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**CONCEPT OF F.I.R. UNDER THE LAW RELATING TO CRIMINAL
PROCEDURE IN INDIA: A COMPARATIVE ANALYSIS OF
BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 AND THE
CRIMINAL PROCEDURE CODE, 1973**

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Abstract

The Code of Criminal Procedure, 1973 (Cr.P.C.) is the set of procedural laws that govern the administration of the Indian Penal Code, 1860 (IPC). It controls the process for conducting an inquiry, making an arrest, bringing charges, and setting bail for crimes. Periodically, it has been revised. The Cr.P.C. has undergone several interpretations by the Supreme Court over the years, and one of the changes made to its implementation was requiring the filing of a formal complaint in cases where the complaint pertained to a crime that could be prosecuted. Section 154 of the Criminal Procedure Code covers the provisions pertaining to First Information Reports (F.I.R.). The Court has also rendered decisions regarding certain procedural matters, like zero F.I.R. Nonetheless, the criminal justice system still has to deal with issues including backlogs of cases, lengthy trial proceedings, refusals to register F.I.R.s by police, and worries about how impoverished groups are treated, among others. The Cr.P.C. was superseded by the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which was introduced on August 11, 2023, and went into effect on July 1, 2024. It includes significant F.I.R. requirements, modifies the authority of police and magistrates, and updates a number of bail laws. It also broadens the purview of property seizures. The Standing Committee on Home Affairs has reviewed the Bill. Section 154 of the F.I.R. provisions has been replaced with section 173. Additionally, certain court's decisions are validated by statute.

Key Words: *F.I.R., Cognizable Offence, Procedure, Amendment, Judiciary.*

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1. Introduction:

The criminal procedure code, or Cr.P.C., is the procedural laws relating to the investigation and trial of criminal offences. One of the primary features of the Cr.P.C. is its emphasis on the liability of investigators of an offence. The law enforcement code outlines the procedures that must be followed when conducting an investigation, including information collection, statement making, and person apprehension. The Criminal Procedure Code also protects the rights of the accused, such as the right to bail, right to fair & speedy trial, and a counsel to appear on behalf of him. An additional noteworthy aspect is the role the Criminal Procedure Code plays in ensuring the effectiveness and efficiency of the criminal justice system. There are deadlines for completing various stages of trials and guidelines for handling cases that are part of the code that regulates the behaviour of courts. Reduced delays and streamlined processes are the goals of these regulations for the criminal justice system. Taken together, the Criminal Procedure Code is crucial for ensuring that India's criminal justice system operates correctly. Ensuring the defence of the rights of the accused and the fair and speedy administration of justice, it provides a particular framework for police and judicial activities³.

On August 11, 2023, a historic day appeared when several rumours regarding the implementation of new Criminal Laws became a reality. On that day, India's honourable Home Minister, Shri Amit Shah, unveiled the new three laws to replace the three major Criminal Laws i.e. Indian Penal Code (IPC), 1860, Code of Criminal Procedure (Cr.P.C.), 1973 and Indian Evidence Act, 1872. These laws are titled as Bharatiya Nyaya Sanhita (BNS), 2023, Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, and Bharatiya Sakshya Adhinyam (BSA), 2023. All three of the laws have been referred to the relevant Parliamentary Standing Committee. Even though the changes haven't been published or signed into law yet, they have already sparked a great deal of discussion and debate.

In the area of criminal law, one important document is the First Information Report, or F.I.R. Within the Indian legal system, it functions as the first stage of the Inquiry and Prosecution

³Aamir Hussain, Understanding the First Information Report-(FIR), Prime Legal > Blog (May 29, 2024, 2.21 PM) [https://primelegal.in/2024/05/12/an-explicate-comparative-analysis-of-code-of-criminal-procedure-1973-and-bharatiya-nagarik-suraksha-sanhita2023/#:~:text=The%20Bharatiya%20Nagarik%20Suraksha%20Sanhita-I%2C%202023%20\(BNSS\)%20seeks%20to,years%20of%20imprisonment%20or%20more.](https://primelegal.in/2024/05/12/an-explicate-comparative-analysis-of-code-of-criminal-procedure-1973-and-bharatiya-nagarik-suraksha-sanhita2023/#:~:text=The%20Bharatiya%20Nagarik%20Suraksha%20Sanhita-I%2C%202023%20(BNSS)%20seeks%20to,years%20of%20imprisonment%20or%20more.)

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procedure. Clarifying the goal, procedure, and outcomes of FIR in India is the aim of these comprehensive new laws⁴.

Section 154 of the Code of Criminal Procedure, 1973 dealt with information regarding cognizable offences; however, section 173 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 replaces that section. The evidentiary value of a First Information Report (F.I.R.) is significantly greater than any other statements during the process taking cognizance of any offence or at the time of initiating the investigation about information recorded under Section 154 or 155 of CrPC; however, it is a well-established legal principle that F.I.R.s cannot be taken for granted as substantive pieces of evidence. In contrast, the BNSS introduced some new procedures for filing F.I.R.s.

2. Meaning and Objectives of F.I.R.:

2.1. Meaning-The term “First Information Report” is not defined in the Code of Criminal Procedure. Rather, the expression has not been employed outside of section 207, which requires the accused to obtain from the magistrate a copy of the First Information Report that was filed in compliance with section 154 (1) of the Code. The FIR is the first and most crucial step in the criminal justice process. It gives the police the opportunity to investigate and launches the criminal justice system⁵. The First document the police keep on file on the commission of a case that is subject to legal action, is the First Information Report, which gives details on the cognizable offence. It may be defined as follows:

- i. The police officer has been provided with the information.
- ii. The data has to be connected to an offence that can be prosecuted.
- iii. It is a fact that was initially reported at a certain moment in time.
- iv. The person against whom the offence is committed or a representative of the victim provides information and files a police complaint.
- v. This is the data that serves as the foundation for the research. The written F.I.R. is required.

⁴Aditya Kumar Mishra, Understanding The First Information Report InThe Indian Legal System, LinkedIn(May 30, 2024, 9.21 PM) <https://www.linkedin.com/pulse/understanding-first-information-report-indian-legal/>

⁵LinkedIn, *supra* note 2. (June 13, 2024, 11.25 AM)

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In the *State of Rajasthan v. Shiv Singh*⁶, the Rajasthan High Court defined a First Information Report as *“the statement of the maker of the report at a police station before a police officer recorded in the manner provided by the provisions of the Code”*. The filing of the F.I.R. makes the officers to start the investigation. Police officers look for information and possible witnesses who could be able to testify regarding the commission of the crime or the offence for which a formal complaint has been filed while they are conducting an investigation. The person making the First Information Report (F.I.R.) cannot give false information in an attempt to thwart the legal process. An essential document, known as a First Information Report (F.I.R.), provides vital information on the act performed or the person accused of committing it, thus it helps initiating a judicial process. F.I.R. is the key to conduct the investigation of any cognizable offence. The document must be provided to both parties in a lawsuit.⁷

The offences under Section 2(c) of the Code of Criminal Procedure are those that are punishable offences and for which a Form of F.I.R. may be filed up by the informant. These offences are included in Schedule I of the Code. When a police officer finds a crime to be cognizable, they are authorized to arrest without a warrant or a judge's approval. These offences are generally serious and heinous in nature. For example, the offences of Rape, Murder, Kidnapping, Abduction etc. The peace and harmony of a society could be threatened by these offences. Infractions of laws which affect the society at large are the majority of these offences. When it comes to offences that are deemed as cognizable, the sentence often carries the duration of more than three years and may include the death penalty or life imprisonment. Robbery and murder are examples of these types of crimes that are included in Schedule I of the Code of Criminal Procedure and are considered cognizable offences. These offences require immediate response from law enforcement, as well as preventive measures. These offences are more serious and severe in nature, and these frequently are against the interest of the public interest.

The First Information Report (F.I.R.) filing procedure is outlined in Code of Criminal Procedure Part 154(1). It sets the criminal law in motion and makes the commencement of the investigation which ends up with the formation of opinion under section 169 or 170 of

⁶State of Rajasthan v. Shiv Singh, AIR 1962 RAJ 3.

⁷Shailja Singh, What is a First Information Report, (June 5, 2024, 12.20 PM) <https://blog.ipleaders.in/F.I.R.-information-report-everything-important-you-should-know-about/>

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Cr.P.C, as the case may be, and forwarding of a police report under section 173 Cr.P.C⁸. The police officer is expected to record all reports of recognized offences, whether made orally or in writing. After reading them once more, the officer, submitting the F.I.R., should sign on the document. A complimentary copy of the report must be provided to the informant who made the first complaint. This Section provides a quick overview of the steps involved in recording, documenting, and responding to a formal police report (F.I.R.).

Section 154(3) of the Code of Criminal Procedure describes the steps to take if a police officer declines to file a formal complaint. The informant may, under some circumstances, approach the Superintendent of Police, or to the Deputy Commissioner of police. Once he is convinced that the offence is punishable, he should either personally investigate the situation or tell a subordinate to take the appropriate measures in this regard. This clause provides the informant with a remedy or a course of legal action to follow if he feels that the police officer is not taking his complaint seriously.⁹

2.2. Objectives-The inception of criminal justice system is the main objective of filing an F.I.R. In order to make it easier for the police officer to start looking into the incident and collect any pertinent evidence as soon as possible¹⁰, lodging F.I.R. is essential.

The various objects of recording F.I.R. are¹¹:

- i. To report the offence at the police station or to the District Magistrate or to the District Superintendent of Police, who are in charge of maintaining the district's safety and tranquility.
- ii. To disclose the facts and circumstances that emerge the immediate commission of the crime, to the judiciary and the judicial officers in front of whom the case is to be finally prosecuted.
- iii. To safeguard and protect the accused against subsequent additions or variations in accusation and to protect him from false allegation.

3. Essential Conditions of Lodging F.I.R.:

⁸FIR (First Information Report) <https://lawnotes.co/fir-first-information-report/> (last visited June 6, 2024).

⁹What is a First Information Report, *supra* note 5.

¹⁰*Id.*

¹¹What is a First Information Report, *supra* note 5.

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In *Moni Mohan v. Emperor*¹², the apex Court decided that the essential conditions of F.I.R. are:

- i. Information of some kind must exist.
- ii. It must be documented in writing. The concerned police officer should document it if it is given in writing.
- iii. Not the crimes that happen after the initial offence, but the original offence should be identifiable.
- iv. In order to pass legislation, the F.I.R. must take the form of an accusation or complaint.

4. Information that is Considered in an F.I.R:

The F.I.R. can only include details on legally-punishable crimes that have been committed. Not all the specifics of the case have to be included in the report. It is not appropriate to mention the accused's name as well. It is essential to reveal the details about the commission of an offence that is punishable by law.

Stated differently, a formal complaint (FIR) is merely a means of initiating legal proceedings, and it is during the investigative phase that comprehensive information can be obtained¹³.

However following information may be considered in an F.I.R. -

- i. Any information supplied orally to the officer in charge of a police station on the commission of a crime, must be recorded in writing by him or someone working under his supervision, and the informant must be given the chance to sign it. All information pertaining to the conduct of a crime must be signed by the individual supplying it, and it must be recorded in a book that the officer will maintain in the format required by the State Government.

- ii. The informant will receive a copy of the data as recorded in the subsection right away and at no cost.

- iii. Information may be submitted in writing and by postal mail to the Superintendent of Police in question by anyone who feels mistreated by a police station officer's reluctance to

¹²Moni Mohan v. Emperor, AIR1931CAL 745.

¹³Vijay Katiyar & Vandana Singh Katiyar, FIR AND ITS SIGNIFICANCE : A COMPREHENSIVE APPROACH, judges helpline Vandana Singh katiyar (June 8, 2024, 10.20 PM) <https://www.judgeshelplinesinghkatiyar.in/2021/03/fir-and-its-significance-comprehensive.html>

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record it as indicated in subsection (1). In the event that the Superintendent of Police is persuaded that the information indicates criminal activity, he will either conduct a personal investigation into the matter or designate a subordinate officer to do so. Following that, the latter officer will be fully empowered to handle that offence with the same authority as an officer in charge of the station.

5. Evidentiary value of F.I.R.:

According to Section 157 of the Indian Evidence Act, any previous statement made by the witness about the same fact around the time the offence happened or before a legally competent authority may be proven, with the aim of supporting the witness's testimony¹⁴. Comparably, Section 145 permits the cross-examination of a witness with reference to prior written comments that are pertinent to the issues at hand, along with particular guidelines for refuting the witness with reference to the written statement¹⁵.

According to the ruling in *Pandurang Chandrakant Mhatre v. State of Maharashtra*¹⁶, "it is fairly well settled that F.I.R. is not a substantive piece of evidence and can be used only to impeach the creditworthiness of the testimony recorded by the maker and it cannot be used for the purpose of contradicting or discrediting the testimony of other witnesses."

The importance of the F.I.R. in providing timely information about a crime cannot be overstated, even though it is not substantive evidence in and of itself. Furthermore, if the informant is called as a witness during the trial, it may be used to contradict the witness under Section 145 of the same Act or to corroborate the informant under Section 157 of the Indian Evidence Act, 1872¹⁷.

6. Situations in which First Information Reports can be used as Proof:

Following are some circumstances where F.I.R. can be used as evidence¹⁸:

i. Corroborating Objectives: An F.I.R. may be utilised for corroboration, especially to bolster or validate the claims provided by eyewitnesses. It is another piece of evidence to support the statements made by the people who were present when the incident occurred.

¹⁴Evidentiary value of a First Information Report <https://www.thelawadvice.com/articles/evidentiary-value-of-a-first-information-report> (last visited May 3, 2024).

¹⁵*Id.*

¹⁶*Pandurang Chandrakant Mhatre v. State of Maharashtra*, 2010 AIR SCW 236.

¹⁷Evidentiary value of a First Information Report, *supra* note 12.

¹⁸What is a First Information Report, *supra* note 5.

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ii. Serving as Evidence against the Informer: The information contained in the non-confessional F.I.R. may be interpreted as evidence against the source of the information. Admissions are seen as declarations made against one's interests and are admissible in court.

iii. Contradicting the Informant's Evidence: The information can be used to refute the informant's testimony by using the formal complaint procedure (F.I.R.). The credibility of the witness may be impacted by discrepancies between the statements made in the F.I.R. and the informant's subsequent evidence.

iv. Impeaching the Credit of the Informer: Inconsistencies or contradictions between the FIR and the informant's later comments or testimony may be used to cast doubt on the informant's credibility or dependability as a witness.

v. Refreshing the Informer's Memory: The information provided by the informant may be reviewed through the filing of a formal complaint (F.I.R.). This is especially important because the F.I.R. helps with recollecting incident specifics in the event that the informant is asked to testify.

vi. Establishing the Informer's Conduct: The material contained in the FIR may be used as proof of the informant's behaviour. This could be important to comprehend the informant's activities or behaviour in connection with the claimed offence.

vii. Identifying Accused, Witnesses, and Setting up a Time: The filing of a formal police report (F.I.R.) can play a pivotal role in ascertaining the identities of the accused and witnesses. Furthermore, it might assist in adjusting the spot time, which Section 9 of the Indian Evidence Act, 1872 considers to be a relevant fact.

In, *Lalita Kumari v. Government of UP*,¹⁹ 2013, The Supreme Court ruled that strict adherence to the requirements under Section 154(1) of the Code is required. To find out if the offence is cognizable or not, the police must perform a preliminary inquiry. After the preliminary investigation is over, the informant must be informed within seven days whether or not a formal complaint should be filed. If not, the justification needs to be given.

7. Comparison between Criminal Procedure Code (Cr.P.C.) and Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) regarding the provision of F.I.R.:

¹⁹Lalita Kumari v. Government of UP, AIR 2014 SUPREME COURT 187.

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Code of Criminal Procedure,1973 (Cr.P.C.)	Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)
Section 154 under Chapter XII of Cr.P.C. deals with F.I.R.	Section 173 under Chapter XIII of BNSS provides the rules relating to F.I.R.
Section 154 (1)	Section 173 (1)
Any information relating to commission of acognizable offence, is to be given orally or written by anyone to any Officer-in-charge of any Police Station.	All information concerning the commission of a cognizablecrime, regardless of the location of the crime , may be communicated orally or by electronic means to any officer-in-chargeof a police station.
If it is given orally, it is to be reduced in writing and to be read over to the informant by such Officer-in-charge	If it is given orally, it is to be reduced in writing and to be read over to the informant by such Officer-in-charge
The information given written or reduced to writing, must be signed by the informant.	The information given written or reduced to writing, must be signed by the informant.
The substance of the information shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.	If the information is provided through electronic communication, it must be signed by the source within three days in order to keep a record of it by him.
	The substance of the information shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.
Section 154 (1) Proviso	Section 173 (1) Proviso
It is provided that if the information is given by any woman against whom any offence is alleged to have been committed under the following sections of IPC, then such information shall be recorded, by a woman police officer or any woman officer. Such as: section 326A, section 326B, section 354,	It is provided that if the information is given by any woman against whom any offence is alleged to have been committed under the following sections of Bharatiya Nyaya Sanhita, 2023 , then such information shall be recorded, by a woman police officer or any woman officer. Such as: section 64, section

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section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB, section 376E or section 509.	66, section 67, section 68, section 70, section 73, section 74, section 75, section 76, section 77, section 78 or section 122.
It is further provided that if the person, against whom any offence is alleged to have been committed or attempted, under the above mentioned sections of IPC except sections 326A and 326B, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person or at a convenient place of such person's choice, in the presence of an interpreter or a special educator.	It is further provided that if the person, against whom any offence is alleged to have been committed or attempted, under section 354, section 67, section 68, sub-section (2) of section 69, sub-section (1) of section 70, section 71, section 74, section 75, section 76, section 77 or section 79 of the Bharatiya Nyaya Sanhita, 2023 , is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person or at a convenient place of such person's choice, in the presence of an interpreter or a special educator.
The recording of information as per the above mentioned way shall be video graphed.	The recording of information as per the above mentioned way shall be video graphed.
As quickly as feasible, the police officer is required to obtain the person's statement recorded by a Judicial Magistrate in accordance with clause (a) of sub-section (5A) of section 164.	As quickly as feasible, the police officer is required to obtain the person's statement recorded by a Judicial Magistrate in accordance with clause (a) of sub-section (6) of section 183.
Section 154 (2)	Section 173 (2)
The informant will immediately receive a copy of the information recorded under sub-section (1) at free of cost.	The informant will immediately receive a copy of the information recorded under sub-section (1) at free of cost.
Section 154 (3)	Section 173 (3)

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<p>If an officer in charge of a police station refuses to record information mentioned in sub-section (1), the person who is aggrieved, may send the substance of such information, in writing and via postal mail, to the Superintendent of Police. If the Superintendent of Police is satisfied that the information reveals the commission of a crime, he will either look into the matter himself or assign a police officer under his command to look into it. The officer will have all the authority of an officer in charge of any Police station with regard to that offence.</p>	<p>In addition to the provisions outlined in section 175, in the event that an officer in charge of the police station, upon receiving information about the commission of any cognizable offence punishable by three years or more but less than seven years, with prior permission of an officer not below the rank of Deputy Superintendent of Police, taking into consideration the nature and gravity of the offence, may</p> <ul style="list-style-type: none"> (i) conduct preliminary inquiry to determine whether there is a prima facie case within 14 days, (ii) conduct investigation when there exists a prima facie case.
	<p>Section 173 (4)</p>
	<p>If an officer in charge of a police station refuses to record information mentioned in sub-section (1), the person who is aggrieved, may send the substance of such information, in writing and via postal mail, to the Superintendent of Police. If the Superintendent of Police is satisfied that the information reveals the commission of a crime, he will either look into the matter himself or assign a police officer under his command to look into the matter as provided under this Sanhita. The officer will have all the authority of an officer in charge of any Police station with regard to that offence and, failing which such aggrieved person may</p>

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	make an application to the Magistrate under sub-section (3) of section 175.
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8. Conclusion:

The FIR serves as the foundation for the entire legal system. It is an extremely important record in any criminal prosecution. It signifies the beginning of the criminal investigation. An FIR is the bible of the case initiated on the public record, as was observed in the case of *Mohan Lal v. State of Uttar Pradesh*²⁰. Therefore, it is imperative that each and every individual be aware of their rights in relation to filing an FIR. These are really useful in figuring out the proper course of action for someone who wants to report a crime or speak out against public offenses.

Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) introduced a new framework for the importance of F.I.R. The jurisdiction of the FIR has been expanded by the addition of multiple additional provisions. Such as, the phrase “irrespective of the area where the offence is committed” expands the scope of lodging FIR. This is consistent with the idea of “zero F.I.R.” It becomes contemporary by including the phrase “by electronic communication.” Subsection (1) now includes clause (ii), also referred to as “eFIR”. The newly added subsection (3) addresses the preliminary investigation to determine whether a prima facie case exists and to move forward with the investigation of the prima facie case for cognizable offenses that are punished by a sentence of three years or more but less than seven years. “Failing which such aggrieved person may make an application to the Magistrate.” is a new phrase added to subsection (4).

The remaining provisions are same with Cr.P.C. The changes that brought a distinguished way of filing complaint of cognizable offences and make the justice system easier are:

- Zero F.I.R.
- E-F.I.R.
- Preliminary Investigation to determine the existence of a prima facie cognizable case within 14 days.
- Immediate commencement of investigation if the prima facie case includes offences punishable with three years or more but less than seven years imprisonment.

²⁰Mohan Lal v. State of Uttar Pradesh, 1988(3)CRIMES122(SC).

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- Opportunity to make an application to the Magistrate if the Superintendent of Police or any other authorized officer fails to take the complaint seriously and to take positive step, when it is made to him.



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