

FIRST INFORMATION REPORT

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Sec. 154 Cr.P.C.:- INFORMATION AS TO COGNIZABLE OFFENCE:

When the Officer In charge of a Police Station receives information orally relating to commission of cognizable offence he has to reduce it into writing or get it done under his direction and every such information whether given in writing or reduced into writing should be signed by the person giving it and the substance of that shall be entered in the general diary of the station.

A copy of such recorded information shall be given free of cost to the informant. If the S.H.O. refuses to record it, the informant may send such information to District Superintendent of Police. The S.P. if satisfied that the information discloses a cognizable offence shall investigate the case himself or direct any other subordinate competent officer to investigate the offence.

The important terms used in Sec.154 are :

- a) Cognizable offence.
- b) S.H.O.
- c) General Diary : The register prescribed by the Govt. for recording the substance of information, etc.

Sec – 2(c):- Cognizable offence means an offence for which a Police Officer has authority to arrest without warrant.

The S.H.O. should be thorough with the classification of offences to identify as

to what offences are cognizable and non-cognizable.

Schedule I of the Cr.P.C. classifies all the offences of I.P.C.

Classification II of Schedule I classifies the offences under other penal Laws if there is no specific provision in that Act stating whether the offence is cognizable & non-cognizable. According to it, if the offence is punishable with 3 years or more than three years such offences are called as cognizable and non-bailable one, otherwise it is Non-cognizable and bailable.

Sec. 2(o) of Cr.P.C. Explains the S.H.O. (OIOPS):- S.H.O. includes in his absence the Police Officer present at the Station House who is next in rank to such officer and is above the rank of constable. The Govt. of A.P. issued notification directing that in the absence of H.Cs the senior most constable who is present in the P.S. can act as S.H.O. for registering the case.

Sec. 44 of Police Act 1861, defines General Diary: It is also called as station House Diary. All the proceedings relating to a crime which are to be recorded in the station diary viz. name of the complainant, accused, registering of the case, arrest of the accused, producing the accused in the court, seizure of articles, etc.

Important Points

(1) For registering a case two provisions Viz. 154 and 157 Cr.P.C. will be invoked. As per section 154 (1) Cr.P.C substance of information is only recorded. After recording such information the Police Officer has to prepare a report by filling all the columns in the printed F.I.R. and forth with send such F.I.R form along with original petition filed by the informant to the court u/s. 157 (1) Cr.P.C. Then only it can be said the case has been registered.

(2) For registering a case prima facie the facts which constitute the information shall be only a cognizable offence and none else. It is not required to see (a) territorial jurisdiction about the place of occurrence, (b) subject matter whether it is an offence under I.P.C. or Special & Local Law. Though there are other departments established to deal with offences under Special & Local Laws, the Police's power to take cognizance is not deprived unless there is a specific provision in that Special and Local Law debarring the police.

3) The status of the officer for registering a case must be the rank of S.H.O only. Any Police Officer of such rank can register a case. If there is any special provision in the Special & Local Law stating the rank, then such ranked officer or his superior only shall register a case. While the SHO is present in Police Station, if the sentry constable receives information relating to cognizable offence, it does not amount to first information. The information received by the SHO only is called as First Information.

4. Pre-enquiry is not required to ascertain whether information is genuine or false to record the first information. If the information turns to be false the informant will be punished U/ss.182 & 211 IPC. The S.H.O. is bound to register a case, if the received information is pertaining to a cognizable offence. Otherwise it is dereliction of duty and liable to be punished Police Act. If it is done with an intention to help the accused, he is liable to be punished U/s. 217 IPC. But for offences relating to corruption under P.C. Act, pre-enquiry may be conducted prior to registration of the F.I.R. It is based upon the judgment of Hon'ble Supreme Court to protect a public servant from unnecessary demoralisation, in case information turns out to be false.

5) If the information is vague, incomplete and indefinite, make G.D. entry and after getting clear information register a case by incorporating the first recorded information.

6) Telephone message & telegram message basing on such information a case cannot be registered, unless the informant is known & identified and message is clear. If a case is registered basing on a clear telephone information and informant is known, the S.H.O. has to sign at the place of informant signature stating the reasons for not obtaining his signature.

7) No need to register a case on anonymous letters and if the officer thinks it necessary he has to register a Suomoto case. In certain circumstances if no one has come forward to furnish information but the physical appearance

or information from other sources reveals a cognizable offence, the S.H.O. can register a suomoto case and proceed without waiting for the petition. Some times if there is a threat to informant, a Suomoto case can be registered. The police officer need not to disclose the name of the informant even to the court when asked by the court as there is a protection under section 125 of Indian Evidence Act.

8) There is no rule that the injured or eye-witness should lodge an F.I.R. A first information report, which sets the process of Law in motion, can come from any quarter including accused person.

9) FIR does not require to have all the facts of the occurrence. The substance of the information constituting an offence is sufficient. But if first information is furnished either by the injured or eye-witness, it must contain all the material facts. If any material fact is missing in it and later during the time of deposing evidence in the court, the missing fact is brought for the first time, the court may get suspicion over such evidence. So if the information is lodged by the injured or eye-witness the material facts of the incident should not be missed. Otherwise it will give scope for material omissions, contradictions and improvements. As a result the value of the evidence given by the first informant is decreased.

10) Delay in lodging first information report is fatal to the prosecution as there is scope for concoction or adding coloured version. The court will be very careful to act on such information. If reasons for the delay is explained and it appears to be natural the defect can be

cured. It is the duty of I.O. to ascertain from the informant why the delay has been occurred in furnishing first information. The transaction of recording of first information begins from the time when the informant enters into PS and concludes when the I.O makes endorsement on the report of first information. During this time if I.O gets any more information on his questioning the same should be recorded by the I.O and obtain his signature. Which is also a part of the first information.

11) The other object of first in time in reporting to Police Officer is to make necessary strategy for proceeding with investigation and nature of evidence to be collected by the I.O. So, if the delay is not explained, all the above objects will be lost and it creates doubt in the mind of court.

(12) There should not be any delay in dispatching the F.I.R. to the court. If there is any inordinate delay in dispatching the F.I.R. to the court, the court suspects the integrity of the information and police, and further thinks that it is an antedated F.I.R.i.e. F.I.R. issued subsequently by putting previous date.

(13) A single incident between two groups, and two different versions are given by two groups, the S.H.O. shall register two separate F.I.Rs. After investigation he will file one charge sheet against the erring group.

14) In general the Hon'ble High Court will not interfere at the stage of F.I.R. unless there is serious miscarriage of Justice. The Hon'ble High Court exercises its inherent powers u/s 482 Cr.P.C. for quashing F.I.R.

15) Evidentiary Value of F.I.R.:- It can be used for corroboration by the prosecution U/s 157 I.E.A and for contradiction by the accused U/s. 145 I.E.A. and it can also be used to impeach the credit of the maker U/s. 155 I.E.A.

Important Case Laws

✧ The Officer In-charge of police out post is not officer Incharge of police stations.

Mangal Singh Vs. State of Rajasthan
1985 Cr.L.J. 602 (Raj)
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✧ If the information discloses a cognizable offence, the officer has no other option than to register the case.

State of Haryana Vs. Bajan Lal
A.I.R. 1992 S C 604
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✧ First information report need not even give all details.

Mani Vs.State of Kerala
1987 Cr.L.J. 1965
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✧ Omission of important facts in the F.I.R. lodged by a witness to the occurrence must be taken serious note of and will affect the veracity of the prosecution case.

Shyamaghanu Vs. State of Orissa.
1987 Cr.L.J. 952 Orissa.

✧ F.I.R. cannot be used for contradicting or discrediting other witnesses. It can be used for corroboration or contradiction or impeaching the credit of the maker of first information only and none else.

A.I.R. 1973 SC 1476
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✧ Quashing of F.I.R or a complaint in exercise of inherent powers of the Hon'ble High Court should be limited to very extreme exceptions.

Trisuns Chemical Industry Vs. Ramesh Agarwal.
1999 (8) SCC 686
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✧ The delay will give room for concoction. Such delay will be taken into account if not explained properly.

Badi Guravaiah Vs. State of A.P.
1944 (2) Alt (Criminal)
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✧ Delay in sending F.I.R. to Magistrate forthwith gives rise to the suspicion that the report was recorded much later than the stated time. Obviously delay needs to be explained satisfactorily.

Iswar Singh Vs. State of U.P.
A.I.R. 1976 SC 2423.
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✧ F.I.R lodged by the accused himself stating that he committed murder of his wife by Khurpi as she was a woman of bad character, second part of the F.I.R led to discovery of a body and blood stained Khurpi. First part is totally inadmissible in evidence but second part is admissible U/s. 27 of the Evidence Act.

Gopal Vs. State of U.P.
1977 Cr.I.J. 358
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✧ **T.T. Antony Vs.State of kerala (AIR 2001 SC 2637)**

If there is a vague information by a phone call and a cryptic telegram and the

information is first entered in the station house diary, kept for this purpose by a police officer In charge of Police Station

Hon'ble Supreme Court held that it is an F.I.R. and further held that there can be no second F.I.R issued in respect of same cognizable offence for the same incident or occurrence. In this case at a subsequent stage the police registered a case on the report of the enquiry commission against the erring police official.

First telegram information and enquiry commission report both are same. Therefore S.C. held that subsequent F.I.R. is a second F.I.R. and its recording was irregular and a fresh investigation by the investigating agency was unwarranted and illegal.

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❖ **156 (3):-**

When an order for investigation U/s. 156(3) of the code is to be made, the proper direction to the police would be to register a case at the police station treating the complaint as the First Information Report and investigate into the same.

Madhu Bala Vs.Suresh Kumar

A.I.R. 1977 SC 3104

1977 Cr.L.J. 3753

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❖ Police did not investigate the case. The complainant can file a complaint before the Magistrate having Jurisdiction to

take cognizance of the offence. He is not entitled to approach the High Court by filing a writ petition and seeking a direction to conduct an investigation by the CBI.

1996 (11) SCL 852

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❖ Neither improvements suggestive of deliberations nor false involvement of the accused.

Golla Pullanna Vs. State of A.P.

1996 (10) SCC 223.

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❖ Police Officer to whom a complaint of a cognizable offence is reported has to register the crime and investigate – **cannot hold enquiry** whether information laid is genuine or otherwise.

2002 (1) ALT Criminal (Kerala) age 469.

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❖ Before lodging an F.I.R. against a Public Servant on charge of conception or dishonesty, there must be a suitable preliminary enquiry into the allegations by responsible officer, because lodging of F.I.R. against a Public Servant, even if baseless, would cause incalculable harm to the reputation of the Offidcer.

P. Sirajuddin Vs. State of Madras

1971 Cr.L.J. 523 S.C.

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Bureaucrats write memoranda both because they appear to be busy when they are writing and because the memos, once written, immediately become proof that they were busy.

- Charles Peters