Subject Name: Code of Criminal Procedure
Topic Name: FIR

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Introduction

The primary body tasked with conducting investigations into offences is the police force, endowed with extensive powers to ensure effectiveness and efficiency in criminal inquiries.

According to Section 2(h) of the Criminal Procedure Code, "investigation" encompasses all procedures outlined in the code for evidence collection, carried out by a police officer or a designated individual authorised by a Magistrate, excluding the Magistrate themselves.

As highlighted by the Law Commission, while a Magistrate remains informed throughout the investigation process, they lack the authority to directly intervene in or dictate the course of the investigation.

However, the court retains the prerogative to intervene when the evidence fails to substantiate an offence. In such instances, allowing the investigation to proceed would only lead to unnecessary distress for a party whose freedom and property could be jeopardised unjustly.

In cases involving cognizable offences, the initiation of an FIR serves as the catalyst for activating the investigative apparatus.

Section 154: FIR

Section 154, commonly referred to as the First Information Report (F.I.R.), pertains to the initial report of a cognizable crime submitted to the police. An F.I.R. denotes the foremost information provided, regardless of the informant, to the officer in charge of a police station regarding the occurrence of a cognizable offence, marking the outset of the investigation into said offence.

While not legally binding, every individual bears a moral obligation to inform and aid the police. Notably, a statement recorded subsequent to the commencement of an investigation does not qualify as an F.I.R.

In accordance with Section 154:

- If the information is furnished in writing, or if orally conveyed and transcribed by the officer in charge, it must be signed by the informant.

- The transcribed information shall be recited to the informant.

- Subsequently, the police officer shall inscribe the essence of the information in a register termed the 'Station Diary' [Sec. 154(1)].

- A complimentary copy of the recorded information shall be furnished to the informant [Sec. 154(2)].

- Should the officer-in-charge decline to record the information, any aggrieved individual may dispatch, via post, a written account of the matter to the pertinent Superintendent of Police. Upon satisfaction that the disclosure indicates the commission of a cognizable offence, the Superintendent may personally investigate the case or delegate the task to a subordinate officer [Sec. 154(3)].

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Object of FIR

Section 154 serves a triple purpose:

Firstly, it informs the Magistrate and the District Superintendent of Police, who bear responsibility for the district's peace and security, of the offences reported at the police station.

Secondly, it apprises the judicial officers presiding over the eventual trial of the case about the immediate facts disclosed following the incident and the basis upon which the investigation commenced.

Thirdly, it serves to protect the accused against subsequent alterations or additions to the reported information.

From the informant's perspective, the primary aim of filing an F.I.R. is to initiate the enforcement of criminal law, while for investigating authorities, it is to gather information regarding the alleged criminal activity to facilitate appropriate action in identifying and apprehending the guilty parties.

Additionally, a Judicial Magistrate with jurisdiction over the relevant Police Station can instruct the registration of an F.I.R. under Section 156(3) of the Criminal Procedure Code upon receipt of a written complaint.

The essence of registering an F.I.R. is simply to set the investigative process in motion. Nonetheless, it is crucial to ensure that the information provided is reliable and not merely hearsay.

Registration of FIR

The issue of whether the police are obligated to register an FIR based on information provided by an informant has been addressed affirmatively by a five-member Bench in **Lalita Kumari v. Govt. of U.P.**

It has been expressly stated that the provisions of Section 154(1) of the Criminal Procedure Code (CrPC) are mandatory, and the officer in question is duty-bound to register the case upon receiving information disclosing the commission of a cognizable offence.

Put simply, this is a mandatory requirement. However, if the information provided does not indicate the commission of a cognizable offence, the FIR need not be registered immediately, and the police may conduct a preliminary verification to ascertain whether such an offence has indeed occurred. The court has cited examples such as matrimonial family disputes and medical negligence cases as areas where such preliminary checks may be necessary.

The objective behind registering information related to the commission of a cognizable offence is to prevent subsequent embellishments or alterations. The fundamental rationale for compulsory FIR registration is not only to ensure transparency in the criminal justice system but also to guarantee judicial oversight.

The obligation to register an FIR offers numerous advantages: it serves as the first step towards "access to justice" for victims, upholds the rule of law, facilitates prompt investigations, and prevents manipulation in criminal cases.

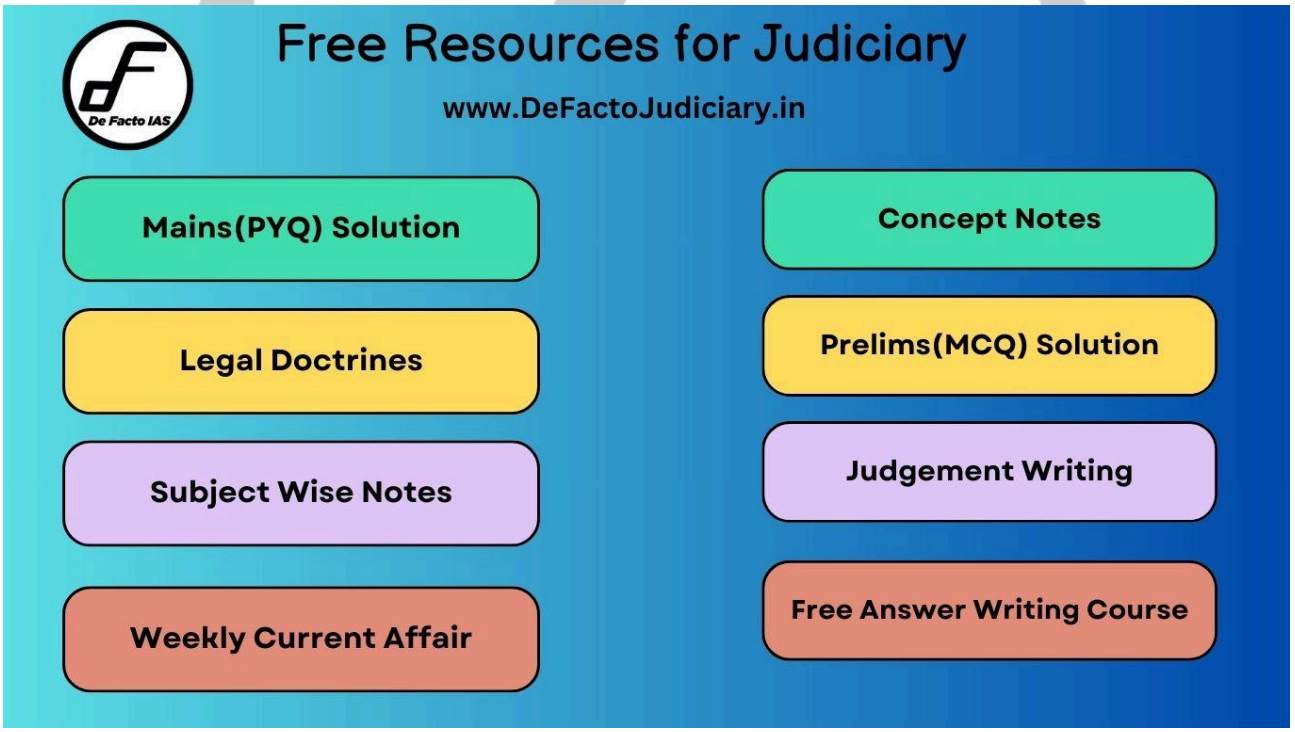
It's important to emphasise that for information to qualify as an FIR under Section 154, it must pertain to the commission of a cognizable offence and must provide sufficient detail to enable the police to initiate an investigation. Furthermore, the Supreme Court has clarified that since the term

"information" in Section 154 is not qualified as "reasonable," it is the duty of the police to register such information. The rules in Punjab and Haryana mandate that the police must formally register a case and then proceed with the investigation.

The Supreme Court has also noted that if the allegations in the FIR, taken at face value, do not constitute an offence, the criminal proceedings initiated based on such an FIR should be quashed. Additionally, where an anonymous telephonic message fails to disclose the names of the accused or the commission of a cognizable offence, it cannot be considered an FIR.

The Rajasthan High Court has stated that if a telephonic message given to the officer in charge of a police station meets certain criteria, including being reduced to writing and disclosing a cognizable offence, it would constitute an FIR. In the case of **Soma Bhai v. State of Gujarat**, it was determined that facts narrated to a police officer, reduced to writing shortly thereafter, constituted the first information report.

In instances where multiple individuals provide statements to the police about the same cognizable offence simultaneously, the police officer must use discretion and record one of the statements as the FIR. However, if oral information regarding a cognizable offence is provided to the police but not recorded, and the police subsequently record statements of witnesses at the scene, none of these statements would qualify as an FIR. This is because the real FIR was the unrecorded oral information given to the police by the informant.



The evidentiary value of an FIR is significantly higher than that of any other statement recorded by the police during an investigation. Therefore, distinguishing between an FIR and other statements is crucial. To ensure the accuracy of the FIR, Section 154 mandates that it be recorded verbatim in the language of the informant, read over and explained to them, and signed by the informant. Additionally, a copy of the FIR must be provided to the informant.

Regarding the non-supply of a copy of the FIR, the Supreme Court has held in **State v. N.S. Gnaneswaran** that this may not invalidate the trial in every case. Furthermore, the procedure followed by the Central Bureau of Investigation (CBI) in not immediately registering an FIR upon receiving information, but conducting a preliminary inquiry, has been deemed appropriate. This procedure does not prejudice the accused.

Additionally, in corruption cases initiated by a written complaint to the Anti-Corruption Bureau, the accused is not entitled to a copy of the complaint to protect the informant, as the complaint does not form the basis of the FIR.

Section 157 mandates the investigating officer to promptly send the FIR to the Magistrate taking cognizance of the police report. While subsequent alterations to the FIR are not uncommon, these provisions largely ensure the accuracy of the FIR.

Where to file an F.I.R?

Ideally, you should report information about the offence committed at the Police Station with territorial jurisdiction over the area where it occurred. If reporting at the jurisdictional police station isn't feasible, you may file the report at any other police station. The officer in charge will record this information as a 'ZERO FIR', assigning it a serial number '0', and promptly transfer it to the relevant jurisdiction for necessary action.

Refusal of record of the F.I.R.?

The following sequence of remedies is available to the aggrieved person:

Under Section 154(3) of the Criminal Procedure Code (Cr.PC), the informant can provide a detailed account of the information to the Superintendent of Police. If the Superintendent deems the information suggestive of a cognizable offence, they will either investigate the matter themselves or direct a subordinate police officer to do so.

The informant may approach the Magistrate's Court with jurisdiction and file a complaint under section 156(3) of the Criminal Code. Upon receipt of this complaint, the Magistrate, exercising authority under section 190 of the Cr.PC, will direct the registration of the F.I.R followed by an appropriate investigation.

Investigation without registering an F.I.R.

Contrary to common belief, an F.I.R. is not the sole means to initiate an investigation. Section 157 of the Cr.PC stipulates that if the officer in charge of a police station suspects the commission of a cognizable offence (which they are empowered to investigate under section 156 of the Cr.PC), they may, after sending a report to the Magistrate, commence an investigation independently or direct a subordinate officer to do so.

In instances where a Magistrate, invoking powers under section 190 coupled with section 156 of the Cr.PC, directs a police officer to investigate a cognizable offence, the police can proceed without registering an F.I.R.

Evidentiary value of an F.I.R.

It's established that an F.I.R. is not substantive evidence but can be used as corroborative evidence or to assess the credibility of the informant or witness. The corroborative value of an F.I.R. diminishes significantly if there's an unexplained delay in filing it. Such delay may be perceived as an afterthought, prompting the courts to scrutinise the possibility of ulterior motives or fabrication of facts, as elucidated in **Arpen Joseph v/s State of Kerala (1973) 3 SCC 114.**

However, an F.I.R. is considered substantial evidence if the informant does not survive until the conclusion of the trial and meets the criteria of a valid dying declaration, rendering it admissible evidence.