

## **INTRODUCTION**

### **FIRST INFORMATION REPORT**

#### **Constitutional responsibility of the State, Administration of Criminal Justice through Police and Judiciary.**

Criminal law occupies a predominant place among the agencies of social control and is regarded as a formidable weapon that society has forged to protect it self against anti-social behavior. Criminal Procedure is an inseparable part of the panel law and the effectiveness of the latter depends much upon the proper implementation of the former.

The criminal law has been described as one of the most faithful mirrors of the modern society reflecting the fundamental values on which the later rests.

Broadly speaking, the investigation of an offence consists of: -

1. Proceeding to the place of offence.
2. Ascertainment of the facts and circumstances of the case.
3. Discovery and arrest of the suspected offender.
4. Collection of evidence relating to the commission of the offence which may consist of: -
  - (a) Examination of various persons (including the accused) and the reducing of their statements into writing if the Police officer making the investigation thinks fit.
  - (b) Search of places or seizure of things considered necessary for the investigation or trial.
5. Formation of the opinion as to whether on the materials collected there is a case to place the accused before a magistrate for trial, and if so taking the necessary steps for the same by the filing of chargesheet (challan) u/s 173 Cr.P.C (Supreme Court in H.N. Rishbud V. State of Delhi 1955, Cr. L.J 526 AIR 1955 SC 196).

The Principal agency for carrying out investigation of offence is the Police, and the Police can proceed to investigate: -

- (a) On the information received from any person as to the commission of any cognizable offence.
- (b) Even without any such information, but if they have reason to suspect the commission of any cognizable offence.
- (c) On receiving any order (to investigate) from any judicial magistrate empowered to take cognizance of any offence under section 190 Cr.P.C.

## **DEFINITION**

FIR has not been defined in the Cr.P.C. In fact is the information relating to the commission of a cognizable offence that reaches the officer –in –charge of the Police Station first in point of time.

F.I.R. is a very valuable document. It is of utmost legal importance , both form the point of view of the prosecution and the defence. F.I.R. constitutes the “foundation “ of the case in the first instance and whole of the case is built on it . If the foundation is weak , then the prosecution case will tumble down . If on the other hand , is strong if will endure the attacks of the accused and his counsel.

On receipt of such information the S.H.O. of the Police Station is legally required to draw up a regular F.I.R. in from prescribed by the State Government vide Sec. 154 Cr.P.C. When any information disclosing a cognizable offence is laid before the officer–in – charge of Police Station , he has no option but to register the case on the basis thereof ( State of Haryana Vs Ch. Bhajan Lal AIR1992 SC 604, 1992 Cr.LJ 527).

**FORMAT OF THE F.I.R. IS AS UNDER:**

FORM NO. 24.5 (1)

FIRST INFORMATION REPORT

First Information of a Cognizable Crime Reported under Section 154, Cr.P.C Police Station.....

District.....

No.....Date and hour of Occurrence.....

1.	Date and hour when reported	
2.	Name and residence of informer and complainant.	
3.	Brief description of offence (with section) and of property carried off, if any.	
4.	Place of occurrence and distance and direction from the Police Station.	
5.	Name & Address of the Criminal.	
6.	Steps taken regarding investigation explanation of delay in regarding information.	
7.	Date and Time of dispatch from Police Station.	

Signature.....

Designation.....

(First information to be recorded below)

NOTE: - The signature or seal or thumb impression of the informer should be at the end of the information and the signature of the Writer of (FIR) should be as usual.

**Sec.154 Cr.P.C.**

- (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 informer, 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 Government may prescribe in this behalf.(Daily diary register)
- (2) A copy of the information as recorded under sub.Sec.(1) shall be given forthwith, free of cost to the informer.
- (3) Any person aggrieved by a refusal on the part of officer-in-charge of a Police Station to record the information referred to in sub.Sec(1), may send the substance of such information, in writing and by post to S.P or DCsP 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 I/C of the Police Station in relation to that offence.

If the information is given orally, it should be recorded in plain and simple language as early as possible in the informer's own words. Technical or legal expression, high-flown language or lengthy or involved sentences should not be used. No oath should be administered to the complainant, but the statement should be read over to him and he should sign it or affix his thumb impression to it. The report should show that this has been done.

If it is received in writing, it should be signed by the complainant.

The substance of the report be entered in Daily Diary Register also.

A copy of the F.I.R. as recorded shall be given forth-with to the complainant free of cost. The provision of Standing Order No. 140 and instructions in this regard is attached hereto as Annexure-I & II.

The most uncommon practice of sending away a complainant who wishes to make an oral report to go and bring a written one should be strongly discouraged. The SHO must be made to fulfill his responsibility in this regard.

Each F.I.R. should bear a consecutive number in the order of its arrival at the Police Station. This number runs for a year. Not more than four copies are prepared at a time.

### **WHO CAN LODGE F.I.R.**

- (1) Complainant who is an aggrieved person or some body on his behalf.
- (2) By any person who is aware of the offence (a) as an eye witness and (b) as an hearsay account.
- (3) Provided the person in possession of the hearsay is required to subscribe his signature to it and mention the source of his information so that it does not amount to irresponsible rumour. The rule of law is, if general law is broken any person has a right to complain whether he has suffered an injury or not.
  - (a) By the accused himself.
  - (b) By SHO on his own knowledge or information even when a cognizable offence is committed in view of an officer incharge he can register a case himself and is not bound to take down in writing any information. Under the order of Magistrate u/s 156(3) Cr.P.C. when a complaint is forwarded to officer incharge without taking cognizance (Kanak Singh Vs. Balabhadra Singh, 1988 Cr. LJ 579 (Gujarat). If information is only hear say, then SHO should register case only if person in possession of hear say subscribes his signature to it and mentions the source of his information so that it does not amount to irresponsible rumor. The information must be definite, not vague, authentic, not baseless, gossip or rumour, clearly making out a cognizable case.
- (4) The information is only by a medical certificate or doctor's ruqqa about arrival of injured, then he (S.H.O.) should enter it in daily diary and go to hospital for recording detailed statement of injured.

### **WHO CAN WRITE F.I.R...**

- (1) A FIR is always to be written by an officer incharge of a Police Station.  
(Definition of officer incharge is given in sec. 2 Cr.P.C.)
- (2) According to sec. 36 Cr.P.C. Police officers superior in rank to officer incharge of a Police Station may exercise the same powers through the local area to which they are appointed, as may be exercised by SHO within the limit of his Police Station.
- (3) Some times it so happens that the information is given by the informer to a Police officer who is out on the illaqa of a local Police Post. Strictly speaking the officers are not officers incharge of a Police Station and such information lodged with them are not reported under section 154 Cr.P.C. These officers record the statement of the informers F.I.Rs. These officers record the statement of the informers and send the same on to the SHO of a Police Station for recording F.I.Rs. These statements are however admissible U/S 157 Evidence Act.
- (4) Jurisdiction is an essential factor in registering a F.I.R. The provisions regarding jurisdiction contained in section 177 to 184 Cr.P.C and 462 Cr.P.c. are guiding factor. The latest Supreme Court ruling reported in the Indian express dated 9.10.199 is attached as Annexure-111.

### **Section 156 Cr.P.C.**

U/Sec.156, Cr.P.C 1973 an officer incharge of Police Station is empowered to investigate any cognizable offences which occurs within his jurisdiction and under section 157 Cr.P.C. he is also empowered to depute a subordinate officer not being below such rank as the state Govt. may by general or special orders prescribed in this behalf to proceed to the spot, to investigate the factors and circumstances of cases and, if necessary, to take measures for the discovery and arrest of the offender. The instruction issued from Police Headquarters and photocopy of the news clipping of Indian Express dated 9/10/99 regarding jurisdiction of F.I.R "on territorial bar on lodging FIR" is attached with Annexure-111.

### **F.I.R. ON TELEPHONE**

Legally a case should not be registered (a) as there is always a doubt about its authenticity (b) as it does not satisfy the test of Sec. 154 Cr. P.C. being not an oral statement reduced into writing: read over, admitted correct and signed by the informer. Message to the Police on telephone that an injured person was lying amount to FIR (Sukharam Vs. State of Maharashtra (1969) 3 SCC, 730.

### **F.I.R. ON TELEGRAM**

On receipt of telegram in railways case may be registered. Normally enquiry should be made and on receipt of an original telegram, which contains the thumb, impression of signatures case may be registered.

Officer incharge should begin to write FIR in the 'First Information Report Register at the dictation of the informer. According to Para 24.5 P.P.R., the register shall; be printed book consisting of 200 pages and shall be completely filled in before a new one

Is started. Cases shall bear annual serial; number in such Police Station for each calendar year. Every four pages of the register shall be numbered with the same number and shall be written at the same time by carbon copying process. The original copy shall be a permanent record of Police Station. The other three copies shall be submitted to (a) S.P./DCP or other Gazette Officer nominated by him (b) to the Metropolitan Magistrate empowered to take cognizance of the offence as is required by Sec. 157 Cr.P.C. (c) one to; the complainant. The seal to the Police Station shall; be put on every copy and original.

If an informer refuses to sign the R.I.R. he is guilty of offence u/s 180 I.P.C. which is as follows:-

"Whoever refuse to sign on any statement made by him, when required to sign that statement by a public servant, legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both".

If the Police Officers refuse to enter the FIR and instead enter in D.D. Register a totally differently and false report, he is guilty u/s 177/167/218 IPC which are as follows: -

#### **Sec. 177 IPC:**

#### **"Furnishing false information"**

"Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows of has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both".

Or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of

an offender, with imprisonment of either description for a term which may extend to two years, of with fine, of with both”.

**Sec. 167 IPC:**

**Public servant disobeying law,  
With intent to cause injury to any person.**

“Whoever, being a public servant, and being, as such public servant, charged with the preparation of translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both”.

**Sec. 218 IPC: -**

**Public servant framing incorrect record of writing with intent to  
Save person from punishment or property from forfeiture.**

“Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record of writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture of other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both”.

If the informer gives false report, he is liable to be prosecuted u/s 182 or 211 IPC which are as follows:

**Sec. 182 IPC”**

**“False information with intent to cause public servant to  
use his power to ;the injury of another person.**

“Whoever gives to; any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant-

- (a) To do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or
- (b) To use the lawful power of such public servant to the injury or annoyance of any Person.

Shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which fine which may extend to one thousand rupees, or with both

**Sec.211 I PC:**

**False charge of offence made with intent to injure.**

“Whoever, with intent cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”.

And if such criminals proceeding be instituted on a false charge of an offence punishable with death, imprisonment for life or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

A Refusal to write F. I.R. is punishable departmentally for burking and legally U/s 166/217 IPC which are as follows: -

### **Sec. 166 IPC**

#### **Public servant disobeying law , with intent to cause injury to any person**

“Whoever , being a public servant , knowingly disobeys any direction of law as to the way in which he is to conduct himself as such public servant , intending to cause , or knowing it to be likely that he will , by such disobedience , cause injury to any person , shall be punished with simple imprisonment , for a term, which may extend to one year , or with fine or with both”.

### **Sec. 217 IPC:**

#### **Public servant disobeying direction of law with intent to save Person from punishment property from forfeiture**

“ Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law. Shall be punished with imprisonment of either description for a term which may extend to two years, with fine, or with both”.

### **ESSENTIALS OF F.I.R.**

SHO should keep in mind 11Ws while recording FIR.

1. W -- what information has come to convey
2. W -- In what capacity
3. W -- Who committed crime.
4. W -- Whom against crime committed
5. W -- When (Time)
6. W -- Where (Place)
7. W -- Why (Motive)
8. W -- Which may (actual occurrence)
9. W -- Witnesses.
10. W -- What was taken away.
11. W -- What traces were left by the accused

### **DESCRIPTION OF CULPRITS IN F.I.R,**

SHO should clearly fix the identity of accused, the P.Ws. and of the stolen property, (to the extent possible)

### **OBJECT OF THE F.I.R.**

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.

### **DELAY IN LODGING F.I.R.**

The longer the delay , the stronger the suspicion. That the case is false wholly or in material particulars, so the delay should satisfactorily be explained.

- (1) Care should always be taken that the names of witness are mentioned in F.I.R. If the names of P.Ws, do not appear in it and they are examined later on , the presumption is that they were not present at the spot and have been procured later on .
- (2) Care should be taken that all the material facts are mentioned in FIR (as much available at that time).
- (3) Names of the accused persons should occur in F.I.R. and their parts also (If information is available at that time)
- (4) It is not necessary to up or cite all the P.Ws. in court.

### **REASONS OF DELAY**

**Note** *Reasons of the delay on the part of complainant is mentioned as “DOC”.  
Reasons of the delay on the part of Police /is mentioned as “DOP”.*

1. Physical condition of the informer (DOC).
2. Psychological condition of the informer (DOC).
3. Natural calamities (Both).
4. Distance of place of occurrence (Both)
5. Ignorance of law of informer. (DOOC).
6. Late detection of commission of crime (DOC).
7. Due to threat, promise and undue influence (DOC).
8. Economic & social reasons (DOC).
9. Dispute over the jurisdiction of Police Station (DOP).
10. Uncertainty of place of occurrence due to continuous offence (DOP).
11. Shortage of staff (DOP).
12. Unavoidable departmental formalities (including delay due to opinion of experts) (DOP)

Reasons of delay should be explained in the FIR.

### **IS LATER VERSION AN F.I.R.**

Any information forming the basis of F.I.R. is found untrue and the later version given during investigation is found true and chaplain is put on that basis , can the later version given in some statement ‘F.I.R.’?

The answer is: - “No”.....FIR will remain the same on which the investigation was started. The later statement being during investigation, even if found true cannot become F.I.R.

### **F.I.R. BY AN ACCUSED PERSON:**

Sometimes it so happens that accused after commission of crime goes to Police Station and lodges an F.I.R., the procedural legal provision as well as the Indian Evidence Act are mentioned as under: -

1. Sec. 162 Cr.P.C. does not hit such F.I.R.

2. Sec. 25 Indian Evidence Act, is applicable if the statement is in the nature of confession but is relevant  
u/s 21 of the Indian Evidence Act ..
3. Sec.25 of the Indian Evidence Act “No confession made to a Police officer shall be proved as against a person accused of any offence may it be before or after investigation.
4. If the information is non – confessional, it is admissible against the accused as an admission U/S 18 /21 of the Indian Evidence Act and is relevant.
5. For corroborating the statement of the maker under section 157 of the Indian Evidence Act.
6. For contradiction of the evidence of person giving the information U/S 145 of the Indian Evidence Act.
7. For refreshing informers conduct U/S 159of the Indian Evidence Act.
8. For impeaching the credit of an informer U/S 155 of the Indian Evidence Act.
9. For Proving the informers conduct U/S 8 of the Indian Evidence Act.
10. U/S 32 (1) of Indian Evidence Act (Dying declaration)
11. U/S 6 Evidence Act when the injuries are being caused in the presence of SHO in a Police Station .
12. U/S 160 Evidence Act when the informer fails to recall his memory the facts, but he is sure the facts were correctly reported in the FIR at the time he wrote it, read it.
13. FIR is a public document prepared U/S 154 Cr.P.C. and a certified copy of it can given in evidence U /S 77 of Indian Evidence Act.
14. The FIR by an accused person cannot be treated as an evidence against any co-accused, as It was lodged by the accused and not by a witness.

But if information is received that injured had been shot and had been removed to Hospital, it is sufficient for registration of case , held , so in 52 Cr. L. J.857 (1951) Mad) ., It was held further that the fact that information was meager and failed to indicate whether injured had been shot as a result +of accident or the voluntary of=r wrongful act of some one else could not affect its character as F.I.R. This view also finds corroboration from 1922 Pat . 535. In this case a person had reported at P.S/ that he had seen a woman with her head cut. The officer did not make a record of the fact but subsequently treated the information lodged by the father of the women as F.I.R .It was held that unrecorded information was in fact an F.I.R. and that information given was in fact an F.I.R . and that information given was in fact an F.I.R could not be taken in to consideration as it would be a statement during the investigation of cases and as such inadmissible in evidence .

In state of Assam Vs. U.n Raj Khowa 1975 Cr.L.J.354 , relating to muddled of his wife and daughters by session Judge , his D.O letter saying that enquiries be made regarding the death / disappear of these woman was held to be vague and not treated as F.I.R. as it hit by S. 162 Cr.P.C. In case of Dulal Chandra Ghosh 1988 Cr.L.J . 1835, Police was informed that deceased had been murdered and it was apprehended that there may be an attack as a reprisal . On this information the Sub – Inspector went to spot and started investigation. He recorded statement of complainant in holding proceeding of inquest and got the case registered on it . Held that it could not be F .I.R. and was hit by S. 162 Cr.P.c. being during investigation .

Where the investigating officer had gone to the village of occurrence where there was no electricity in the basis of some vague information of violence having broken out there, has categorically denied having questioned the witnesses or recorded their statement, the F.I.R recorded in Police Station after reaching there is not hit by S.162 cr. P.C. Pattad Amarappa 1989 S.C.2004.

Where message are transmitted between Police officers inter se: it can be treated as F.I.R. if the object is to narrate the circumstances of the crime with a view to initiate investigation. Jagdish 1992 Cr. L.J.981 (MP).

As such every case depends upon its own circumstances and the Police officer should exercise his own judgement and diligence to test the information if it is clear, definite and based upon tangible facts to disclose commission of cognizable or suspicion of commission of a cognizable offence.

### **F.I.R. IN CONSPIRACY CASES**

In conspiracy cases, a definite information which justifies registration of case, is fairly after making some enquiries. So it is not on every information that some persons are conspiring to do an illegal act that an F.I.R. should be registered. According to P.N. Rana Swami. J as held in Re. M. Rangarajulu 1958 Cr. L. J906. "A Police man passes through three stages in conspiracy case; hears something of interest affecting the public security and which puts him on the alert' makes discreet enquiries, takes soundings and sets up information's and is in the second stage of enquiry or look out and finally gathers sufficient information enabling him to hit upon something definite and that is the state when first information is recorded and then investigation starts. Hence a preliminary enquiry made by the C.I.D. Police into relative information floating about as to the existence of the conspiracy, the names and other details of the conspirators not being known at the time is not investigation carried out u/s 156 Cr.P.C".

F.I.R. need only be registered when information is definite about conspirators and their acts disclosing commission of cognizable offence. In case of C.B.I. Vs. V.C. Shukla AIR 1998 SC 1406, it was held; since for the purpose of charges of the conspiracy at least and parties are necessary, on acquittal of the one accused, the charges of the conspiracy will not be sustainable against the other accused also.

### **F.I.R. IN CORRUPTION CASES**

In cases of corruption, not registered on traps laid, but on complaints, always a suitable preliminary enquiry into the allegation is required. Such preliminary enquiries are relevant before the registration of case and are permissible under law. But as soon as it became clear to enquiring officer that the public servant appeared to be guilty of severe misconduct, it was his duty to lodge F.I.R. and proceed further in the investigation according to Chapter XIV (now XII) Cr. P.C. Sirajuddin 1971 Cr. L.J.523(S.C.), 1964 (I) Cr. L.J. 140 (S.C.) Cr.L.J. 517 (F.B.). the Bombay High Court treated the complaint sent to Anti Corruption Department as F.I.R. disclosing demand of bribe and payment to be made by complainant since officers of Anti Corruption Department had been given powers of S.H.O.

### **F.I.R. IN MURDER CASES**

In murder cases, Police records following types of F.I.R.'s.

- (i) When it contains direct evidence of murder on the basis of ocular evidence.
- (ii) When the Police registers the case minimizing the offence from murder to 307 or u/s 364 IPC to avoid its dispatch to magistrate which otherwise is essential if case is really registered for murder. This is invariably in those cases in which the informer is not sure of the culprits and preliminary enquiry is required by Police to find out the facts and to show that the case was registered promptly.
- (iii) When a dead identified is recovered with cause of death, which is clear, and the injuries are apparent the neck is cut etc.
- (iv) When only inquest is held to discover the cause of death and the case is registered after the report of Medical officer, or after the receipt of report of chemical examiner etc with regard to poison given to the deceased. Only a report is recorded in Daily at the first instance,
- (v) When the death is under suspicious and investigation is necessary which otherwise cannot be done without the registration of case. This is mainly in cases where dead body is not available, but the circumstances indicate that cognizable offence has occurred

## **F.I.R. ON AUTHENTIC INFORMATION**

The information given to the Police officer for registration of a case must be authentic. It should not be gossip but should be traced individual who should be responsible for imparting information. It may be hearsay but the person in possession of hearsay should mention the source of information and take responsibility for it. An irresponsible rumour should not result in registration of F.I.R.

### **SPECIAL REPORT**

The Police is required to send the copy of F.I.R. to the Illaqa Magistrate immediately after of the case u/s 157 Cr.P.C. and under the rules framed by Police. A special report, primarily the copy of F.I.R. in cases of heinous nature like murder, dacoity, and all specially reported cases (24.5 P.P.R.) (Punjab Police rules) is also to be sent immediately after registration of such a case to the Illaqa Magistrate Copy of F.I.R. is given to S.P./DCP. of the District for administrative purpose. Even when a case is registered under minor offence, the special report needs to be sent, immediately graver offence requiring dispatch of special report, is made out. The magistrate on its receipt gives the date and time of receipt on it and this is guarantee of its being recorded by Police at the specified date and time given in it. In case of delay in its despatch to magistrate, there are two presumptions; see Kamaljit Singh 1980 Cr.P.L.J.542.

- (1) That it was not recorded at the time and date given in it and was ant timed or antedated;
- (2) Theta the delay had been occasioned due to preliminary enquiries made by Police to find out culprits or to spin out a story, to introduce improvement and embellishments and to set up distorted version. An unexplained delay in sending F.I.R.\ S.R. evokes suspicion, 1987(1) Cr.L.J.479.

In many a case the, delay is explained by coining any excuse as in 1973 Recent Laws 35, it was held to be a usual story of punctured cycle. The explanation must be satisfactory and acceptable. If no explanation is forthcoming, then it creates a doubt in the minds of judicial officer as to the genuineness of then it creates a doubt in the minds of judicial as to the genuineness of F.I.R. In the Gabriel 1966Cr.L.J. 483.

- (1) 1974S.C.1983-1974 Cr.L.J.1383 Om Parkash, F.I.R. recorded on 13.12.1968. Reached magistrate 16.12.osecution did not explain delay. No question put to investigating officer. Held that in absence of definite evidence, it was not possible to fix the responsibility of delay, 14 and 15 being holidays, the magistrate might not have noticed it, being delivered at his residence.
- (2) 1973 C.A.R.25- Pala Singh 9S.C.) 1973 Cr.L.J. 59. Occurrence 6 p.m. Special Report reached magistrate 7.30 a.m. in City Hullender, Police Station only 21\2 miles. Held by Supreme Court in appeal against acquits that A.S.I. reached spot, immediately S.I. reached, Inquest prepared Investigation started, F.I.R. not with delay. Mere delay in reaching magistrate did not show investigation insupportable.
- (3) 1973 C.A.R. 359 Hazura Singh (S.C.) . Copy reaching magistrate next day .It dose nit follow that F.I.R. was not recorded at the time purported to have been done.
- (4) 1968 Cr.L.J. 1263 Tripwire, Bar Kumar Dele Dacoit yon 21.1.64 F.I.R. ((on 22.1.64 Reached S.D.M's Court 25.3.64. Held the delay and the latches on the part of I.O. in sending F.I.R. to S.D.M's Court could not be in the light of the facts of the case, be said to be fatal to the prosecution of the case as F.I.R. was lodged on the very next day if the occurrence.
- (5) 1974 Punjab Law Journal 145 F.I.R. registered at 7p.m. Reached Magistrate next day case held to be doubtful.

- (6) 1974 Punjab law journal 103 F.I.R. reached magistrate with delay. Accused not arrested though named in F.I.R. and present with Police inquest delayed. Held case was doubtful.
- (7) 1975 supreme court cases 530 Dater Singh F.I.R. dispatch to magistrate not entered in the column of F.I.R. held absence of entry as to when it was sent to magistrate assumes great significance and supports defiance plea that F.I.R. was drawn much later than alleged.
- (8) 1975 S.C.1960-1975 CR.L.J. 1732 Balkar Singh, F.I.R. allegedly written at 10 P.M. Special report reaches magistrate at 11 A.M. i.e. more than 12 hours after F.I.R. whereas it should have been delivered during the night or at least in the morning F.I.R. lost its authenticity. Witnesses' inimical accused acquitted.
- (9) In state Vs. Mohan Singh 1984 Cr.L.J. 1362, special report was sent with 3 days delay to the magistrate when he was only 7 km away when F.I.R. was alleged to be recorded promptly, it was held that "to record the time and date in F.I.R. register is an internal check only, S.157 however requires to send the F.I.R. to magistrate forthwith is an external check. The unexplained delay in sending it to magistrate casts a doubt that it was not recorded at the actual time".
- (10) In 1982 (2) C.L.R. 605, Des Raj, F.I.R. was registered at 6 P.M. previous day, it was held by Himachal High Court that copy of the F.I.R. was not sent to the magistrate as special report till 10 A.M. next day. No reason has been given for this delay. Distance between the Police Station and the residence of the magistrate is hardly a furlong. The delay in not sending the F.I.R. soon is a serious matter. We would therefore look at the F.I.R. with suspicion.
- (11) In the state of U.P Vs. Gokaran 1985 Cr .L.J. 511 special report sent on 29 occurrence of the night between 27/28 March; Held by supreme court, "It is not as if every delay in sending a special report would necessarily lead to the inference that F.I.R. has not been lodged at the time stated or that it was ant timed or antidated. When the steps in investigation by way of drawing inquest and other punch names started soon after F.I.R., the delayed report received by magistrate would not enable the court to doubt the investigation as tainted one nor could F.I.R. be regarded as ant timed or antidated,".
- (12) In case Dalbir Singh 1987(2) Recent Criminal Reporter, F.I.R. recorded initially at 3.25 P.M. u/s 307,148/149 IPC. Offence changed subsequent Report sent to Magistrate at 8 A.M. next day cannot be said that there was delay in sending report to magistrate.
- (13) In case state of Kerala Vs Des 1986 Cr.L.J.745 Late receipt of F.I.R. does not show it was fabricated was not believed as assailants mentioned in F.I.R. were fewer as spoken to by witnesses. there no inconsistency in the basic concepts of case and delay was explained
- (14) In Subhash 1987 Cr.L.J.991(S.C) FIR sent to magistrate not containing magistrate's endorsement about time of receipt .Head constable deposing about time of receipt. General diary containing entry. Inference of antedating cannot be drawn.
- (15) In Bal Krishan 1987 Cr.l.j.497 Delhi; in a murder case F.I.R. was sent to Magistrate after two days .The delay was not explained. Held circumstance evoked suspicions. Accused was available for arrest in the case. Police allowing him to go and arresting him next day. Defense suggestion that Police investigation was on a different line. Accused acquitted.
- (16) Lallan, 1990 Cr.L.J. 463 Recording of F.I.R. within 2 hours of incident-starting of investigation immediately – delay of a few hours in sending special report to District Magistrate u/s 157 Cr.P.C., not significant.
- (17) Darshan Singh 1988 Cr.L.J. 909 (SC) scene of occurrence 12 1/2 miles from Thana–FIR lodged within one hour-plea that it was prepared later and false time

mentioned. No evidence brought on record that time of occurrence mentioned in F.I.R. was precise time or that persons who lodged F.I.R. covered the distance on foot. Held there was not delay.

- (18) Lalla Ram 1989 Cr.L.J. 572 Special Report sent to Magistrate on next day at 10 A.M. in Court when occurrence was of previous day at 5.30 P.M. when F.I.R. was recorded. No explanation for delay. Held geniuses of time and date of recording F.I.R. doubted.
- (19) 1991Cr.L.J. 2014 (Mad ) . It is not correct to say that delayed transmission to special report under section 157 Cr.P.C. spells out the fact that F.I.R. was not lodged at the time stated therein and that investigation is not fair.
- (20) 1993Cr.L.J. 397 – Mere delay in dispatched of F.I.R. to magistrate is not a circumstance which can throw out the prosecution case in entirety.

Write the statement of Constable who takes special report to Magistrate separately u / s 161 Cr.P.C. the delay, if any, should be explained in his statement. The Constable should get the receipt of Magistrate with time and date on the cover of the envelope and preserve it. Both going and return of Constable to be recorded in daily dairy (with cause of decay if any). Punjab Police Rules 24.5 lays down the procedure in this respect saying inter alia.

- (a) The F.I.R. shall be sent to the Magistrate immediately in the Court during Court house and at his residence thereafter .
- (b) If Magistrate is not available after Court house then the messenger will leave at his residence giving the date hour of delivery on the cover.
- (c) If Magistrate concerned is out of Station then to be submitted to Duty Magistrate.
- (d) If an account of difficulties in communication or other reasons the delivery is delayed the reasons and delay shall be recorded on the cover.
- (e) The Magistrate shall put his initials and the date and hour of receipt.

See Swaran Singh Vs. State 1981 Cr.L.J. 364.

**COMPARISON CHART OF F.I.R. IS AND F.I.R. IS NOT**  
(Sec. 154 Cr.P.C.)

<b>F.I.R. IS</b>	<b>F.I.R. IS NOT</b>
1. Information relating to cognizable crime 2. Give to the officer –in-charge of Police Station. 3. First in Time. 4. Written or oral.	1. Rumor, gossip or hearsay. 2. Telegram. 3. Telephonic message. 4. Information not given to officer-in- charge of Police Station. 5. Anonymous communication.

From the above, the following ingredients can be made out: -

- (1) It must be information relating to the commission of a cognizable offence.
- (2) It must be given to an officer –in –charge of a Police Station.
- (3) It must be reduced to writing, if given orally.
- (4) It should be appended by the signature of the informer ( Refusal to sign the report is punishable u/s 180 IPC).
- (5) It should be read over to the informer.
- (6) The gist of the information should be entered in the Station General Diary.
- (7) A copy should be given forthwith free of cost to the informer.

Informer must be produced in the court to prove and corroboration of it.

### **DO'S AND DON'TS**

#### **DO'S**

1. FIR should be lodged immediately.
2. It should be recorded in first person.
3. Attitude / Behaviors towards the victim should be sympathetic.
4. Technical words should be avoided and as far possible language of the informer / complainant should be used.
5. Written complaint should be taken.
6. But complainant should be discreet to give written statement.
7. Written statement should be duly signed or thumb impressed.
8. Only a report of cognizable offence should be lodged in FIR.
9. Authentic information should be mentioned in the FIR.
10. Place, Date & Time of occurrence should be mentioned in the FIR.
11. Arrival & Departure of the informer should be mentioned in the FIR as well as Daily Diary Register.
12. Delay, if any, in registering the case should be covered in FIR.
13. 11 "Ws" Should be strictly followed.
14. Description & Role of every accused involved in the Commission of offence should be covered in FIR.
15. Kind of physical damage & property destroyed should be mentioned.
16. Weapon of offence and observation of Scene of crime should be mentioned in the FIR.
17. Telephone number, if any, of the complainant should also be mentioned.
18. Four copies of FIR should be prepared simultaneously by carbon paper process.
19. FIR should be lodged in neat & clean handwriting and be kept in safe custody being a permanent record.
20. A copy of FIR should be sent to MM concerned immediately
21. A copy of FIR should be provided to the complainant free of cost.

#### **DO NOT'S:**

- (1) Complainant should not be puzzled.
- (2) Hares language should not be used.
- (3) Aggression should be avoided.
- (4) Unnecessary details should be avoided.
- (5) Over-writing /scoring should be avoided.
- (6) Offence should not be minimized.
- (7) Do not forget to take thumb impression or signature of the informer.
- (8) FIR should not be lodged on the basis of telephone telegram or hearsay rum our without verifying the facts and getting the signature of the informer/ complainant.

### **EVIDENTIARY VALUE OF F.I.R.**

FIR being not substantive piece of evidence it can be used in the following ways: -

1. For corroboration purposes i.e. to corroborate the statement of the maker thereof u/s 157 Evidence Act.but not of any other Witness .In some cases FIR was not full as it could be, it was held by Supreme Court, it can not be ignored altogether and can be used to corroborate the statement of the eyewitnesses.

Cases: Sanker 1975 S.C. 757 or for the case of promotion in general. Gunadhar (1975 Cr.L.J. 1343 Cal. ) Sagar Chandra 1962 Cal 85 see Abdul Ganj 1954 Cr.L.J. 323.

2. For contradicting the evidence of person giving the information in accordance with Sec. 145 Evidence Act. Cases: 1944 Cal . 323 Supra. Apren Joseph 1973 S.C.I.
3. For proving as an admission against the informer u/s 18 /21 Evidence Act. Cases: State Vs. Kalwant Singh 1958 Cr.L.J. 129, 1962(1) Cr.L.J.82 (Raj) State Vs Shiv.
4. For refreshing informer's memory u/s/ 159 Evidence Act. Cases: 1937 L 475
5. For impeaching the credit of an informer u/s155 Evidence Act. Cases: 1939 All 242
6. For proving informer's conduct u/s 8 Evidence Act.
7. For establishing identity of accused, witnesses & for fixing spot & time as relevant facts u/s 9 Evidence Act.

Cases: 1968 M.P. 45.

- (8) In certain case as FIR can be used under section 11 Evidence Act.

Cases 1988 Cr.L.J.428.

### **F.I.R. BECOMES SUBSTANTIVE EVIDENCE**

1. U/s 32(1) of the Indian Evidence Act. As during declaration when a person deposing about the cause of his death had died.

2. U/s 6 of the Indian Evidence Act. As ‘ resgestae ‘ e.g. when the injuries are being caused in the presence of SHO in PS and the injured makes A statement to the SHO saying that accused was injuring him.
3. U/s 160 of the Indian Evidence Act. When the informer who has written the FIR or read it, fails to recall memory those facts but is sure that the facts were correctly represented in FIR at the time he wrote it or read it.

### **FINAL FATE OF F.I.R. IN COGNIZABLE OFFENCE.**

1. When there is sufficient evidence a CHAALLAL is prepared,.
2. When there is insufficient evidence , F.I.R. is declared as UNTRACE.
3. When FIR is found to be false or is transferred to other Police Station on point of jurisdiction, it is decided as CANCELLED.
4. After registering the FIR the contents of the FIR can not be changed. Only High Court can quash the FIR u/s 482 Cr. P.C.

### **DIFFERENCE BETWEEN COMPLAINT & F.I.R.**

<b>Complaint</b>	<b>F.I.R.</b>
<ol style="list-style-type: none"> <li>1. Made before the Metropolitan Magistrate.</li> <li>2. Complaint can be of cognizable Or Non- cognizable offence.</li> <li>3. Only aggrieved person submit of the complaint u/s 195 , 198 199 Cr. PC.</li> </ol>	<ol style="list-style-type: none"> <li>1. Made before the SHO.</li> <li>2. FIR lodged in Cognizable offence only.</li> <li>3. Any person , who has a knowledge happening of offence.</li> </ol>

### **WHAT ACTION SHOULD BE TAKEN IN NON- CONGNIZABLE OFFENCE**

1. The information regarding non-cognizable offence be lodged in Daily Dairy Register.
2. Complainant be advised & briefed property to approach the Court.
3. Police officer can not interfere/ investigate into the Non-cognizable cases without the order of the court.
4. A copy of DD entry duly signed should be provided to complainant free of cost.
5. If order regarding investigation into non – cognizable cases is received then the procedure should be adopted as in the cognizable cases.
6. Orders of the court should be obtained to arrest the Non cognizable cases after the investigation.

7. If one of the offences in the commission of crime is cognizable offence than Non-cognizable offence should also be investigated in the manner as cognizable offences are investigated.

**ACCTION WHEN REPORTS ARE DOUBTFUL ‘P.P.R. 24.4’.**

In accordance with P.P.R. 24.4 if the information or other intelligence relating to the alleged commission of a cognizable offence is such that an officer in – charge of the Police Station has reason to suspect that the alleged offence has not been committed, he shall record the Station diary along with his reasons for not investigating the crime and also nullify the informer.

- (1) Inspector or Supervising Officer can direct the investigation in such case and may send the report to the District Magistrate for perusal and order.
- (2) If such information or intelligence relates to commission of offence u/s 489 IPC, the same shall be recorded u/s 154 Cr.P.C. in the Station diary as well as the special report as per P.P.R. 24. shall be submitted and also the source of movement of the note at which cognizable offence appears to have been made committed, in that case shall be registered in the Police Station concerned and investigation u/s 157 Cr. P.C. shall be made.

**FORMAT OF INFORMATION IN RESPECT OF NON-COGNIZABLE OFFENCE (N.C.R.)**

Under Section 155 Cr.P.C.

Book No. \_\_\_\_\_

Page No \_\_\_\_\_

<b>S. No.</b>	<b>Thana      Distict</b>	<b>Date</b>	<b>Time</b>	<b>Reason</b>
1.	Date & time of Report			
2.	Name & Residence of Complaint.			
3.	Description of offence with Section			
4.	Direction of occurrence, time & date			
5.	Name and Full address of witness			