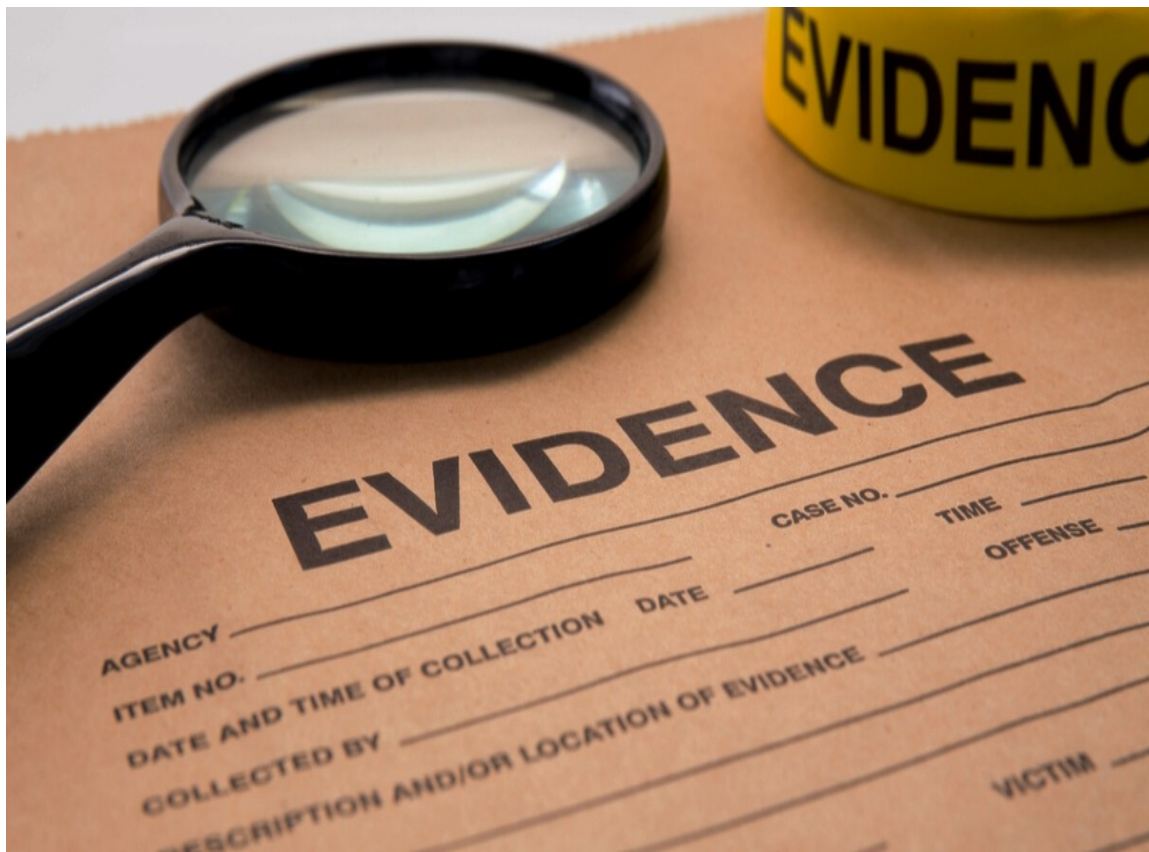


EVIDENTIARY VALUE
OF
FIRST INFORMATION REPORT
(DELAY IN LODGING FIR AND DISCREPANCY IN FIR)



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1. FIRST INFORMATION REPORT: A BACKDROP

The statements made to the police are of three categories- (a) A statement which has been recorded as an First Information Report (hereinafter referred to as F.I.R) (b) statement recorded by the police in the course of investigation (c) a statement recorded by the police but not falling under the above (a) and (b) category. None of the above statements can be considered as substantive evidence, that is to say, as evidence of facts stated therein. Because it is not made during trial, it is not given on oath, nor is it tested by cross-examination. If the person making any such statement to the police subsequently appears and gives evidence in court at the time of trial, his former statement could, however, be used to corroborate or to contradict his testimony according to the provisions of the Evidence Act, 1872.

The term FIR has not been defined by the Criminal Procedure Code. However, it can be defined as the information given to the police, related to a cognizable offence, given in the “first point of time”, with which the investigation into the offence is commenced. Section 154 CrPC talks about information provided in cognizable cases. Though Section 154 of the CrPC doesn't talk about FIRs specifically it does provide the police a statutory power to write a FIR and investigate the matter and for which they do not need to take the permission of the court.

There are 3 sub-clauses mentioned under this section which states as follows: -

1. As mentioned above an FIR contains information about a cognizable offence, this sub clause deals with the verbal and non-verbal communication between the informant and the police officer. If the information is given in a written format, then all the officer needs to do is record the same in his station diary however, if the information is given to him/her in an oral form then he/she needs to reduce the same into a written form and then read the same out to the informant and then finally take the signature of the informant and then record it into the station diary.

2. Sub-clause 2 states that a copy of the information recorded must be given to the informant and this copy should be given free of cost.

3. The third sub-clause states that in case any officer-in-charge or police station refuses to report the information then the informant can send, in writing, the said information (as mentioned in sub-clause-1) to the Superintendent of that police station.

Furthermore, in the situation where the information given was that of a cognizable offence then that officer must investigate the case himself/herself or direct an investigation to be made by any other police officer who is subordinate to him/her. In the scenario where the officer directs one of his/her subordinate to investigate the case, then the subordinate officer would then, in the manner provided in this code, have all the powers of an officer-in-charge would have in relation to that case and that police station.

2. SOME RELATED CONCEPTS

Cognizable and Non-Cognizable Offences: -

Cognizable Offences are those offences that are more serious in nature, like that of rape, murder, dowry death etc. For such offences arrests can be made without a warrant and the investigation can take place without the court's permission (as this process of asking permission can cause a delay as it might take time to get). Moreover, an FIR can be launched for such offences.

Non-Cognizable Offences, on the other hand, are those offences that are not so serious in nature like that of assault and defamation. In such cases a warrant is needed for an arrest and investigation can only take place after the court gives permission for the same. For such cases an FIR is not needed.

Information and Complaint:

The words 'Information' and 'Complaint' are often seen as the same though it is not. A complaint is given/made to a magistrate and is examined with oath whereas information is given to a police officer and is not examined by oath.

A police officer, unlike that of a magistrate, exercises discretionary powers. This means that once a complaint is made to the magistrate, they have to act upon the complaint whereas a police officer based on elements like not enough serious grounds available, seriousness of the case or not enough grounds to investigate can decide to not act upon the information given to them. If a magistrate decides to not act on a complaint and decides to dismiss it, he/she must, in writing, the reasons why he/she dismissed the complaint however if a police officer decides to dismiss the information given then he/she doesn't have to mention the reasons in written.

Lastly, a complaint given to the magistrate is a prayer for prosecution in which the details of the offence may or may not be given whereas information given to the police has details of the offence.

3. CONTENTS OF AN FIR

The contents of an FIR can also be denoted as the 11 W's -:

- (1) WHAT information has come – the details of the cognizable case but be very detail and clearly spelled out.
- (2) In WHAT capacity did the informant report – is he/she a victim, a witness or the accused.
- (3) WHO committed the crime – it is imperative that the details of the accused must be give, information like the name and description must be given. (If the informant knows and knowingly hides the name of the accused then, during the enquiry, a proper explanation for the same must be given)
- (4) Against WHOM has the crime been committed – name and details of the victim must be given.

- (5) WHEN – when did the offence take place. This includes details like the time.
- (6) WHERE - Details like the place and address of where the offence had taken place must be given.
- (7) WHY – if the informant knows then the reason why the offence took place, the intention or the motive must be given.
- (8) WHICH WAY – this includes details of how the crime was committed.
- (9) WITNESS – here all the details of all the witnesses must be given. (Here again, if any detail about any witness is knowingly hidden or later on added then the informant will be answerable for the same.
- (10) WHAT was taken away – includes the details of the list of stolen property.
- (11) WHAT traces were left behind by the accused – this includes details about any clue or any hint that was left behind by said accused person.

4. WHERE IS AN FIR LODGED

The territorial jurisdiction in which the crime has been committed is the area in which the related FIR should be lodged. However, the Supreme Court also has mentioned that one can also file an FIR in another police station outside of that territorial jurisdiction.

State Of Andhra Pradesh vs Punati Ramulu and Others: AIR 1993 SC 2644, 1993 CriLJ 3684, 1994 Supp (1) SCC 590:

A constable refused to write down a complaint on the basis that the area in which the crime had taken place was not under the territorial jurisdiction of his police station. The Hon'ble Supreme Court held that, the refusal of recording a complaint amounts to the dereliction of duty (which means to neglect one's duties), because any lack of jurisdiction would not have prevented the constable from recording the complaint. It should also be noted that a message sent via phone call to a police officer and if said police officer records the same in his/her station diary and it is regarding the information on a cognizable offence then this would also amount to an FIR.

Rajinder Singh Katoch vs Chandigarh Administration & Ors (2007) 10 SCC 69 :

It was held that a police officer is legally bound, as a mandatory duty, to register an F.I.R. Moreover, if the information given is in line with section 154 of the CrPC, i.e. it is of a cognizable offence, then the police officer can start the investigation without obtaining any permission of the magistrate.

In **Lalita Kumari v. State of U.P. (2014) 2 SCC 1:** the Hon'ble Supreme Court opined thus: "Consequently, the condition that is sine qua non for recording an FIR under Section 154 of the Code is that there must be information and that information must disclose a cognizable offence. If any information disclosing a cognizable offence is led before an officer in charge of the police station satisfying the requirement of Section 154(1), the said police officer has no other option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information. The provision of Section 154 of the Code is mandatory and the officer concerned is duty-bound to register the case on the basis of information disclosing a cognizable offence. Thus, the plain words of Section 154(1) of the Code have to be given their literal meaning. "Shall". It is thus unequivocally clear that registration of FIR is mandatory and also that it is to be recorded in the FIR book by giving a unique annual number to each FIR to enable strict tracking of each and every registered FIR by the superior police officers as well as by the competent court to which copies of each FIR are required to be sent. "Information"

In **State Of Haryana And Ors vs Ch. Bhajan Lal And Ors: AIR 1992 SC 604: 1992 Supp (1) SCC 335:** it was held that if information has been given via phone call and it is not reduced into writing and signed by the informant then it can not be considered as an FIR.

In **T.T. Antony vs State Of Kerala & Ors (2001) 6 SCC 18:** It was held that the information that is entered in the station dairy will also be considered as an FIR.

4.1 Multiple F.I.R. or Successive F.I.R.

Tarak Dash Mukharjee & Ors. v. State of Uttar Pradesh & Ors : 2022 LiveLaw (SC)

731: Code of Criminal Procedure, 1973; Section 154 - If multiple First Information Reports by the same person against the same accused are permitted to be registered in respect of the same set of facts and allegations, it will result in the accused getting entangled in multiple criminal proceedings for the same alleged offence - The registration of such multiple FIRs is nothing but abuse of the process of law - The act of the registration of such successive FIRs on the same set of facts and allegations at the instance of the same informant will not stand the scrutiny of Articles 21 and 22 of the Constitution of India. (Para 12).

Anju Chaudhary v. State of U.P., (2013) 6 SCC 384: - it was opined by the Hon'ble Supreme Court that:

“The purpose of registering an FIR is to set the machinery of criminal investigation into motion, which culminates with filing of the police report in terms of Section 173(2) of the Code. It will, thus, be appropriate to follow the settled principle that there cannot be two FIRs registered for the same offence. However, where the incident is separate; offences are similar or different, or even where the subsequent crime is of such magnitude that it does not fall within the ambit and scope of the FIR recorded first, then a second FIR could be registered. The most important aspect is to examine the inbuilt safeguards provided by the legislature in the very language of Section 154 of the Code. These safeguards can be safely deduced from the principle akin to double jeopardy, rule of fair investigation and further to prevent abuse of power by the investigating authority of the police. Therefore, second FIR for the same incident cannot be registered. Of course, the Investigating Agency has no determinative right. It is only a right to investigate in accordance with the provisions of the Code. The filing of report upon completion of investigation, either for cancellation or alleging commission of an offence, is a matter which once filed before the court of competent jurisdiction attains a kind of finality as far as police is concerned, may be in a given case, subject to the right of further investigation but wherever the investigation has been completed and a

person is found to be prima facie guilty of committing an offence or otherwise, reexamination by the investigating agency on its own should not be permitted merely by registering another FIR with regard to the same offence. If such protection is not given to a suspect, then possibility of abuse of investigating powers by the Police cannot be ruled out. It is with this intention in mind that such interpretation should be given to Section 154 of the Code, as it would not only further the object of law but even that of just and fair investigation.”

In **Vikram v. State of Maharashtra (2007) 12 SCC 332** : one FIR came to be registered on the basis of an oral message received on telephone and the second FIR was registered after receipt of grater details. The trial Court convicted a group of persons and the High Court upheld the same. When the matter landed up in Supreme Court, it was argued that the second FIR was unlawful. But the said contention was rejected by the Supreme Court by pointing out that a cryptic and anonymous oral message, which did not in terms clearly specify the commission of a cognizable offence, cannot be treated as First Information Report. In other words the argument relating to the validity of the second FIR was rejected on the reasoning that there was virtually one clear FIR and the other was cryptic and vague.

The Court in the case of **Shiv Shankar Singh v. State of Bihar (2012) 1 SCC 130**: expressed the view that the law does not prohibit filing or entertaining of a second complaint even on the same facts, provided that the earlier complaint has been decided on the basis of insufficient material or has been passed without understanding the nature of the complaint or where the complete facts could not be placed before the court and the applicant came to know of certain facts after the disposal of the first complaint. The Court applied the test of full consideration of the complaints on merits. In paragraph 18, the Court held as under: -

“18. Thus, it is evident that the law does not prohibit filing or entertaining of the second complaint even on the same facts provided the earlier complaint has been decided on the basis of insufficient material or the order has been passed without understanding the nature of the complaint or the complete facts could not be placed before the court or where the complainant came to know certain facts after

disposal of the first complaint which could have tilted the balance in his favour. However, the second complaint would not be maintainable wherein the earlier complaint has been disposed of on full consideration of the case of the complainant on merit.”

5. OBJECT OF AN FIR

The principle object of the F.I.R. from the point of view of the informant is to set the criminal law in motion and from the point of view of the investigating authorities is to obtain information about the alleged criminal activity so as to be able to take suitable steps to trace and bring to book the guilty. The purpose of recording the F.I.R. is to put into writing the statement of the informant before his memory fails or before he gets time and opportunity to embellish it. But the F.I.R. is not a condition precedent to the setting in motion of a criminal investigation.

If information is received and recorded in accordance with Section 154, such F.I.R. becomes the basis of the case set up by the informant, even though it may not be admissible as substantive evidence, and it assumes importance if promptly made. At the same time, the F.I.R. cannot be said to be the last word of the prosecution because it need not be made by an eye-witness nor is required to give full details.

It merely marks the beginning of the investigation and its value must accordingly depend on the circumstances of each case, including the nature of the crime, the position of the informant and opportunity he had of witnessing the whole or part of the offence.

It need not necessarily be given by a person who has first-hand knowledge of the incident; hence, it cannot be rejected as F.I.R. merely because it is based on hearsay. The F.I.R. cannot serve as a conclusive test for determining the question whether there should be one or several trials of the several offences disclosed in the F.I.R. The matter has to be determined on the basis of the result of the investigation in the light of the provisions of the Code.

It is not the encyclopedia of the whole incident. Only essential or broad-spectrum need be set out in the F.I.R. and all the minute details are not required to

be stated therein. It may not be necessary to catalog the acts therein and non-mentioning of some facts or vague reference to some others are not fatal. F.I.R. is a vital material as it is first information about the incident and has less chances of altering the version and improvement. It is not substantive evidence and cannot contradict the testimony of the eye-witnesses but may contradict its maker.

6. EVIDENTIARY VALUE OF FIRST INFORMATION REPORT(F.I.R.)

The evidentiary value of FIR is more important than any other statements during the process of cognizance of any offense or at the time of initiating the investigation about information recorded as per Section 154 or 155 of CrPC. But at the same time the established principle of law is that F.I.R cannot be assumed as a substantive piece of evidence and can only be considered as an important piece of evidence. The reason for which the FIR is regarded as an important piece of evidence is because of its nature that it is the first information of the cognizance of any offence, and it can be of very important nature as it will help in the initiation of investigation about the offences.

The evidentiary value of FIR was discussed in detail in -

This extract is taken from Dharma Rama Bhagare v. State of Maharashtra, (1973) 1 SCC 537 : 1973 SCC (Cri) 421 at page 543

The first information report, it may be pointed out, is never treated as a substantive piece of evidence. It can only be used for corroborating or contradicting its maker when he appears in court as a witness. Its value must always depend on the facts and circumstances of a given case. The FIR can only discredit the testimony of the maker thereof. It can by no means be utilized for contradicting or discrediting the other witnesses who obviously could not have any desire to spare the real culprit and to falsely implicate an innocent person. Prosecution case cannot be thrown out on the mere ground that in the first information report an altogether different version was given by the informant.

In the matter of **Damodar Prasad and others Vs. State of Maharashtra (AIR 1972 SC 622)**, the Hon'ble Supreme Court observed that the first information report is not substantive evidence; it can be used for one of the limited purposes of corroborating or contradicting the makers thereof. Another purpose for which the First Information Report can be used is to show the implication of the accused to be not an afterthought or that the information is a piece of evidence *res gestae*.

In the matter of **Hasib Vs. State of Bihar (AIR 1972 SC 283)**, the Hon'ble Supreme Court observed that the object of first information report from the point of view of the informant is to set the Criminal Law in motion. Such a report does not constitute substantive evidence, though it is important as conveying the earliest information about the occurrence. The Hon'ble Supreme Court further observed that the First Information Report can be used only as a previous statement for the purpose contemplated under Section 157 or Section 145 of the Evidence Act i.e., for corroborating or contradicting its maker and not of other witnesses.

In the matter of **Apren Joseph Vs. State of Kerala (AIR 1973 SC 1)**, the Hon'ble Supreme Court observed that First Information Report under Section 154, Cr.P.C. is not even considered a substantive piece of evidence. It can only be used to corroborate or contradict the informant's evidence in Court.

In the matter of **Dharma Ram Bhagare Vs. State of Maharashtra (AIR 1973 SC 476)**, the Hon'ble Supreme Court again considered the value and importance of the first information report and observed that the first information report is never treated as a substantive piece of evidence. It can only be used for corroborating or contradicting its maker when he appears in Court as a witness. Its value must always depend on the facts and circumstances of the case. The first information report can only discredit the testimony of its maker. It can by no means be utilized for contradicting or discrediting the other witnesses who do not have any desire to spare the real culprit and to falsely implicate him. The observations of the court can be summarized as follow:

1. FIR cannot be admissible as evidence before a court of law in a trial.

2. It can be used only to discredit the maker of the F.I.R by contradicting himself.
3. It can be used for corroborating any statement made by the maker of the F.I.R in a court during the trial

In the matter of **Nanhku Singh Vs. State of Bihar (AIR 1973 SC 491)**, the Hon'ble Supreme Court in para 7 of its judgment again observed that the First Information Report is not a substantive piece of evidence, it is an information of a cognizable offence given under Section 154 Cr.P.C. and if there is any statement made therein, it can only be used for the purposes of contradicting and discrediting a witnesses under Section 145 of the Evidence Act.

In the matter of **George and others Vs. State of Kerala, (1998) 4 SCC 605**, the Hon'ble Supreme Court again had an occasion to consider about the importance of and the role of the first information report. Para 30 of the judgment reads as under:--

"That bring us to the dying declaration made by the deceased before P.W.s 3 and 4 which has been pressed into service by the prosecution to corroborate the ocular version of P.W. 3. Before proceeding further we must confess that we have not been able to fathom how the Trial Court could rely upon the contents of Ex. P-1, lodged by P.W. 1, and that too for the purpose of discarding the evidence of P.W.s 3 and 4. P.W. 1 turned hostile and testified that he did not make any statement before the police but signed on the dotted lines. It is trite that an FIR is not substantive evidence (unless of course it is admitted under Section 32(1) of the Evidence Act) and can be used to corroborate or contradict the maker thereof; and, therefore, the question of corroborating P.W. 1 by his purported statements, as contained in Ex. P-1, could not arise. In spite thereof the Trial Court observed : "..... the First Informant's statement is further supported by the evidence of P.W. 1 and used the statements contained therein (Ex. P-1) as substantive evidence to discredit P.W.s 3 and 4. It must, therefore, be said that the approach of the Trial Court in dealing with the FIR was legally impermissible. We are also surprised to find that the Trial Court disbelieved P.W.s 3 and 4, relying upon the statements contained in the inquest report (Ex. P-8). Statements contained in an inquest report, to the extent they relate to what the Investigating Officer saw and found are admissible but any statement

made therein on the basis of what he heard from others, would be hit by Section 162, Cr.P.C."

From the above judgments of the Supreme Court, it is clear that the First Information Report even if is lodged by an eye-witness cannot be used as a substantive piece of evidence except unless it is admitted in evidence under Section 32 of the Indian Evidence Act.

In the case of Mannu And Others vs State Of Chhattisgarh on 10 May, 2001, 2001 (3) MPHT 105 CG The Hon'ble Chhattisgarh High Court has held that: "In the present case, we are shocked and surprised to see that the learned Court below has based the conviction only on the first information report. We are astonished that a first information report which is recorded by Police Officer after gathering certain information from certain witnesses was used for recording the findings against the interest of the accused, especially when the said witnesses did not speak in the Court that they had ever given such statements to the Police Officers. It is not the case of the prosecution that P.W. 9 J.S. Madhavi was an eye-witness. The eye-witness did not support the prosecution. Unless somebody says that he had given certain information to the police or on basis of his information the police officer had recorded the first information report, such first information report would not assume any importance because the said statements would be hearsay and will have the limited importance under Section 6 of the Indian Evidence Act."

6.1. FIR CAN BE USED FOR THE FOLLOWING PURPOSES-

(a) It can be used to corroborate the maker under S. 157 of the Evidence Act, but not to corroborate the other witnesses. Apex Court has gone so far to say that the prosecution case cannot be thrown out on the mere ground that if the first information reports an altogether different version was given by its maker. This position has not however been maintained in toto in subsequent cases of the apex court.

(b) F.I.R. can be used to contradict only the maker of it under section 145 and Section 155 of Evidence Act and not other witnesses.

(c) FIR can be used by the defence to impeach the credit of the maker under section 155(3) of the Evidence Act.

(d) A non-confessional First Information Report lodged by the accused can be used against him to prove his admissions in regard to certain facts under Section 21 of Evidence Act.

(e) Certain portion of confessional First Information Report lodged by the accused can be used against him if they lead to the discovery of a fact within the meaning of Section 27 of Evidence Act.

(f) FIR can be used as substantive evidence on the death of the informant if it relates to the cause of informant's death or circumstances of the transaction resulting in informant's death within the meaning of section 32(1) of Evidence Act. In other case, it cannot be used as substantive evidence.

6.2. F.I.R BY ACCUSED

FIR can also be given by the accused himself. An F.I.R given by the accused can be either the nature of a confessional statement and non-confessional statement. For instance, (i) 'A' is accused of the murder of 'B'. he goes to the police and informs that he murder 'B' by stabbing him and throwing his body into the river. (ii) 'A' murder's 'B' and apprehends that he will be caught. To keep himself out of suspicion, A inform the police that he saw an unknown person killing 'B'.

The first instance is where the F.I.R given by accused 'A' is confessional in nature and the second one is non-confessional. If a statement is confessional in nature, it cannot be used in the court as evidence under section 25 of the Indian Evidence Act, 1872. The landmark case for considering the evidentiary Value of FIR given by an accused in the case of **Aghnoo Nagesia v the state of Bihar, (AIR 1966 SC 119)**. The Hon'ble Supreme court in this case held that:

1. F.I.R given by accused is categorically inadmissible as evidence.

2. If the F.I.R given by the accused is non-confessional in nature, it can still be admitted by the maker of the FIR in the court. However, unless specifically admitted, the FIR of the accused cannot be used against him.
3. If it is confessional in nature and will expose the accused to criminal charges, it will become inadmissible except as provided under section 27 of the Evidence Act. The section 27 allows the confessional statement if the accused to be used for further investigation for discovery if new and relevant facts and if any fact is discovered, it can be used in court.
4. If an F.I.R is partly confessional and partly non-confessional. It is entirely inadmissible in court. However, if the non-confessional part is absolutely exclusive of the confessional part, it can be a relevant fact under section 18 of the Evidence Act and if admitted by the maker under section 21, can be admissible as evidence.

Where the accused himself gives the First Information the fact of his giving the information is admissible against him as evidence of his conduct under section 8 of Evidence Act.

6.3. DEMISE OF THE PERSON MAKING THE F.I.R

In certain circumstances, the F.I.R itself becomes a substantive piece of evidence. Under Section 32 of the Evidence Act, if the person making the F.I.R is dead or cannot be found or if his attendance cannot be procured without unnecessary delay in the trial, the F.I.R becomes a substantial piece of evidence. If the F.I.R mentions the details of the accused, it can be used to convict him though it cannot be the sole reason to convict him. Moreover, if the FIR is a part of a transaction which is admissible in court, the FIR becomes admissible. This is the Evidentiary Value of FIR.

The word “Dying Declaration” means any statement is written or verbal of relevant facts made by a person, who is dead or it is the statement of a person who had died explaining the circumstances of his death. The concept of dying declaration was evolved from a legal maxim, ‘*nemo mariturus presumuntur mentr*’

i.e. a man will not meet his maker with a lie in his mouth. Although it may sound impractical but our law has adopted this concept and functions accordingly. Section 32(1) specifically deals with the concept of dying declaration in respect of a cause of death and it is assumed that such statements are relevant even whether the person who made them was not at the time when they were made.

There is no law that the F.I.R cannot be taken into consideration on the death of Informant. The FIR cannot be thrown out on the death of Informant. The case will have to be proved on the basis of evidence collected by the Prosecution during the course of investigation and FIR is no evidence in the case, it is only a piece of information with the police records with which the system comes into motions and investigation is stopped it.

In the case of **A.P. High Court in Edgia Jagannath Goud and others v. State, 2004(2) ALD (CrI.) 241 (A.P.)** it was held that FIR is only used for the purpose of corroborating or contradicting if the person who has complained is examined. In a case where the first informant died before he could depose before the Court at best the purpose of corroborating or contradicting its contents by the persons would not be possible. Keeping that in view, that the accused could not cross-examine the first informant the other evidence produced can be looked into. As the F.I.R is not a substantial piece of evidence it should not have any effect on the prosecution case if its contents were not proved by the person who gave it because of his death.

In view of the judgment of the Supreme Court in **Harkirat Singh v. State of Punjab, (1997) 11 SCC 215**, this court felt that non-examination of the complainant on account of his death would not be factual on its own to the prosecution case and it will depend upon facts of each case. If the prosecution story as revealed by the witnesses in the Court is directly contradictory to the contents of the FIR it may have one effect and on the other hand if the contents of FIR are in conformity with the evidence adduced during the trial it may have altogether a different effect.

In the case of **Harendra Rai v. State of Bihar, 2023 SCC OnLine SC 1122**: The Hon'ble Supreme Court has held: "It is an undisputed position of law that the FIR is a public document defined under Section 74 of the Evidence Act. In the case at

hand, the deceased Rajendra Rai gave his statement in the form of Bayan Tahriri and narrated the entire incident and circumstances of the transaction which resulted in his death. Subsequently, he died on account of injuries suffered by him in the incident in question. This fact is not in dispute and hence, following the above case laws, the FIR lodged on the basis of Bayan Tahriri of injured Rajendra Rai is liable to be treated as a dying declaration, which itself is a substantive piece of evidence and is admissible under Section 32(1) of the Evidence Act. In the present case, the FIR, being a public document and a dying declaration of the informant, is the foundation of the entire prosecution case. However, in the present matter, we have to find out the ‘evidence of those persons who can vouchsafe for the truth of the facts in issue’.”

6.4. SUPPRESSION OF MATERIAL PARTICULARS

It is not correct to say that the F.I.R. is always the first information of the cognizable offence that has come to the police. It is also not correct to say that an information of the commission of a cognizable offence of a hearsay nature, given orally to the officer-in-charge of the police station would be an information admissible in evidence for two purposes i.e. for corroboration of the informant or for the contradiction of the informant if and when he is examined as a witness.

Any information of the commission or suspected commission of a cognizable offence, if given by a person to the officer-in-charge of the police station orally, shall be reduced to writing in a book prescribed by the State Government.

Such information when so laid by the person having direct knowledge about the information would then be admissible as real information under Section 154 of the Code. Then, such information could be used either for corroboration of the informant or for contradiction if and when the informant gives evidence in court touching such information. Moreover, the information must be first in time laid before the officer-in-charge of the police station before any step for the investigation starts upon any other either information received by the police officer whether recorded or not by the police officer in the manner prescribed.

If any information sought to be admitted in evidence as F.I.R. does not satisfy the condition of Section 154, it would not be admissible as F.I.R. for the prosecution to corroborate the informant in court while deposing but it may be used by the defence to contradict the informant in the witness box while deposing. Any statement to the police after the investigation had commenced would be hit by the provisions of Section 162 of the Code. If a witness who laid the F.I.R. on his own knowledge makes a statement in court on oath different from what he had stated in the FIR that discredits the evidence of the witness in court to the extent, but does not make the statement in the F.I.R evidence in the case.

In **Shashikant v. Central Bureau of Investigation & Ors., (AIR 2007 SC 351)**: The Hon'ble Supreme Court decided that Preliminary inquiry is necessary on basis of anonymous Complaint. Whether to initiate investigation or not depends upon fact situation of each case. In the instant case, an anonymous complaint alleging corrupt practice by member of Special Police Force was received. Authorities on basis of said complaint initiated preliminary enquiry against him. Such course is permissible. Although ordinarily in terms of Section 154 of the Code, when a report is received relating to the cognizable offence, a First Information Report should be lodged, to carry out a preliminary inquiry even under the Code is not unknown.

When an anonymous complaint is received, no investigating officer would initiate investigative process immediately thereupon. It may for good reasons carry out a preliminary enquiry to find out the truth or otherwise of the allegations contained therein. Only when a F.I.R is lodged, the officer in charge of the police station statutorily liable to report thereabout to a Magistrate who is empowered to take cognizable in terms of proviso to Section 157(1) of the Code, Proviso (b) appended thereto empowers the Investigation Officer not to investigate where it appears to him that there is no sufficient ground for entering into an investigation.

The question therefore, as to whether an empowered officer who had made investigation or caused the same to be made in a cognizable offence within the meaning of S. 157 of the Code or had not initiated an investigation on the basis of

an information which would not come within the meaning of S. 154 of the Code is essentially required to be determined in the fact situation in each case.

In **Lalita Kumari v. Govt. of U.P.(2014) 2 SCC 1**: In this regard the following question was posed:- ***“(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.”*** The Hon’ble Supreme Court opined that: “Although, we, in unequivocal terms, hold that Section 154 of the Code postulates the mandatory registration of FIRs on receipt of all cognizable offences, yet, there may be instances where preliminary inquiry may be required owing to the change in genesis and novelty of crimes with the passage of time. One such instance is in the case of allegations relating to medical negligence on the part of doctors. It will be unfair and inequitable to prosecute a medical professional only on the basis of the allegations in the complaint.” After so stating the constitution Bench proceeded to state that: “ where a preliminary enquiry is necessary, it is not for the purpose for verification or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.” After laying down so, the larger Bench proceeded to state:-

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

- (a) Matrimonial disputes/family disputes
- (b) Commercial offences
- (c) Medical negligence cases
- (d) Corruption cases
- (e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry."

In light of the above judgment the Hon'ble Supreme Court in **Priyanka Srivastava v. State of U.P., (2015) 6 SCC 287**: regarding directions to register F.I.R by the learned Magistrate under Section 156(3) Cr.PC opined that: "Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order."

F.I.R can only be used to corroborate or to contradict the maker of FIR adduced in court provided the maker had direct knowledge of the information. F.I.R may in certain circumstances be evidence as to the cause of informant's death or as part of the res-gestae pointing to the informant's conduct. It may be utilized by the defence to impeach the credit of the informant under Section 155 of the Code of Criminal Procedure.

F.I.R is the earliest version of the case of prosecution and it must be placed before the Judge to weigh the truth or falsity and for corroboration and contradiction of the story of the maker of the information. If an accused lodge an F.I.R. the non-confessional portion is admissible against him.

The substance of Section 154 is therefore, that every information lodged in the police station relating to the commission or suspected commission of a cognizable offence must be reduced to writing if not already in written form and a substance of it must be entered in a book kept in the police station only that information be it recorded as in the manner prescribed by Section 154 of the Code, or not, but on which the investigation in the case is commenced by the police, is the first FIR of the occurrence.

The law does not contemplate that when in the course of the investigation something is elicited in the information can thereupon be recorded. It is a matter of law whether an information is a first information or not, and it is not open to the officer-in-charge of police station to treat an information as such or not, according to his discretion. There is no provision in the Code of Criminal Procedure for any preliminary enquiry prior to investigation or prior to the lodging of the information within the meaning of Section 154.

If circumstances indicate that after receiving some information, however incomplete the police officer had commenced investigation, any sub-commission of the offence by any other person cannot be regarded as F.I.R in the case and would not be admissible under Section 154 of the Code read with Section 157 of the Evidence Act, being hit by Section 162 of the Code of Criminal Procedure.

If there is suppression of F.I.R and the responsibility of such suppression lies on the door of the prosecution, apart from the inference to be drawn against the prosecution under Section 114 Illustration (g) of the Evidence Act, a case of prejudice to the accused is definitely made out. When the prosecution had suppressed the earlier written report of the occurrence and had submitted a new one for the same then in such a case and when once the F.I.R. was held to be fabricated or brought into existence long after the occurrence then it was held that the entire prosecution case must collapse.

6.5. F.I.R. CAN BE USED ONLY FOR CONTRADICTORY AND CORROBORATORY PURPOSES

An F.I.R. is not a substantive piece of evidence and can only be used to corroborate the statement of the maker under Section 157, Evidence Act or to contradict it under Section 145 of the Evidence Act. It can only be used for corroboration or contradiction purposes that too when F.I.R. was lodged by a person having direct knowledge about the occurrence. In other cases also the same view has been expressed. When the F.I.R. is clouded with suspicion as it was product of undue deliberation and consultation, then F.I.R. loses its corroboration value.

F.I.R. cannot be relied upon unless it is tendered by the prosecution in accordance with Section 157 Evidence Act. F.I.R. cannot be used against the maker at the trial if he himself becomes an accused not to corroborate or contradict other witnesses.

In Dhirendra Nath v. State, A.I.R. 1952 Cal. 621 the Calcutta High Court while emphasizing the value of the F.I.R. observed as follows “*I am aware that the First Information Report is at times, regarded as part of the res-gestae and on that basis it is sometimes used, not merely for the purpose of corroborating or contradicting the person who lodged it but also for the purpose of lending some assurance to or negating the general account as given by other witnesses.*”

The Orissa High Court also in **The State v. Makund Harijan, 1983 CrL. LJ. 1870.** while holding the same view observed that “*No doubt a First Information Report can, strictly speaking, be used only to corroborate or contradict the maker of it. But omissions of important facts, affecting the probabilities of the case, are relevant under section 11 of the Evidence Act in judging the veracity of the prosecution case.*” An F.I.R. recorded without any loss of time is likely to be free from embroideries, exaggerations and without anybody intermingling with it and polluting and adulterating, the same with lies. The purpose of F.I.R. is to obtain the earliest account of a cognizable offence before there is an opportunity for the circumstances to be embellished.

Though the F.I.R. is not a substantive piece of evidence and can be used to corroborate or contradict the statement of the maker thereof, it can also be used to test and measure the trustworthiness of the prosecution story as a whole. When the case of prosecution was that accused caused injury on the cheek of the informant and when the F.I.R. did not disclose such fact, then such omission in the F.I.R. would seriously impeach credibility of informant.

The First Information Report is never treated as a substantive piece of evidence. It can only be used for corroborating or contradicting its maker when he appears in Court as a witness. Its value must always depend on the facts and circumstances of a given case. The First Information Report can only discredit the testimony of the

maker thereof. It can by no means be utilized for contradicting or discrediting the other witnesses who obviously could not have any desire to spare the real culprit and to falsely implicate an innocent person. Prosecution case cannot be thrown out on the mere ground that in the first information report an altogether different version was given by the informant.

Contents of FIR can be used for purpose of corroborating or contradicting maker of it if he was examined and under no circumstance as substantive evidence. The F.I.R. can be used to discredit the testimony of the maker of the report and the prosecution case cannot be thrown out merely on the ground that entirely different version is given therein by its maker.

6.6. F.I.R. AND AN ADMISSION UNDER SECTION 21 OF THE INDIAN EVIDENCE ACT

The F.I.R. is admissible under Section 157 of the Evidence Act, as corroborating the testimony of the informant or for contradicting him under Section 145 or under Section 8 of the Evidence Act as evidence of his conduct. It may also be admissible as his admission when the accused himself makes the first information report. Section 25 of the Evidence Act lays down that if it is in the nature of a confession, being made to a police officer, it is admissible, and it cannot be proved as against him. If it is not a confession, but contains admissions made by the accused, F.I.R. is admissible in evidence under Section 21 of the Evidence Act.

F.I.R is not a statement made to a police officer during the course of investigation. Section 25 of the Evidence Act and Section 162 of the Code of Criminal Procedure do not bar its admissibility. The report is an admission by the accused of certain facts which have a bearing on the question to be determined by the courts under Section 21 of the Evidence Act. Admission of an accused can be proved against him.

6.7. EVIDENTIARY VALUE OF F.I.R SENT WITH DELAY TO MAGISTRATE UNDER SECTION 157, CODE OF CRIMINAL PROCEDURE, 1973

Element of delay in registering the complaint or sending the same to the jurisdictional Magistrate by itself would not be fatal to the prosecution, if the evidence adduced by the prosecution was worthy of credence. The extraordinary delay in sending FIR to the Magistrate is a circumstance which provides a legitimate basis for suspecting that the FIR was recorded much later than the stated date and hour affording sufficient time to the prosecution to introduction improvements and embellishment and set up a distorted version of the occurrence. In such a case, the evidence of eye-witnesses cannot be accepted at its face value.

When the FIR has been received by the magistrate with inordinate delay, then the entire prosecution case must be viewed with suspicion. Mere delay in holding inquest proceedings and in delivery of F.I.R. to local Magistrate cannot be said to have rendered F.I.R. ante-timed or ante-dated. In **Sarwan Singh v. State of Punjab, (AIR 1976 SC 2304)** their Lordships of Supreme Court has observed that delay in dispatch of the F.I.R. is not a circumstance which can throw out the prosecution case in its entirety.

Hence, if, prosecution had given a very cogent and reasonable explanation for the delay in dispatch of F.I.R. and the trial court was not justified in rejecting prosecution case on the ground of delay in the peculiar circumstances of the case.

6.8. WHEN THE F.I.R. WAS, LODGED OR RECORDED AFTER PREPARATION OF INQUEST REPORT

F.I.R. loses all authenticity if it is written after inquest report. When there is discrepancy of distance in F.I.R. and inquest report. Then it must give rise to an inference that the F.I.R. is ante-timed and attached to the statement of F.I.R. and eye-witnesses whose names find place in F.I.R.

7. F.I.R. IS A PUBLIC DOCUMENT

Whenever there is a bonafide requirement, the Court to which F.I.R. is forwarded by the Police, can grant certified copy of F.I.R. or payment of legal fee by the accused as it is a certified copy of a public document. FIR is a public document prepared under Section 154 Cr.P.C. A certified copy of the FIR can be given in evidence (getting of FIR can be by the accused – accused is entitled to get a copy of the FIR only under the orders of the Court after the Court has taken cognizance of the case and not before but the accused can get a copy of FIR on payment from the Court).

The officer-in-charge of a Police Station is not authorized to give copy of FIR to the accused. If he gives copy of the FIR to the accused he will be liable under Section 29 of the Police Act, 1961.

Section 74 of the Indian Evidence Act reads: “Public documents”: – The following documents are public documents,-

(1) Documents forming the acts or records of the acts-

(i) of the sovereign authority,

(ii) of official bodies and Tribunals, and

(iii) of public officers, legislative, judicial and executive, of any part of India or of the Common Wealth, or of a foreign country.

(2) Public records kept in any State of private documents.”

8. PROVING OF F.I.R

The FIR is a document and has to be proved like any other document. The informant must be produced in the court during the trial and must be examined by the prosecution and cross-examined by the defence and FIR should be marked as exhibit. When the maker of the FIR was examined in the court, but the FIR is not tendered by the prosecution in accordance with the provisions of Indian Evidence Act. A court is debarred from relying on it.

9. DISCREPANCIES IN FIR

Discrepancies in FIR can occur for a variety of reasons. The complainant may not be able to remember all the details of the incident at the time of filing the FIR. They may also be under pressure from the accused or their family to downplay the incident. In some cases, the police may deliberately alter the FIR to make it less serious.

Whatever the reason, discrepancies in FIR can have serious implications for the case. They can be used by the accused to challenge the prosecution's case and even get the case dismissed. In some cases, they can also lead to the acquittal of the accused.

The Supreme Court of India has held that discrepancies in FIR are not necessarily fatal to the prosecution's case. However, the court has also said that the discrepancies must be explained by the prosecution and that they must not be so serious as to create doubt about the veracity of the complainant's allegations.

9.1. Common Discrepancies in FIRs:-

1. **Delay in Filing of FIR:** One of the most common discrepancies is the delay in filing an FIR. This delay can weaken the case as it raises questions about the credibility of the complainant's account and the preservation of evidence. Sometimes, delays occur due to fear, coercion, or pressure from influential parties. This topic will be elaborately dealt with in the later part of the paper.
2. **Inaccurate Information:** FIRs may contain inaccuracies in terms of names, addresses, and details of the incident. These errors can hinder the investigation by causing confusion or even leading to wrongful arrests.
3. **Omissions:** Important details may be omitted in FIRs, which can hinder the investigation and the subsequent legal proceedings. Complainants might

leave out certain facts intentionally or due to fear, leading to an incomplete picture of the incident.

4. **Misinterpretation of the Law:** Sometimes, complainants or police officials may misinterpret the law and register an FIR under incorrect sections. This can impact the charges brought against the accused and the eventual outcome of the case.

9.2. Impact of Discrepancies in FIRs-

Discrepancies in FIRs can have profound implications throughout the criminal justice process:

1. **Loss of Credibility:** The credibility of the complainant can be undermined, which may lead to acquittals or dismissals of cases.
2. **Wrongful Arrests:** Inaccurate information and misinterpretation of the law can result in wrongful arrests and harassment of innocent individuals.
3. **Obstruction of Justice:** Omissions and delays can hinder the collection of evidence and delay the investigation, leading to potential miscarriages of justice.

9.3. Addressing discrepancies in FIRs and suggested approach for correction:

1. **Legal Awareness:** Public awareness campaigns and legal literacy programs can educate individuals about the importance of accurate and timely FIRs.
2. **Training for Law Enforcement:** Proper training for police officers in FIR registration, investigation, and legal procedures is essential to reduce errors and omissions.
3. **Protection for Complainants:** Measures should be in place to protect complainants from external pressures and threats that might cause delays or inaccuracies in FIRs.

4. **Technological Solutions:** The use of technology can streamline the FIR registration process, reducing the chances of errors and ensuring prompt registration.

9.4. Caselaws:

In the case of **Jai and Ors. V. State of Chhattisgarh 2018 SCC OnLine Chh 987**; the **Hon'ble High Court of C.G.** observed in para 89 that:

“89. As regards non-mentioning of certain details in the FIR, the law is fairly well settled that FIR is not supposed to be an encyclopedia of the entire events and cannot contain the minutest details of the events. When essentially material facts are disclosed in the FIR that is sufficient. FIR is not substantive evidence and cannot be used for contradicting testimony of the eye witnesses except that may be used for the purpose of contradicting maker of the report.”

The following are some of the key points from the case:

- i. Discrepancies in the FIR are not fatal to the case if they can be explained or justified.
- ii. The court will consider all the evidence in the case, including the explanation for the discrepancy, before making a decision.
- iii. The evidence in the case, including the testimony of the witnesses, is more important than the FIR.

In the case of **Latesh v. State of Maharashtra, (2018) 3 SCC 66**, the Hon'ble Supreme Court observed that the value to be attached to the FIR depends upon facts and circumstances of each case. When a person gives a statement to the police officer, basing on which the FIR is registered, the capacity of reproducing the things differs from person to person. Some people may have the ability to reproduce the things as it is, some may lack the ability to do so. Some times in the state of shock, they may miss the important details, because people tend to react differently when they come across a violent act. Merely because the names of the accused are not stated and their names are not specified in the FIR that may not be a ground to

doubt the contents of the FIR and the case of the prosecution cannot be thrown out on this count.

In the case of Hazrat Deen v. The State of Uttar Pradesh & Anr. (2022) 10 SCC 347:

In this case the Accused emphatically argued that the FIR does not disclose offence under Section 376 of the IPC. The FIR is the initial document. In her statement given by the prosecutrix under Section 164 of the Code of Criminal Procedure (CrPC) after the prosecutrix attained majority, she categorically made statements which tantamount to offence under Section 376 of the IPC.

In this case it was held by Hon'ble Supreme Court that discrepancies between the FIR and any subsequent statement under Section 164 of the CrPC may be a defence. However, the discrepancies cannot be a ground for discharge without initiation of trial.

10. DELAY IN LODGING FIR

The Indian law does not specify a fixed time limit for filing an FIR. However, it is generally accepted that it should be filed as soon as possible after the crime has been committed. However, it has been observed that FIR has to be filed within reasonable period. The issue of reasonable time being a matter is for determination of judge in each case. Mere delay in filing the FIR with the police is therefore, not essentially, as a matter of law, lethal to prosecution.

In the judgment of "**Sahebrao & Anr. Vs. State of Maharashtra**" (2006) 9 SCC 794, Hon'ble Supreme Court of India has held that : "The settled principle of law of this Court is that delay in filing FIR by itself cannot be a ground to doubt the prosecution case and discard it. The delay in lodging the FIR would put the Court on its guard to search if any plausible explanation has been offered and if offered whether it is satisfactory."

10.1. Delay in FIR can further be simplified in three types:

1. Delay in lodging FIR by the informant.
2. Delay in recording FIR at police station by the officer-in-charge.
3. Delay in dispatching FIR it to the Magistrate.

1. Delay in Lodging FIR by the Informant

Although FIR is not fundamentally an evidence, it cannot be refuted that it has probative worth. If there is unexplained interval in lodging FIR, it can be deadly to the prosecution's case. Although gap in filing FIR does not result in quashing the FIR but nonetheless it gives rise to suspicion which puts the court on guard to look for the likely motive. Delay in giving First information can be overlooked if there is reasonable explanation.

Delay by informant is the most common type of delay. It can be caused by a number of factors, such as:

- **Fear of retaliation:** The victim may be afraid of retaliation from the accused, such as physical harm, social ostracism, or damage to their property. This is a common reason for delay, especially in cases of domestic violence, sexual assault, or caste-based violence.

In the case of **State of Himachal Pradesh v. Prem Singh** (2009) 1 SCC 420, it was held:

“6. So far as the delay in lodging the FIR is concerned, the delay in a case of sexual assault, cannot be equated with the case involving other offences. There are several factors which weigh in the mind of the prosecutrix and her family members before coming to the police station to lodge a complaint. In a tradition-bound society prevalent in India, more particularly rural areas, it would be quite unsafe to throw out the prosecution case merely on the ground that there is some delay in lodging the FIR. In that score, learned counsel for the appellant is right that the High Court has lost sight of this vital distinction.”

- **Lack of awareness of their rights:** The victim may not be aware that they have the right to file an FIR. This is especially true in rural areas, where people may not be familiar with the law.
- **Inability to access the police station:** The victim may not be able to access the police station due to physical or financial constraints. For example, they may not have the money to travel to the police station or they may not be able to leave their home due to their injuries.
- **Misconceptions about the FIR:** The victim may have misconceptions about the FIR, such as the belief that the FIR will only lead to more trouble or that it will not be taken seriously by the police.
- **Complexity of the legal process:** The legal process can be complex and confusing, which can deter victims from filing an FIR.
- **Lack of support:** The victim may not have the support of their family or friends, which can make it difficult to file an FIR.

In the case of **Satypal v. State of Haryana** (2009) 6 SCC 635, their Lordships in the Supreme Court, while dealing with the aspect of delay in a case involving commission of offence under Section 376 of the IPC, observed as under:

“20. This Court can take judicial-notice of the fact that ordinarily the family of the victim would not intend to get a stigma attached to the victim. Delay in lodging the first information report in a case of this nature is a normal phenomenon.”

- **Political or External Influences:** In some cases, political or external pressures can influence the registration of FIRs. These pressures can lead to delays or even prevent the registration of FIRs altogether.

"At this juncture, we would like to quote the following passage from **State of H. P. Vs. Gian Chand** (2001) 6 SCC 71: wherein the Hon'ble Supreme Court observed that :

"Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the Court on its guard to search if any explanation has been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to satisfactorily explain the delay and there is a possibility of embellishment in the prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the Court, the delay can not by itself be a ground for disbelieving and discarding the entire prosecution case."

"When there is criticism on the ground that FIR in a case was delayed the Court has to look at the reason why there was such a delay. There can be a variety of genuine causes for FIR lodgment to get delayed. Rural people might be ignorant of the need for informing the police of a crime without any lapse of time. This kind of unconversantness is not too uncommon among urban people also. They might not immediately think of going to the police station. Another possibility is due to lack of adequate transport facilities for the informers to reach the police station. The third, which is a quite common bearing, is that the kith and kin of the deceased

might take some appreciable time to regain a certain level of tranquility of mind or sedativeness of temper for moving to the police station for the purpose of furnishing the requisite information. Yet another cause is, the persons who are supposed to give such information themselves could be so physically impaired that the police had to reach them on getting nebulous information about the incident."

"We are not providing an exhaustive catalogue of instances which could cause delay in lodging the FIR. Our effort is to try to point out that the stale demand made in the criminal Courts to treat the FIR vitiated merely on the ground of delay in its lodgment cannot be approved as a legal corollary. In any case, where there is delay in making the FIR the Court is to look at the causes for it and if such causes are not attributable to any effort to concoct a version no consequence shall be attached to the mere delay in lodging the FIR....."

"It is well settled that the delay in giving the FIR by itself cannot be a ground to doubt the prosecution case. Knowing the Indian conditions as they are we cannot expect these villagers to rush to the police station immediately after the occurrence. Human nature as it is, the kith and kin who have witnessed the occurrence cannot be expected to act mechanically with all the promptitude in giving the report to the police. At times, being grief stricken because of the calamity it may not immediately occur to them that they should give a report. After all it is but natural in these circumstances for them to take some time to go to the police station for giving the report."

2. Delay in recording of FIR at police station:

As per the details provided by the informant if it discloses the commission of a crime that relates to cognizable offence, a police officer is required to file a FIR. According to section 154(1), the word 'shall' used in the phrase signifies that if the facts of the offence as specified relate to the commission of a cognizable offence, the officer-in-charge of the station must mandatorily lodge the FIR.

The police may still delay registering an FIR for a number of reasons, such as:

- **Procedural Hurdles:** The process of registering an FIR involves several procedural steps, including gathering information from the complainant, verifying the details, and preparing the FIR document. These procedures can sometimes be time-consuming, especially if there are complexities involved in the case.
- **Reluctance to investigate the crime:** The police may be reluctant to investigate the crime if they believe that the crime is not serious enough or if they are afraid of reprisals from the accused.
- **Belief that the crime is not serious enough:** The police may believe that the crime is not serious enough to warrant the registration of an FIR.
- **Fear of reprisals from the accused:** The police may be afraid of reprisals from the accused if they register an FIR against them etc.

In many circumstances, when officer in charge refuses to file a FIR, the case is never brought to court, and the criminal gets away with it. The officer's refusal to file a FIR is a breach of duty.

According to section 154(3) Cr.P.C. , if a police officer refuses to file a FIR, the informant may send the superintendent of the police the substance of the information in writing and by mail. If the superintendent is convinced that a cognizable crime has been committed, he will either conduct his own investigation or assign it to a subordinate. The informant has the legal right to file a complaint with the Judicial or Metropolitan magistrate under Section 156(3) read with Section 190 of the Cr.P.C. if no FIR is filed even after the complaint to the senior officer. This is done in order to request that a FIR be registered by the police and that an investigation into the matter begin.

In the matter of **Lalita Kumari v. State of UP and Ors**” 2014 (2) SCC 1. On behalf of Lalitha Kumari her father petitioned for writ of Habeas Corpus via Article 32 to defend his kidnapped daughter. The girl's father went to the police station to report the incident and register a FIR, but the officer-in-charge refused to lodge the FIR. As a result, the father addressed the superintendent, who filed a FIR but did

not initiate an inquiry. The defence attorney for the defendant claimed that the officer in charge of the police station is not required by law to file a case upon learning of the conduct of a cognizable offence, but rather to conduct a preliminary investigation in appropriate circumstances to determine the veracity of the claims made in the report. According to the Supreme Court, there is no need for a preliminary inquiry if any information indicates that a cognizable offence has been committed; instead, the police officer must submit a FIR in accordance with Section 154 of the Cr.P.C. The officer in charge is obliged to file a FIR if a cognizable offence is revealed. The Hon'ble Judges also stated that the purpose of a preliminary inquiry is to determine whether a cognizable offence has been disclosed, not to confirm the truthfulness or otherwise of the information received.

In the case of “State of AP v. Punati Ramulu.” AIR 1993 SC 2644 the investigating officer “purposefully omitted to record the FIR despite receiving information regarding to conduct of a cognizable offence”. The IO reported the FIR after arriving at the scene and after due deliberations, conversations, and consultations. It is risky to rely on such a tainted inquiry since one would not know where the police officer had forged the evidence and created false ones.

3. Delay in dispatching the FIR to the magistrate:

Once the FIR is registered, it is supposed to be dispatched to the magistrate within 24 hours. However, there are cases where the police delays in dispatching the FIR, which can further delay the investigation.

The steps to starting a preliminary inquiry are outlined in Section 157 of the Criminal Procedure Code. When a police officer learns of the performance of an offence cognizable in nature or has reason to think that one has been committed in violation of Section 156, the officer must report the occurrence to the magistrate who has the power to look into the offence based on a police report without delay. A subordinate officer who is not below the rank that the State Government may, by general or specific order, designate, may also be deputized by the officer.

The Supreme Court decided in “**Appukutan v. State**” (1989 CrLJ 2362) that the major objective of filing an immediate FIR and reporting it to the magistrate ‘forthwith’ is to avoid any embellishments and to keep the Magistrate informed about the inquiry. The delay cannot be used as a technical justification to claim that the investigation is tainted and the prosecution is unreliable when there is no infirmity brought to the Court’s attention and no harm to the accused. This protection is in place to prevent excessive embellishment, fraudulent prosecution, and police non-investigation at a critical stage.

A copy of FIR is sent to the Magistrate as a part of Internal and External Checks that the Cr.P.C provides. Delay in sending report gives a chance to the prosecution to alter the FIR and hence a suspicion on such delay is raised therefore, to avoid such mistakes it is said that the report of the FIR shall ‘forthwith’ be forwarded to the Magistrate if not it would lead to deterioration of the prosecution’s case.

In the case of “**Friday v. By Advs. Sri. M.R. Sarin**” CRL.A.No. 78 of 2008 the hon’ble Supreme Court stated that the phrase ‘forthwith’ adopted u/s 157(1) requires in clear terms that the FIR should be sent by the concerned police officer promptly.

The Hon’ble Supreme Court in the case of “**Alla China Appa Rao and Others v. State of A.P.**,” 2002 AIR SCW 4290 held that the term ‘forthwith’ in this section would definitely mean ‘within a reasonable time’ and ‘without unreasonable delay.’ The High Court of Madras has acquitted on the basis that there was a ‘unexplained’ and ‘inordinate’ delay in forwarding the FIR to the Magistrate, concluded in “**Nalli v. State**” 1993 CriLJ 1409.

Despite the fact that the phrase ‘forthwith’ is not included in the CrP.C, courts have looked into its meaning in various cases, and it is obvious from the judgments that it means ‘immediately or without delay.’

In the matter of **Munshi Prasad v. State of Bihar, (2002) 1 SCC 351**, while considering the effect of delay in sending FIR to the Magistrate on the prosecution case, the Hon'ble Supreme Court observed as under:

“13. In support of the appeal, a further submission has been made pertaining to the First Information Report (FIR). On this score the appellants contended that delayed receipt of the FIR in the Court of the Chief Judicial Magistrate cannot but be viewed with suspicion. While it is true that Section 157 of the Code makes it obligatory on the Officer Incharge of the Police Station to send a report of the information received to a Magistrate forthwith, but that does not mean and imply to denounce and discard an otherwise positive and trustworthy evidence on record. Technicality ought not to outweigh the course of justice - if the Court is otherwise convinced and has come to a conclusion as regards the truthfulness of the prosecution case, mere delay, which can otherwise be ascribed to be reasonable, would not by itself demolish the prosecution case. The decision of this Court in *Shiv Ram v. State of U.P., (1998) 1 SCC 149* lends support to the observation as above.

Further in **State of Karnataka v. Moin Patel, (1996) 8 SCC 167 : AIR 1996 SC 3041** slated vis-a-vis the issue of delay in dispatch of FIR as below:

“16. The matter can be viewed from another angle also. It has already been found by us that the prosecution case is that the FIR was promptly lodged at or about 1.30 AM and that the investigation started on the basis thereof is wholly reliable and acceptable. Judged in the context of the above facts the mere delay in dispatch of the FIR-and for that matter in receipt thereof by the Magistrate - would not make the prosecution case suspect for as has been pointed out by a three Judge Bench of this Court in *Pala Singh v. State of Punjab, (1972) 2 SCC 640 : AIR 1972 SC 2679*, the relevant provision contained in Section 157 Cr.P.C. regarding forthwith dispatch of the report (FIR) is really designed to keep the Magistrate informed of the investigation of a cognizable offence so as to be able to control the investigation and if necessary to give proper direction under section 159 Cr.P.C. and therefore if in a given case it is found that FIR was recorded without delay and the

investigation started on that FIR then however, improper or objectionable the delayed receipt of the report by the Magistrate concerned, it cannot by itself justify the conclusion that the investigation was tainted and the prosecution unsupportable”.

10.2. Consequences of Delay in Recording an FIR:

1. **Loss of Crucial Evidence:** Delay in recording an FIR can lead to the loss or contamination of crucial evidence at the crime scene. This can make it more challenging for investigators to gather sufficient evidence for a successful investigation and prosecution.
2. **Fading Memories:** Over time, memories of witnesses and victims may fade or become less reliable, making it more challenging to recount events accurately during the investigation and legal proceedings.
3. **Tampering with Evidence:** Delays can provide an opportunity for the perpetrators to tamper with evidence, manipulate witnesses, or flee the area, making it harder to apprehend and convict them.
4. **Legal Implications:** Delay in reporting a crime can have legal implications, potentially affecting the credibility of the complainant's statement and complicating the legal process.
5. **Reduced Trust in Law Enforcement:** If the public perceives that law enforcement agencies are slow or inefficient in registering FIRs promptly, it can erode public trust in the criminal justice system and discourage people from reporting crimes.

The fact that the FIR was not filed early raises suspicion on the complainant's story. The prosecution's case may be fatal in some cases, but the impact of the delay on the trial will differ based on the facts and circumstances of each case. In offences such as rape and sexual harassment, such a delay may not be considered lethal because there are evident causes for such a delay, such as societal reaction and the women's and family's prestige. Offences that consist of theft, attempt to murder and

other cases the fact of commission needs exact corroboration and need an immediate and speedy FIR to be registered. Any delay that is inexplicable and unreasonable will have an impact on the prosecution's case, as there may be opportunities to manipulate the facts and the people involved in such an offence.

11. CONCLUSION

The FIR is the cornerstone of criminal investigations and legal proceedings. The FIR, with its dual role as a procedural requirement and a piece of evidence, occupies a pivotal position in our criminal justice system. Discrepancies within it are not mere administrative lapses but have profound implications for the pursuit of justice. It is imperative that we recognize the significance of FIRs and take steps to address the challenges surrounding them. By doing so, we can enhance the credibility and reliability of FIRs as key evidence, ensuring that our criminal justice system remains dedicated in its quest for fairness, equity, and truth. Legal precedents, such as the Lalita Kumari case, emphasize the necessity of prompt and accurate FIRs, solidifying their role in the tapestry of justice.