of A.P., (1973) 3 SCC 89.

some of the accused in the FIR with all minute details of the incident.[21]

- The FIR not being an encyclopedia, mere non-mentioning of names of some witnesses therin, who were not eye-witness, is not fatal to the prosecution case.[22]

4. Delay in Lodging of FIR: Judicial Trend

FIR attaches to itself special significance. It is the earliest version of the crime on the basis of which investigation commences. As such, it is the contemporaneous record containing a spontaneous narration of the crime by the maker thereof before his memory fades or before he has time and opportunity to embellish or to introduce facts as a result of confabulation and reflection. That is why, where there is any undue delay in lodging the FIR, reasonable explanation should be elicited from the informant and incorporated in the FIR. Unexplained delay deprives the report of the advantage of spontaneity.[23] Criminal courts attach great importance to the lodging of prompt FIR because the same greatly diminishes the chances of false implication of accused as well as that of informant being tutored.[24]

Undue or unreasonable delay also incurs the danger of the FIR being tainted with afterthought concoctions or being distorted with coloured version, as a result of deliberation or consultation. Dealy in making the report is suspicious circumstance which puts the court on its guard to scrutinize the evidence with great caution.

Delay in lodging FIR can be of three types:

(1) Delay in lodging First Information Report by informant;

(2) Delay in recording First Information Report by the officer-in-charge of the police station; (discussed in detail below).

(3) Delay in dispatching the First Information Report to the Magistrate.

As to what constitutes delay in lodging of FIR is a question of fact depending upon the peculiar circumstances of each case. No hard and fast rule can be laid down to determine as to which information is prompt and which report is delayed. Distance between a police station and the scene of occurrence is not the only factor to be considered in determining the question. There are variety of circumstances which a court has to keep in mind in order to decide on the question of promptness or otherwise as to the lodging of the first report, viz., the condition of the injured, distance between the police station and the place of occurrence, means of communication, ignorance on account of rustic simplicity, fear of miscreants, etc. etc.[25] Now we may discuss here some of the relevant cases involving delay in filing of FIR and how the courts have dealt with this question. For convenience the judicial trend in this regard may be studied by dividing various cases into different categories:

5. Refusal to Register an FIR

The registration of an FIR under Section 154(1) CrPC regarding the commission of a cognizable offence forms a strong foundation of avalid criminal prosecution and it empowers the police to investigate into the commission of the said offence in accordance with the provisions of Chapter XII of the CrPC. But refusal to register an FIR can have wider ramifications.[26] As it has been already stated above that the FIR is not a substantive evidence, however it cannot be denied that it has its own probative value and unexplained delay in lodging the FIR can be fatal to the prosecution case. One of the reasons for delay may be due to refusal by a police officer to register an FIR. Section 154 (1), CrPC no doubt leaves no option but to register an FIR on the receipt of an information regarding the commission of a cognizable offence. As the Apex Court in the State of Haryana v. Bhajan Lal[27], held that at the stage of registration of a crime or the case, on the basis of information disclosing a cognizable offence in compliance of the mandate of Section 154, CrPC, the concerned police officer cannot embark upon an inquiry as to whether information laid by the informant is reliable and genuine and to refuse registration of a case on that ground. It is, therefore manifestly clear that if any information disclosing cognizable offence is laid before a police officer incharge of a police station satisfying the requirements of Section 154(1) CrPC the said officer has no other option except to enter the substance therof in the prescribed form, that is to say to register a case on the basis of such information.

Now we may proceed to examine few reported cases of deliberate refusal to register an FIR on pretext or the other and the case of Mohindro v. State of Punjab[28] is one of such cases. In the said case, the apex court taking a serious note of the refusal to register an FIR on the ground of having conducted an inquiry, held, "though the learned counsel appearing for the State of Punjab stated that there had been an inquiry we fail to

[21] Eqbal v. State, AIR 1987 SC 923.
[22] State v. Aru Pradhan, 1958 Cr.L.J. 161.
[23] Sunetra Bose, "FIR & Investigation", Cr.L.J. 30 (1991).
[24] Jagannath Narayana Nikam v. State of Maharashtra, 1995 Cr.L.J. 795.
[25] Supra note 14.
[26] Nirmal Chopra, "Refusal to Register an FIR", Cr.L.J. 186 (2006).
[27] 1992 SCC (Cri) 426.
[28] 2001 Cr. L.J. 2587.

understand also how there can be inquiry without registering a criminal case".

The case of Abhay Nath Dubey v. State of Delhi[29]is another example of police high-handedness. The facts of the case were that the petitioner's son died in mysterious circumstances, but an FIR was not registered. Thereafter the petitioner approached the HON'BLE High Court, which directed to treat the writ petition as a complaint and enquire into the same as per law. The police conducted a full-fledged inquiry and found no substance in the said allegations of the petitioner. Aggrieved by non-reguistration of FIR, the petitioner again approached the High Court. Allowing the writ petition the Hon'ble High Court held, "the position that emerges and which is reiterated is that Section 154 casts a statutory obligation on the officer to enter the substance of information laid before him disclosing commisiion of a cognizable offence in the prescribed form or book and to register an FIR. He may conduct some inquiry if he finds the information and allegations contained in the complaint/report indefinite, uncertain and vague raising doubts on the commission of cognizable offence. But where such offence was prima facie disclosed and he had no option but to embark on full-fledged inquiry too ascertain the genuiness or reliability of such information and allegation and draw conclusions and render the investigation redundant and to refuse registration of an FIR. He would be breaching the mandate of Section 154(1) thereby".

Recently the Supreme Court has had an occasion to comment upon the callous attitude of police in registering FIRs in Lalitha Kumari v. State of U.P.[30] lamenting on the inaction of the police in tracing out a missing a minor girl child, the court said: "it is a matter of experience that inspite of law laid down by this court, the police authorities concerned do not register FIRs, unless some direction is given by the CJM or the High Court or this Court. In a large number of cases investigations do not commence even after registration of FIRs. The court reteirated that directions should be issued to the police to register FIR promptly and to give a copy to the complainants. If the police do not comply with these instructions or initiate investigation, magistrate could initiate contempt proceedings."

6. Remedy

The refusal to register an FIR results in serious consequences. It denies the complainant the right to get justice and also gives the offender an inspiration/opportunity to again commit a similar or other offence.[31] As the Delhi High Court in Abhay Nath v. State of Delhi[32], observed that the refusal to register an FIR is loaded with some serious consequences for the informant/complainant. It seals the fate of his complaint for good and deprives him of participation in the investigation, in which he could substantiate his allegations. It also deprives him of a second opportunity to support his case before the magistrate in the event police officer files a closure report in the FIR, which he is entitled to a report and to oppose such closure report.

The remedy in case of refusal by the police officer to register the FIR is provided under Section 154 (3), CrPC wherein aggreived person may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who if satisfied that such information discloses the commission of a cognizable offence, shall either investigate himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by the Code, and such officer shall have all the powers of an officer-in-charge of the police station in relation to that offence.

Moreover, it can well be presumed that many cases of refusal to register an FIR, do not reach a court of law resulting that the offender goes scot free. Refusal to register an FIR by a police officer is a dereliction of duty on his part for which he can also be prosecuted under Section 221, IPC which provides punishment for a public servant intentionally omitting to apprehend or keep in confinement any person charged with or liable to be apprehended for an offence or helps such person to escape. Though registration of an FIR empowers a police officer to apprehend the offender as per the nature of the offence, the power to arrest under CrPC and refusal to register an FIR obviously results in such offender being non-apprehendable but the fact that the words '*refusal to register an FIR'* have not been used in Section 221, IPC, a new provision should be included in IPC specifically providing punishment in case where apolice officer refuses to register an FIR.[33]

7. High Court's Power to quash the FIR

The High Court may in exercise of powers under Art.226, Constitution of India or under S.482 or Cr.P.C. may interfere in proceedings relating to cognizable offences to prevent abuse of the process of any Court or otherwise to secure the ends of justice. However it has been observed by the Supreme Court in Kurukshetra University v. State [34] that the High Court while excercising the inherent power cannot quash the FIR and particularly when the police had not even commenced investigation and no proceedings are pending in any court. However, when the allegations in

[29] 2002 (2) Chand Cri 354.
[30] (2008) 3 SCC (Cri) 17.
[31] Supra note 38 at p.188.
[32] Supra note 41.
[33] Supra note 38.
[34] AIR 1977 SC 229.

the FIR, even if they are taken on their face value and accepted in their entirety, do not constitute the offence alleged it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused.[35]

It has been reiterated by the Court in a number of cases that the inherent power contemplated by Section 482, CrPC to quash the criminal proceedings including FIR has to be "excercised sparingly, carefully and with caution and only where such exercise is justified by the tests laid down in the section itself"[36].

In a leading case of State of Haryana v. Bhajanlal[37], the following cases have been stated by the Supreme Court wherein the extraordinary power under Article 226 of the Constitution of India or inherent power under Section 487, CrPC can be excercised by the High Court to prevent abuse of process of any court or to secure justice.

- Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under S.156(1) of the Code except under an order of a Magistrate within the purview of S.155(2) of the Code.
- Where the uncontroversial allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under S.155(2) of the Code.
- Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

[35] R.P. Kapoor v. State of Punjab, AIR 1960 SC 866.

[36] Pepsi Foods Ltd. V. Special Judicial Majistrate, (1998) 5 SCC 749.

[37] 1992 SCC (Cri) 426.

8. Conclusion:

In this way we can say that the provision of FIR is very important in every case, so it must be scrutinized very carefully and strict rules are to be made for the police officers for registering the FIR

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