

All about First Information Report (F.I.R)

By Roopali Lamba

Section 154 of CrPC deals with what commonly is known as First Information Report (F.I.R), which is the first information of a cognizable crime to a police . A ' first information report' means the information, by whomsoever given , to the police officer in charge of a police station in relation to the commission of a cognizable offence and which is first in point of time and on the strength of which the investigation into offence is commenced .

The information so received shall be recorded in such a form and a manner as provided :-

- i. Information given orally to the police officer in charge of the police station shall be reduced to writing by the officer himself or under his direction.
- ii. Information given in writing or reduced to writing must be signed by the informant
- iii. Information as taken down in the writing must be read over to the informant a
- iv. The substance of the information shall then be entered by the police officer in a book to be kept by such an officer in the form prescribed by the state government.

If the information is provided by a woman in cases related to rape , outrage of modesty of women etc. then such an information should be recorded by a woman police officer. Person against whom the offence has been committed or attempted is temporarily or permanently mentally or physically disabled , then such information shall be recorded by the police officer at the residence of that person. A copy of FIR must be given to the informant for free of cost .

The principal object of FIR is from the point of view of the informant is set to the criminal law in motion and from the point of view of the investigating authorities is to obtain the information about the alleged criminal activity so as to able to take suitable steps to trace and book the guilty.

When a Statement Amounts to FIR :-

It has been held that the first information is that information which is given to police in first point of time (on the basis of which the investigation has been commenced) and not that which the police may select and record as first information.

However any sought of information given first in the point of time is not necessary first information within section 154 of CrPC . It is necessary that the first information must relate to the cognizable offence on face of it and not merely in the light of subsequent events.

Section 154 does not necessary contemplate that the only one information of a crime should be recorded as FIR , but all information given to the police before investigation is started may amount to first information . Therefore information lodged at 2 different police stations regarding the same offence , both would be admissible in evidence .

The following points may be noted about a FIR :

1. It should be an information of a fact disclosing the commission of a cognizable offence.
2. It should not be vague or indefinite. If allegations made in FIR are taken at their face value and accepted in their entirety do not constitute an offence , the criminal proceedings instituted on the basis of such FIR will be quashed ,
3. It maybe given by anybody, the injured should not always be the first informant.
4. It is not necessary that the offender or the witnesses should be named.

The following do not come within the purview of FIR :

1. A statement given to the police after the investigation has commenced.
2. A statement made by the witness during an investigation.
3. A statement recorded by the officer in charge on the basis of his personal knowledge after the original information was received.
4. A complaint made orally or in writing to a magistrate

Where can FIR be lodged:-

The general rule is that ordinarily the information about the offence committed is given to the police station having territorial jurisdiction where the offence has been committed . But this does not means that it cannot be lodged elsewhere .If a police officer refuses to lodge FIR on the ground that the police do not have territorial jurisdiction of that offence then it is dereliction of his duty, then in such a case the police officer must lodge the FIR and then transfer it to the police station having territorial jurisdiction over that offence.

Omissions in FIR Whether Justified :-

The FIR should contain the information regarding the circumstances of a crime, names of actual culprits and part played by them as well as the name of eye witnesses .

FIR is sufficient if it gives broad spectrum of the incident . Sometimes witnesses do not think it proper to get it mentioned in the FIR . But omission of important facts in an FIR lodged by the witness to the occurrence must be taken serious note of and would affect the veracity of the prosecution case . FIR is required to contain the basic features of the prosecution case as it sets law into motion.

Non mentioning of the names of witnesses, mere non-elaboration of weapons, manner of assault and non specifications of assaults are not sufficient to discard the prosecution case. There is no requirement of ,mentioning the names of all witness in the FIR

The non mention of the name of accused in the FIR does not invalidate the FIR when it is described the accused as Factory Inspector. However where no satisfactory explanation is furnished for the omission to mention the name of the accused in FIR the court may doubt the veracity of the prosecution , though no rule of law stipulates that an accuse whose name is not mentioned in the FIR is entitled to an acquittal .

Delay in Filing FIR :-

The provisions as to FIR are enacted to obtain the early information of the alleged criminal activity to record the circumstances before there is time for them to be forgotten or embellished and the report can be put in the evidence when the informant is examined if it is desired to do so . Criminal courts attach great importance to the lodging of prompt FIR as the same greatly diminishes the chance of false implication of accused as well as the informant being tutored.

However the mere fact that FIR has been lodged early does not rule out falsehood in every case. At the same time delay in lodging of FIR is not necessarily as a mater of law , fatal for the prosecution ; delay can be condoned if there is satisfactory explanation .there can be many reasons for delay in lodging the FIR like maybe the FIR was lodged at a wrong police station in first place, in a rape case as girl or the family was worried for their honour and dignity , in a murder case as the informant had an apprehension of danger to his life.

Thus there is no hard and fast rule that delay in lodging the FIR would automatically render the case as doubtful . FIR depends upon the facts and circumstances of each case

The trend of judicial opinion is that delay of lodging the FIR cannot be used as ritualistic formula for doubting the prosecution case and discarding the same solely on that ground . Delay has effect of putting the court in its guard to search if any explanation has been offered for the delay . If the explanation given is not satisfactory then there are chances of falsehood in FIR but if the explanation given is satisfactory then there is itself no ground to doubt the prosecution case.

Message by Telephone , etc.

Normally a telephonic message received by a police officer regarding the commission of cognizable offence is not considered to be a FIR as it is neither reduced to writing or signed by the informant . In such a case the view of courts is that the report can be recorded by a station writer who receives the messages , he himself can sign the FIR and may state in evidence that he received the message and recorded it truly and honestly.

A message sent by the telephone to the police officer and recorded by him in the station diary, which discloses an information regarding the cognizable offence amounts to FIR. Provided that such a message must contain such an information which is giving certain object for setting the police or criminal law in motion .

A cryptic and anonymous telephone message which do not specify the cognizable offence cannot be treated as FIR even it was given by an identified person.

Provisions Relating to FIR :-

1. **Police duty to record information** – When any information regarding the 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 of thereof . The police cannot refuse to register the case on ground that it is either not reliable or credible or the case does not fall in the jurisdiction of that police station in such a case it is duty of police officer to lodge FIR and transfer it to the police station having the jurisdiction of that case.

2. **Act of giving and recording constitute one transaction** - the giving of information and recording it is a continuous process. The nature of that process cannot be altered by person of the fact that investigation might have commenced at an intermediate point before the recording of FIR was complete.
3. **First information and investigation by police** – Where the police sub inspector performed the dual role of first informant as well as the investigation officer , this sought of infirmity reflects the credibility of the prosecution case .
4. **FIR and Magistrate** – The endorsement by the Magistrate , on the copy of FIR was held to be sufficient and the absence of seal not make any difference .
5. **FIR and Accused** – The FIR is a public document and the accused is entitled to have its certified copy. The denial of the copy will be Violative of Article 21 of the Constitution

Evidentiary Value of FIR:-

The FIR can be put as evidence when the in formant is examined , if it is desirable to do so . However FIR is not a piece of substantive evidence and cannot be preferred to the evidence given by the witnesses in the court. It can be used only for limited purposes, like corroborating or contradicting (cross examination) or to show that the implication of the accused was not after thought . It cannot be used for corroborating or contradicting any other witness apart from the one lodging the FIR .

The statement made in the FIR cannot be considered as evidence unless it falls within the purview of Dying Declaration, where it can be used as substantive or primary evidence.

The importance of FIR as conveying the earliest information regarding the occurrence cannot be doubted. The object of FIR is to get true or nearly true version of the events connected in a crime . The value of FIR will vary accordingly as it is based on the information given by the complainant or the eye witness to the crime or a mere stager .

FIR can be used for the purpose of testing the truth of the prosecution story. It provides a check on the undesirable tendency in the part of the prosecution to fill gaps on its own. If the prosecution tries to fit in certain fact given in the FIR , the same can be checked up in the light of FIR . However the prosecution case cannot be thrown out merely on the ground that entirely different version is given by its maker . When the prosecution has neither produced in evidence

the person who made the first report in the police station nor the person who wrote it out at the police station , the FIR cannot be referred as evidence.

Case Laws Related to FIR :-

1. Ashok Kumar Todi Vs. Kishwar Jahan (2011) 2 Cr. L.j 2317 (SC)

It is a case relating to unnatural death of party to inter caste marriage . Investigation was going out by the state C.I.D and High Court ordered for investigation by CBI as no order was given to state C.I.D to stop investigation . It was held that recording of FIR is a precondition for starting of investigation under Criminal Procedure Code . It was also held that order for CBI investigation by High Court cannot be faulted for absence of direction to state CID to stop investigation and hand over papers to CBI.

2. Superintendent of Police , CBI vs. Tapan Kumar Singh (2003) Cr. L.j 2322 (S.C.)

It was held that where facts recorded in general diary are disclosing commission of cognizable offence can be treated as FIR even though it does not disclose all facts and details relating to offence reported. The Supreme Court held that it is well settled that FIR is not an encyclopedia which must disclose all facts and details relating to offence reported. An informant may lodge a report about the commission of the offence though he may not know the name of victim or the accused , he may even not know the occurrence of the offence . The only significance is that the report must include a cognizable offence.

3. State of Rajasthan vs. Maharaj Singh (2004) Cr. L.j 4195 (S.C.)

The allegation was that the accused assaulted the deceased with sticks. There was delay of 2 days in lodging FIR due to negligence of police . There was no allegation by the accused that they were roped in falsely . Medical evidence supported the prosecution case . It was held that delay in lodging FIR is material when prosecution case is doubtful. Therefore acquittal of accused due to delay in lodging of FIR was held not to be proper.

4. State (N.C.T of Delhi) vs Navjot Sandhu (2005) 1 Cr. L.j 3950 (S.C.)

There was allegation of tampering of FIR by deleting the reference to POTA offences was made . NO such suggestion was ever put to police officials connected with registration of FIR . They were also not cross examined at that point . The contention about manipulation of FIR

was not raised before the trial court . Therefore it was held by the Supreme court that rejection of the said contention by High Court was proper.

5. *Lalita Kumari v. State of UP, (2014) 2 SCC 1*

Directions of the Supreme Court:

Taking into consideration the above discussion the Court concluded that:

(i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

(ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

(iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

(iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

(v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

(vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

(a) Matrimonial disputes/ family disputes

(b) Commercial offences

(c) Medical negligence cases

(d) Corruption cases

(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

(vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed fifteen days generally and in exceptional cases, by giving adequate reasons, six weeks time is provided. The fact of such delay and the causes of it must be reflected in the General Diary entry. (After modification of the judgement done on 05 march,2014)

(viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.

Conclusion :-

Although FIR maybe merely hearsay and need not necessarily be given by a person who has first hand knowledge of the facts , yet it provides the initial groundwork on the basis of which the entire investigation and prosecution will be conducted . As soon as FIR regarding a cognizable offence is received , the machinery for investigation come into motion at once. The evidentiary value of FIR is far greater than any other statement recorded by the police during the course if investigation.

