



Revisiting FIR for better and faster justice delivery

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Abstract

In this research paper, law on FIR (First Information Report) has been relooked upon for identification of gaps or grey areas. It involves coverage of relevant provisions on FIR in CrPC (The code of Criminal Procedure, 1973) and judicial pronouncements. Section 154, 156(3) and 157(1) are discussed with landmark cases of Lalita Kumari, Sakiri Vasu and other case laws. Under grey areas in the Law on FIR, few issues have been identified as instances of refusal of FIR, erroneous registration of FIR, content of FIR and issues with s. 154(3) of CrPC. Discretion in the hands of police officials seems to be one of the biggest reason for the gaps in the law on FIR. However, such discretion is also needed for effective functioning of Criminal Justice System. Few suggestions for improvement in transparency and accountability via amendment in the legislation and introduction of technology (Blockchain based network) have been proposed. If applied, these suggestions may prove to be very helpful at this stage as the Criminal Law Amendment is currently underway by the Government of India.

Keywords: FIR, CrPC, Bias, Transparency, Rule of Law

I. Introduction

Effective Criminal Justice system is the corner stone of a peaceful and vibrant society. Dr. Kalam once shared¹ a beautiful divine hymn about righteousness and peace. It reads as follows:

“Where there is righteousness in the heart, there is beauty in the character.

When there is beauty in the character, there is harmony in the home.

When there is harmony in the home, there is order in the nation.

When there is order in the nation, there is peace in the world.”

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¹A.P.J. Abdul Kalam, “Delay in Administration of Criminal Justice”, (2007) 4 SCC J-1.



Order in the society brings peace. An effective criminal justice system is instrumental in maintenance of law and order in the society. However, this paper tries to identify the issue with the current regime of FIR in India. The law on FIR is well settled through legislation² and various judicial pronouncements. However, despite the presence of robust codified law on FIR, it has been observed on many occasions that either FIR is not registered or the content of FIR is misleading due to various factors. In Mareappa case³ a farmer aggrieved by the forceful harvest of his crop, upon reaching out to police station was denied registration of FIR. Further in Sonu case⁴ the court has observed that due to denial of registration of FIR's, the courts are overburdened with the writ petitions with prayers for registration of FIR's. Existing literature presents a detailed analyses of these factors. However, the aim of this research paper is to go beyond the existing literature and find the lacunas in the law which are responsible for such deviation from the stated position of law. Moreover, this research paper tries to find out innovative but workable suggestions to rectify the same.

Objective of this paper is to revisit FIR under CrPC⁵, 1973 for better and faster justice delivery. Further, author aims to find gaps in the existing legislation and judicial pronouncements related to FIR. Moreover, author aims to provide suggestions, if any, to remedy the situation.

This paper will use doctrinal method of study. It will contain both primary and secondary sources. Further, non-doctrinal issues requiring further field data have been kept outside the purview of this research paper. Apart from introduction and conclusion, this paper contains four parts. First part deals with the overview of law on FIR. It contains relevant provisions of legislation,⁶ judicial pronouncements, types of FIR, innovations in law on FIR in terms of e- FIR and Zero FIR and relevance of FIR in criminal justice system. The second part deals with the grey areas or gaps in the law on FIR. It contains difficulty faced by the criminal justice system, instances of refusal of FIR, erroneous registration of FIR, content of FIR and issues with s. 154(3) of CrPC. The third part deals with the further scope for research in the Law on FIR and the last part contains suggestions as presented by this research paper.

² The code of Criminal Procedure, 1973 (ACT NO. 2 OF 1974).

³ *Mareappa v. State of Karnataka* (2017) SCC OnLine Kar 3697.

⁴ *Sonu v. Govt. of NCT of Delhi* (2007) SCC OnLine Del 1397.

⁵ *Supra* Note 2.

⁶ *Ibid.*



II. Overview of law on FIR

This part summarizes various ideas from different resources which give insight into the need of research into grey areas regarding FIR.

What is FIR

The First Information Report (FIR) is the first step in the justice delivery system. The Criminal Procedure Code 1973 (CrPC) provides **two kinds** of FIR. First kind is the duly signed FIR under s. 154 (1) where an informant reaches out to police with an information. Another kind of FIR is where police registers FIR by itself on any information received or other than by way of an informant under s. 157(1). In case of s. 157(1) there is an obligation on police to record the information and send a copy of the FIR to the concerned magistrate without delay. Under Criminal Procedure Code 1973 (CrPC), s. 154 talks about FIR:

“S. 154: Information in cognizable cases.

*(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be **reduced to writing** by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, 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 State Government may prescribe in this behalf:*

*1[Provided that if the information is given by the **woman** against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:*

Provided further that--

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of



*the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the **residence** of the person seeking to report such offence or at a convenient place of such persons choice, in the presence of an interpreter or a special educator, as the case may be;*

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.]

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

*(3) Any person aggrieved by a **refusal** on the part of an officer in charge of a police station to record the information referred to in sub-section (1) 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 the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.”*

Therefore CrPC provides elaborative procedure of registering an FIR. The procedure takes care of the practical situations of illiteracy etc. of the informant and put additional responsibility over the police to reduce even the oral information in writing and read over it to the informant. Further, it puts additional requirements for privacy, urgency and convenience of women victims. Additionally, it provides a safeguard in reaching out the the senior police officer in case police refuses to register FIR.



Further, s. 157, CrPC reads:

“(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender”

Moreover, FIR is not limited to the s. 154 and s. 157 only, other sections of CrPC also talk about FIR. For eg: s. 156(3) enables⁷ a magistrate to order investigation.

“S. 156 (3) Police officer's power to investigate cognizable case. Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.”

Further, the law on FIR is well settled by the Supreme Court. *Lalita Kumari v. Govt. of Uttar Pradesh*⁸ and *Sakiri Vasu v. State of U.P.*⁹ are two landmark judgements on FIR.

In *Lalita Kumari*¹⁰, the court held that if the information discloses cognizable offence, the registration of FIR is mandatory. It also observes that other conditions such as credibility of information is not to be assessed at the time of registration of FIR as there are ample provisions in law to tackle the misuse. The relevant excerpt from the judgement¹¹ is given hereunder:

“119. Therefore, in view of various counterclaims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information

⁷Supra note 2.

⁸ *Lalita Kumari v. Govt. of Uttar Pradesh* (2014) 2 SCC 1.

⁹ *Sakiri Vasu v. State of U.P* (2008) 2 SCC 409.

¹⁰Supra Note 8.

¹¹Supra Note 8.



given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR. ”

Further, in *Sakiri vasu*¹² the court held:

*“11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an **application** in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an **application** under Section 156(3) CrPC before the learned Magistrate concerned. If such an application under Section 156(3) is filed before the Magistrate, the Magistrate can **direct** the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision **monitor** the investigation to ensure a proper investigation. ...*

*13. The same view was taken by this Court in *Dilawar Singh v. State of Delhi* (JT vide para 17). We would further clarify that even if an FIR has been registered and even if the police has made the investigation, or is actually making the investigation, which the aggrieved person feels is **not proper**, such a person can approach the Magistrate under*

¹²Supra Note 9.



Section 156(3) CrPC, and if the Magistrate is satisfied he can order a proper investigation and take other suitable steps and pass such order(s) as he thinks necessary for ensuring a proper investigation. All these powers a Magistrate enjoys under Section 156(3) CrPC...

*15. Section 156(3) provides for a **check** by the Magistrate on the police performing its duties under Chapter XII CrPC. In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same....*

*17. In our opinion Section 156(3) CrPC is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) CrPC, though briefly worded, in our opinion, is very wide and it will include all such **incidental powers** as are necessary for ensuring a proper investigation....*

*26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) CrPC or other police officer referred to in Section 36 CrPC. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a **criminal complaint** under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?"*

Therefore, *sakiri vasu*¹³ has provided various options in the hands of an informant for registration of FIR. It also provides for checks on arbitrariness of police via providing wide powers to magistrate to order FIR and proper investigation under s. 156(3). Moreover, it forbids the general

¹³Supra note 9.



public from reaching out to the High court for registration of FIR under s. 482 before exhausting all such options.

However, still there are many instances where FIR is not registered and victims have to suffer the consequences of delay in lodging FIR. Under these circumstances, it may be said that there exists a lacuna or a gap in implementation of provisions of FIR. This paper attempts to fill such gaps and tries to make implementation of FIR on ground more effective thereby making justice delivery better and faster.

e-FIR

Further, Crime and Criminal Tracking Network and System (CCTNS) has been implemented in all 16,347 police stations across the country and in 99 percent police stations, 100 percent FIRs are being registered directly in CCTNS.¹⁴ It has enabled filing of e-FIR around the country. However there are several issues related to it. While registering FIR on online portals, **data integrity, transparency and false registration of FIR** has been highlighted as key concerns in e-FIR database¹⁵. Further, it has been observed that e-FIR facility in several states is only available for offences where **accused is unknown or no bodily harm¹⁶ was done to the victim during the theft**. This selective approach is due to the fact that e-FIR has a time delay in registration and actual follow-up.

¹⁴ Ministry of Home Affairs, "inaugural address of 4th National Young Superintendents of Police Conference and Police Expo", 29 Sept. 2022 available at: <<https://pib.gov.in/PressReleasePage.aspx?PRID=1863407>> (last visited on Oct. 12, 2022).

¹⁵ N. D. Khan, C. Chrysostomou and B. Nazir, "Smart FIR: Securing e-FIR Data through Blockchain within Smart Cities," 2020 IEEE 91st Vehicular Technology Conference (VTC2020-Spring), 2020, pp. 1-5, doi: 10.1109/VTC2020-Spring48590.2020.9129428.

¹⁶ Gujarat's e-FIR portal has this limitation. Available at: <<https://gujhome.gujarat.gov.in/portal/webHP?requestType=ApplicationRH&actionVal=homePage&screenId=114&UserLocaleID=en>> (last visited on Oct. 14, 2022)>.

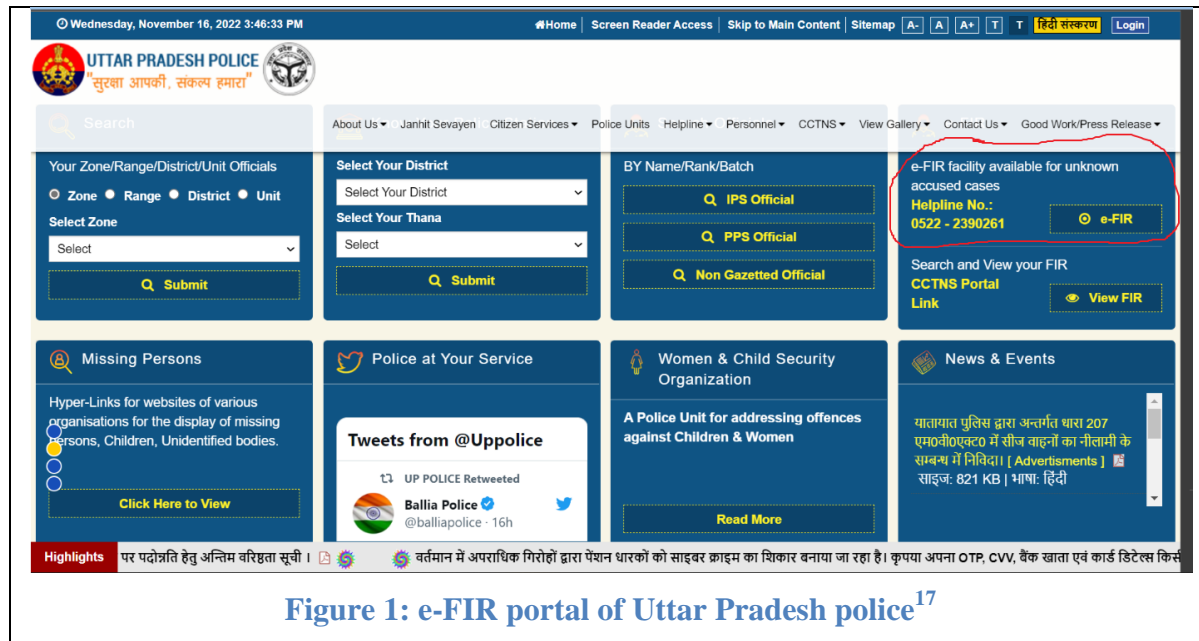


Figure 1: e-FIR portal of Uttar Pradesh police¹⁷

Zero FIR

Zero FIR has been an innovation¹⁸ in the concerned procedural law on FIR. It is registering FIR in a Police Station without Jurisdiction with indication of FIR number as zero and transferring it to the concerned police station having relevant jurisdiction. One benefit of Zero FIR is that it would diminish the burden to discover the correct police station and evacuate the refusal of equity.¹⁹ However, effectiveness of this provision in justice delivery demands analyses of available data which still is sparse and it would be incorrect to draw any conclusion based on selective scant amount of data.

¹⁷: e-FIR portal of Uttar Pradesh police. Notice the limitation of cases to be registered via e-FIR indicated with a red circumference. available at: <https://uppolice.gov.in/#Find%20Your%20Police%20Station> (last visited on Nov. 16, 2022).

¹⁸ Pandey, P.K., "Zero First Information Report: Indian Laws and Practices" (March 1, 2020) available at: <SSRN: <https://ssrn.com/abstract=3567857> or <http://dx.doi.org/10.2139/ssrn.3567857>>.

¹⁹ *Ibid.*



Relevance of FIR in criminal justice system

The Supreme Court in *Lalita Kumari*²⁰ has talked about the relevance of FIR. It reads:

“The obligation to register FIR has inherent advantages:

(a) It is the first step to access to justice for a victim.

(b) It upholds the rule of law inasmuch as the ordinary person brings forth the commission of a cognizable crime in the knowledge of the State.

(c) It also facilitates swift investigation and sometimes even prevention of the crime. In both cases, it only effectuates the regime of law.

(d) It leads to less manipulation in criminal cases and lessens incidents of "antedated" FIR or deliberately delayed FIR.”

III. Grey areas/Gaps in FIR

This part deals with the grey areas or the areas in which certain issues have been identified.

These gaps in the law on FIR need consideration for improvement in the criminal justice system.

Difficulty faced by the criminal justice system

The Supreme Court has discussed two issues related to the difficulty in law on FIR in *Lalita Kumari*²¹. These two issues are relevant for our discussion asunder:

*“(i) Whether the **immediate non-registration** of FIR leads to scope for **manipulation** by the police which affects **the right of the victim/complainant** to have a complaint immediately investigated upon allegations being made; and*

*(ii) Whether in cases where the complaint/information does not clearly disclose the commission of a cognizable offence but the FIR is compulsorily registered then does it infringe **the rights of an accused**.”*

²⁰Supra note 8.

²¹Supra note 8.



The court has observed in Lalita Kumari that registration of FIR will not impinge upon Art. 21 of the constitution of India as there are plenty of safeguards available therein:

*“105) It is true that a **delicate balance** has to be maintained between the interest of the society and protecting the liberty of an individual. As already discussed above, there are already sufficient safeguards provided in the Code which duly protect the liberty of an individual in case of registration of false FIR. At the same time, Section 154 was drafted keeping in mind the interest of the victim and the society. Therefore, we are of the cogent view that mandatory registration of FIRs under Section 154 of the Code will not be in contravention of Article 21 of the Constitution as purported by various counsel”.*

Further, in Lalita kumari²², a **preliminary inquiry** before registration of FIR has been suggested in the cases of medical negligence²³, corruption complaints against public officials,²⁴ non-cognizable offenses, commercial offences, family disputes and cases involving abnormal delay/laches. This has been done to balance the both ends of justice.

Refusal to register FIR

Refusal to register FIR has also been discussed in various other sources as well. One relevant excerpt is as follows:

“Non-registration of FIRs by the police is an issue worthy of considered attention. This problem affects the indigents and the illiterates the most and these are the two categories of people who are the worst victims of crimes. Whenever a layman is aggrieved by an offence, approaching the police is his only recourse for redressal of his grievance. The majority of people are unaware whether the offence committed against them is cognizable or non-cognizable. In such a scenario it would be asking for too much to expect them to know the procedure of sending the contents of their complaint in writing and by post to the superintendent of police or approaching a magistrate in cases where the police officer refuses to register an FIR. Section 157 already permits discretion to

²²Supra note 8.

²³Jacob Mathew v. State of Punjab. (2005) 6 SCC 1.

²⁴P. Sirajuddin v. State of Madras (1970) 1 SCC 595.



police officers in deciding whether the case is fit for investigation or not. Thus this is the time when the police officers would be justified to hold a preliminary inquiry in order to decide whether the case merits a full-fledged investigation or not and this decision should be arrived at, after carefully considering all the legal and constitutional aspects of a case. But registration of FIR should be absolutely mandatory as this is the only way to inspire confidence in the general public. Frivolous or nebulous complaints can always be weeded out at the second stage by conducting a preliminary inquiry into the facts of the complaint before conducting investigation.²⁵”

Further, it has been observed²⁶ that “the respondents interviewed in the community said that on most occasions, the F.I.R. was not registered. For example, in one of the cases, under the Prevention of Atrocities against SC/STs Act, the F.I.R. of the complainant was not lodged and required getting in touch with higher officials. In another other case, the family was dissatisfied with the section applied. The police registered a case of suicide whereas the maternal family members of the deceased woman were convinced that she had been murdered by members of her marital family.”

Further, allegations of corruption upon police, influence, behaviour, fear etc were factors behind no registration of FIR. Further, non-heinous offences, cordial relations of police with the accused, cases such as missing children or women, domestic violence, harassment of senior citizens, runaway cases, child labour, trafficking of women, atrocities against dalits - any case which fall in the category of socio-legal problems - stand poorer chances of getting registered and elicits a varied response from the police, depending on factors such as time and workload pressure, priorities set by the higher ups in terms of crime control, personal biases and overall social sensitivity of the police.²⁷

Further, family matters, lack of community support, political pressure, biasness of the police, missing complaints were other factors of non-registration of FIR. Further, factors Affecting

²⁵ Vageshwari deshwal , “Burking of crimes by refusal to register fir in cognizable offences” *Journal of the Indian Law Institute* , July-September 2013, Vol. 55, No. 3 (July - September 2013), pp. 361-375.

²⁶ Vijay Raghavan, “Registration of First Information Reports by Police: An Agenda for Change” *The Indian Police Journal*, Vol. LVII-No. 1, January-March, 2010.

²⁷ *Ibid.*



Wrongful or Ineffective Registration of the F.I.Rs are Profile of Complainant, Role of NGOs and other Professionals, Skills of Police Officer, Discretion of Police Officer and Role of Community.²⁸

In my view, **corruption or cordial relations of police with the accused should be dealt with utmost strictness. It will be useful to see as to what alternative we can provide to the victim apart from the existing ones in this regard.**

A good observation of the study²⁹ was that whenever the citizen was accompanied by a local grassroots organisation or an activist or a social worker of some credibility, the response of the police in 'listening' to the complaint and filing the F.I.R. was considerably prompt.

Further, if the information does not disclose a cognisable offence, the police officer can refuse to lodge the FIR. However, this **discretion to SHO to determine the nature of offence and application of relevant section is at the root of many cases of misuse. How do we rectify it remains a key question for further research.**

Further, it should be noted that **the ranking process**³⁰ of the top 10 Police Stations out of 16,671 Police Stations in the country involves shortlisting of the best performing Police Stations, in each State on the basis of **addressing** various crimes such as related to property, against women, weaker sections and regarding missing or unidentified persons.

It shows that “**addressing**” cases matters. Which brings performance-pressure upon the SHO. If manpower is not enough with huge case load, the ranking of police station will go down and the station incharge will suffer the consequences. This is problematic because not registering FIR and keeping the statistics in check albeit artificially, even being opposite to his duties and functions, favours him. Whereas, if number of registered cases increase without adequate increase in manpower, the station incharge will bear the consequences. Therefore, while measuring performance of police using objective criterion is a welcome step, it is suggested that commensurate manpower also be employed to ease the workload.

²⁸*Ibid.*

²⁹*Ibid.*

³⁰*Ibid.*

Currently, in many states, number of policeman per lakh population is very low³¹. It impacts quality of policing including registering FIR. In the following figure, decrease in the charge sheeting rate can be seen³². However, the author will not get into the deducting the quality of police work based upon this data as it is difficult to connect it to the topic addressed in this research paper.



Figure 2: Policeman per lakh population in 2010³³

³¹ National Crimes Record Bureau (NCRB), "crime in India" available at: https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Chapter%2017_2010.pdf (last visited on Nov. 11, 2022).

³² National Crimes Record Bureau, I "crime in India 2021", X (Ministry of Home Affairs, Government of India).

³³ *Supra* Note 32 at p-168

At a glance - IPC Crimes over the years 1981 - 2021

| S. No. | Year | Total IPC Crimes | | | S. No. | Year | Total IPC Crimes | | |
|--------|------|------------------|------------|----------------------|--------|------|------------------|------------|----------------------|
| | | Crime Incidence | Crime Rate | Charge-sheeting Rate | | | Crime Incidence | Crime Rate | Charge-sheeting Rate |
| 1 | 1981 | 1385757 | 200.8 | 61.3 | 22 | 2002 | 1780330 | 169.5 | 80.0 |
| 2 | 1982 | 1353904 | 192.0 | 65.3 | 23 | 2003 | 1716120 | 160.7 | 80.1 |
| 3 | 1983 | 1349866 | 187.4 | 67.3 | 24 | 2004 | 1832015 | 168.8 | 79.8 |
| 4 | 1984 | 1358660 | 184.7 | 67.9 | 25 | 2005 | 1822602 | 165.3 | 80.7 |
| 5 | 1985 | 1384731 | 184.4 | 70.2 | 26 | 2006 | 1878293 | 167.7 | 80.6 |
| 6 | 1986 | 1405835 | 183.5 | 71.1 | 27 | 2007 | 1989673 | 175.1 | 80.1 |
| 7 | 1987 | 1406992 | 180.1 | 72.4 | 28 | 2008 | 2093379 | 181.5 | 79.8 |
| 8 | 1988 | 1440356 | 180.8 | 70.7 | 29 | 2009 | 2121345 | 181.4 | 78.4 |
| 9 | 1989 | 1529844 | 188.5 | 72.3 | 30 | 2010 | 2224831 | 187.6 | 79.1 |
| 10 | 1990 | 1604449 | 194.0 | 70.2 | 31 | 2011 | 2325575 | 192.2 | 78.8 |
| 11 | 1991 | 1678375 | 197.5 | 71.3 | 32 | 2012 | 2387188 | 196.7 | 78.8 |
| 12 | 1992 | 1689341 | 194.7 | 72.2 | 33 | 2013 | 2647722 | 215.5 | 79.5 |
| 13 | 1993 | 1629936 | 184.4 | 72.5 | 34 | 2014 | 2851563 | 229.2 | 79.6 |
| 14 | 1994 | 1635251 | 181.7 | 74.1 | 35 | 2015 | 2949400 | 234.2 | 77.7 |
| 15 | 1995 | 1695696 | 185.1 | 74.3 | 36 | 2016 | 2975711 | 233.6 | 72.9 |
| 16 | 1996 | 1709576 | 183.4 | 76.9 | 37 | 2017 | 3062579 | 237.7 | 70.7 |
| 17 | 1997 | 1719820 | 180.0 | 77.5 | 38 | 2018 | 3132955 | 236.7 | 68.1 |
| 18 | 1998 | 1778815 | 183.2 | 77.8 | 39 | 2019 | 3225597 | 241.2 | 67.2 |
| 19 | 1999 | 1764629 | 178.9 | 78.0 | 40 | 2020 | 4254356 | 314.3 | 75.8 |
| 20 | 2000 | 1771084 | 176.7 | 78.4 | 41 | 2021 | 3663360 | 268.0 | 72.3 |
| 21 | 2001 | 1769308 | 172.3 | 78.6 | | | | | |

Figure 3: 2014 onwards, a decrease in the charge sheeting rate can be seen.³⁴
³⁴Supra Note 20

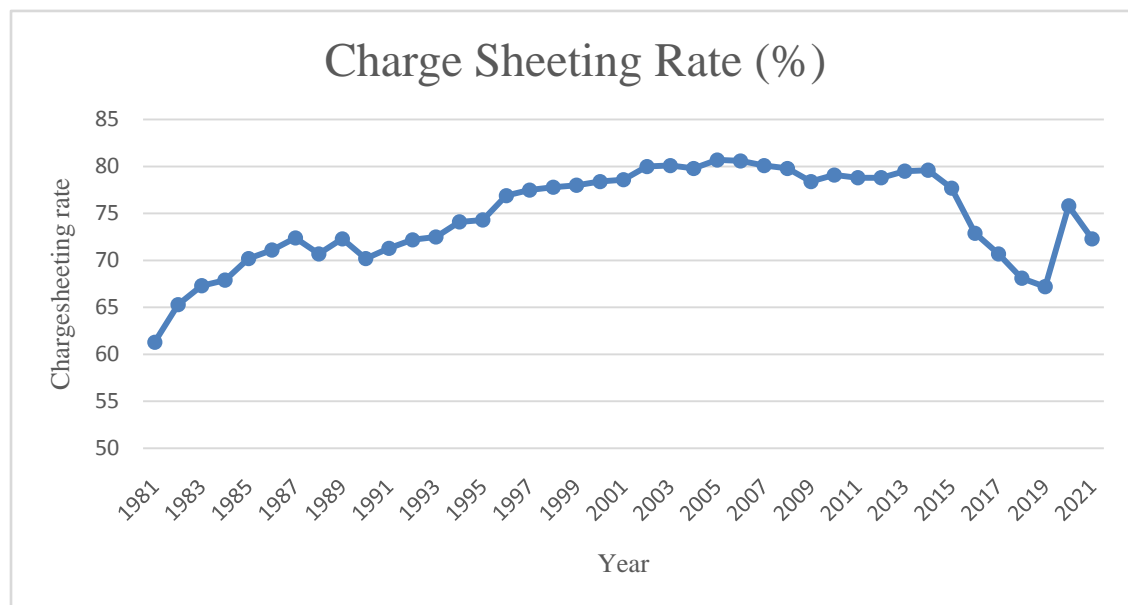


Figure 4: variation of Charge sheetting rate across the years at all India level.

In Figure 4 it can be seen that a fall is visible in charge sheetting rate, which shows a decline in effectiveness of police response to the reported crime.

It should also be noted that the last category was added recently. Further, nowadays, police uses facial recognition technology to identify the missing persons from the vast network and available data. Nevertheless, it is well reported³⁵ that denial of registering FIR is one form of **discretion** applied by the police and it can result in denial of justice.

The Supreme Court in *Aleque Padamsee v. Union of India*³⁶ has mentioned that in case Police officials refuse to register the FIR, the remedy is available in CrPC under s. 190 read with s. 200 of the CrPC. Moreover, Justice Malimath committee³⁷ has recommended that every information should be recorded by the police as given hereunder:

³⁵ J. Belur, N. Tilley, D. Osrin, N. Daruwalla, M. Kumar & V. Tiwari, (2015) "Police investigations: discretion denied yet undeniably exercised, *Policing and Society*", 25:5, 439-462, DOI: 10.1080/10439463.2013.878343.

³⁶ (2007) 6 SCC 171.

³⁷ Government of India, "Report of the Committee on Reforms of Criminal Justice System" (Ministry of Home Affairs, 2003).



“7.19.2 The Committee recommends that all complaints should be registered promptly, failing which appropriate action should be taken.

7.20.11 It has come to the notice of the Committee that even in cognizable cases quite often the Police officers do not entertain the complaint and send the complainant away saying that the offence is not cognizable. Sometimes the police twist facts to bring the case within the cognizable category even though it is non-cognizable, due to political or other pressures or corruption. This menace can be stopped by making it obligatory on the police officer to register every complaint received by him. Breach of this duty should become an offence punishable in law to prevent misuse of the power by the police officer.”

However, the author does not agree with this view given the fact that there are instances when FIR is also used to unnecessarily harass people.

Erroneous registration of FIR

In previous head, we discussed non registration of FIR. However, there are instances where erroneous FIR is also registered. Following two trends have been noticed in this regard:

1. Registration of FIR outside jurisdiction: Registering FIR outside jurisdiction and not transferring it to the concerned station has been considered to be a serious menace and a probable indication of corruption. In *Sonu* case³⁸ the court observed

“SHO of PS Malviya Nagar had registered an FIR in Delhi regarding crime committed in Patiala. This attitude of the police is surprising. Such registration of FIR only seems to be result of some pressure or as a result of consideration and needs an inquiry to be conducted as to what was the reason for the SHO for obliging with the registration of FIR at Delhi and not transferring the same to concerned area Police Station when no offence was committed at Delhi. Police Commissioner also needs to issue guidelines to the SHOs in those cases, where

³⁸Supra Note 4.



FIR is registered in respect of crime committed outside Delhi and where no part of the offence has been committed within the jurisdiction of Delhi that such FIRs should be transferred to the State concerned and also there should be no refusal of registration of FIR. In all those cases where there is a refusal of registration of FIR, even where cognizable offence is reported, disciplinary action should be taken against such police officers. The Courts are unnecessary being burdened with complaints or writ petitions, where directions are sought for registration of FIRs.”

2. False registration of FIR: In some cases, false registration of FIR is also found to be a tool of harassment of innocent persons. However, it is a challenge to balance both ends ie. maintaining rule of law by providing enough powers in the hands of police for maintenance of the same as well as putting checks on those powers more than which are available today. In Subhash kashinath Mahajan case³⁹, the court observed:

“40. The learned Attorney General pointed out that the statistics considered by the Court in the judgment under review indicate that 9 to 10 percent cases under the Act were found to be false. The percentage of false cases concerning other general crimes such as forgery is comparable, namely 11.51 percent and for kidnapping and abduction, it is 8.85 percent as per NCRB data for the year 2016.”

Further, in Subhash kashinath Mahajan case,⁴⁰ the court observed:

49..... “There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care in proceeding under section 482 of the Cr.PC.”

Therefore even courts have identified the false registration of FIR and abuse of process to harass innocent persons. However the court has opined that misuse cannot be a ground for removal of a

³⁹Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454.

⁴⁰Ibid.



legal provision. The innocent persons can approach the court for quashing of FIR under s. 482 of CrPC. However, it is a matter of common knowledge that not every person can afford to reach the High Courts for relief. Nonetheless, a middle ground should be found for avoiding false registration of FIR's. Another consequence of false incrimination under FIR is corruption. There are instances when Police has used FIR as a tool to extort money from the accused persons for removing their names from the chargesheet.

Content of FIR

In V.K. Mishra case⁴¹ it was held that FIR is **not meant to be an encyclopaedia** nor is it expected to contain all details of prosecution case. It may be sufficient if broad facts of prosecution case are stated in FIR. However, it should be noted that it puts a **discretion** in the hands of police to leave or include any information which at times is abused. In Lallan choudhary case,⁴² it was observed that SHO omitted key sections while registering FIR, it may result in miscarriage of justice. The court held that the SHO is **statutorily obliged to register the case on the basis of the offence disclosed in the complaint petition**. However, while discussing FIR in Lalita Kumari⁴³, the court observed that the obligation to register FIR has inherent advantages⁴⁴. Therefore, **abuse of discretion by police remains the grey area which needs further research and remedy**.

Issues with Section 154(3) of CrPC.

Section 154 (3) of CrPC reads:

Section 154(3) in The Code Of Criminal Procedure, 1973

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in subsection (1) 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

⁴¹V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588.

⁴²Lallan Chaudhary v. State of Bihar, (2006) 12 SCC 229.

⁴³Supra note 8.

⁴⁴Ibid.



either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

When the SP (Superintendent of Police) does nothing after receiving the information under section 154(3) CrPC⁴⁵ then the informant has to approach the Court. Here, two options are available while approaching the court. Firstly, if the informant does not want to file a private complaint then he should move an application under section 156(3) crpc. Secondly, if the informant is able to collect the evidence then he should file a complaint under section 200 crpc.

One interesting arena of research could be to find out as to **how many complaints** (substances of information) **are received by the SP on average on daily basis**. This could give us insights into the actual workload coming from this section only. It may also help us in determining if the time available with the SP is sufficient for processing such huge number of complaints. However, this also being non-doctrinal and requiring more time is left out from the purview of this research article.

IV. Scope of further research in law on FIR

Further, Dr. Kalam has identified two aspects for research regarding criminal justice system have been identified⁴⁶. They are:

*“a. Identify the **time of reporting** of the crime from the site and the **gaps**, if any, between the occurrence and reporting.*

*b. The time when the FIR was filed and **delay** in filing of FIR, if any, with causes for the delay.”*

Dr. Kalam identifies three specific aspects regarding registration of FIR. They are:⁴⁷

⁴⁵ THE CODE OF CRIMINAL PROCEDURE, 1973 S. 154 (3).

⁴⁶ *Supra* note 1.

⁴⁷ Jagadeesh Chandra T. G, “Delays in Subordinate Judiciary as an Impediment in Materializing the Right to Speedy Justice - A Review”, (2017) 7 GJLDP (October) 53.



*“(a) apathy and **inaction** on part of the police in registering FIRs and taking up investigation in right earnest for various reasons (this is so inspite of Police Manuals emphasizing the need for speedy and prompt investigation);*

(b) police is either hesitant to proceed with the investigation against important/influential persons or they are under pressure not to act swiftly especially if the person accused is in power or an active member of the ruling party and therefore, they adopt a pusillanimous attitude when the accused are such persons

(c) When the FIR is not registered within a reasonable time or the pace of investigation is tardy, there is no internal mechanism to check this effectively⁴⁸. ”

Further, **Access** to police station and subsequent problems for registration of FIR⁴⁹ due to this factor was identified. It demands analyses of **average distance of police station from household in different states and registered cases per unit population**. However, due to paucity of time and methodology requiring non doctrinal, the author deliberately leaving this aspect out of purview of this research work.

Further to identify gaps in the law on FIR and its implementation and to provide realistic suggestions, the following research questions may be considered:

1. Whether the law on FIR is effective in justice delivery?
2. Whether there are any gaps in the current law on FIR?
3. Whether there are any ways which can improve the current situation on law on FIR.

However, a detailed enquiry into all these aspects is outside the time limit available for this research paper, therefore warranting limits on the scope of the study.

⁴⁸*Ibid.*

“Even in States where Additional Superintendents are posted in every District to be mainly in charge of crimes (as distinct from general law and order duties) the situation has not improved, except marginally.”

⁴⁹ Dr. Krishna Kant Dwivedi, “Speedy Trial and Criminal Justice System in India—A Juristic Study”, CNLU LJ (2) [2011-2012] 112.



V. Suggestions

In addition to the suggestions given in the prior sections of this paper, few noteworthy suggestions about reform in the Law on FIR are given herein.

The first suggestion is for removing the **discretion** of the content of FIR and its **transparency**. It is proposed to use a **decentralised blockchain based network** for online registration of FIR. It is reported⁵⁰ that FIR registered in this way, available on the blockchain network, can be verified with the timestamps of the original entry in the network. It may remove the instances of tempering with the FIR.

The next suggestion is regarding controlling the false FIR or false incrimination of innocent persons. It is suggested that in every district police control room, there should be **a list of advocates available at high courts** which may be referred to for reaching out to courts for quashing it under s. 485 of CrPC. The district control room may spread this list in all the police station in their jurisdictions. The said list may also be made available **online** for general public. This list (at every police station) may contain names of advocates and NGO's providing free legal aid. It should be the duty of police personal to inform the accused about the availability of the said list of advocates to move to the higher courts for quashing of FIR. The same provision **may be inserted in CrPC as the s. 41(c) (4) via amendment**. It will make access of High Court in far flung areas easier. This is significant due to the fact that in some areas of Uttar Pradesh, an innocent person may need to travel more than 500 kilometers to reach the High court of Adjudicature at Allahabad. It is noteworthy that data of all the enrolled advocates is already with the respective state bar councils with all the necessary details therein and same may be used for this purpose.

Further suggestion is regarding the manpower. FIR is an important and the very first step of access to justice system. Prompt registration of FIR requires adequate number, well trained and sensitised police personals. Therefore the **vacancies** in the police force must be filled without

⁵⁰ I. Hingorani, R. Khara, D. Pomendkar and N. Raul, "Police Complaint Management System using Blockchain Technology," 2020 3rd International Conference on Intelligent Sustainable Systems (ICISS), 2020, pp. 1214-1219, doi: 10.1109/ICISS49785.2020.9315884.



delay. Moreover, a new Resource-Function approach⁵¹ should also be adopted to justify the workload on the police staff.

Further, as discussed above, the **Discretion** in the hands of police during registration of FIR in various forms is present. It can be seen while “*reducing the information into writing*”, “*application of mind while categorising the nature of offence*” and “*inclusion or exclusion of names of accused at the time of FIR*”. However, it should be noted that such discretion in the hands of the police is also sin-qua-non requirements for smooth functioning of the criminal justice system. These discretionary powers are essential for avoiding unnecessary harassment of persons by unscrupulous people misusing law. They are also required to weed out the unnecessary facts which are not relevant with regards to the criminal justice system. Moreover, these discretionary powers in the hands of the police are also necessary for maintenance of law and order. Therefore, these powers should remain in the hands of police as it is. However, elements of transparency and accountability can make provisions of FIR more effective. With inclusion of **online FIR**, reform in the system is already there. Moreover, it is suggested that uniformity in the online FIR across the country should be there; as currently, various states follow different procedure for online FIR.

Further, it is suggested that the term “**oremail**” be inserted under s. 154(3) of CrPC via amendment. It will give the complainant an option to send the information via email to the Superintendent of Police which will also put additional responsibility on the senior officer. The amended provision will look like:

“Section 154(3) in The Code Of Criminal Procedure, 1973

*(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in subsection (1) may send the substance of such information, in writing and by post **or email**, to the Superintendent of Police concerned...”*

⁵¹Resource- function approach is the way workload is managed in an organisation in a dynamic situation. It essentially helps in distributing the work efficiently and also gives an early indication of overload of work if need arises. Here, in police force, this approach can tell us if the existing personals are sufficient or not.



Further, Dr. Kalam has opined about involvement of young students in criminal justice system.⁵² It may improve the functioning of criminal justice system. The relevant excerpt is given hereunder:

*“It would be a good idea to engage young law students to identify factors which impede efficient and effective administration of criminal justice. They could examine good practices of other countries and assess the feasibility, appropriateness and suitability of their application to Indian conditions. Use of modern technology to improve upon the efficiency of the investigative and prosecution wing needs to be given special attention.”*⁵³

VI. Conclusion

The Law on FIR has been settled by legislation and judicial pronouncements. However, the needs of time and society are evolving and demanding effective justice delivery system. The government of India is also considering the process of Criminal law amendment which is ongoing. This paper has tried to identify gaps in the existing law on FIR. These gaps or grey areas can be summarised as discretion in the hands of police while registering FIR, delay in registering FIR, transparency, corruption etc. However, the discretionary powers in the hands of police are the need of an effective criminal justice system. Moreover, introduction of CCTNS has solved various issues related to transparency and discretion. However a uniform procedure of registration of FIR across the country is desirable. Few suggestions of relevant amendments are aimed at improving the existing law on FIR which can improve the efficacy of criminal justice system.

⁵²Supra note 1.

⁵³Supra note 1.



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