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## **Introduction**

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

## **Preface**

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

## Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

## **LEGAL CONSEQUENCES AND REMEDIES** **AVAILABLE FOR FALSE FIR**

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### **ABSTRACT:**

The First Information Report [FIR] plays an important role in the criminal justice system in India, but there has always been a drawback of false reporting of the FIRs. This paper the researcher will aim at understanding the consequences of providing false information in order to falsely accuse an innocent and the remedies available to such a person with reference to the Bharatiya Nyaya Sanhita [BNS] [previously IPC], Bharatiya Nagarik Suraksha Sanhita [BNSS] [previously Crpc]. This paper also includes case law analysis of landmark judgements.

### **PROBLEM STATEMENT:**

The present paper examines the legal framework governing false FIRs, the judicial response to such misuse, and the existing loopholes that enable reporting of false complaints. It further aims to provide possible reforms to strike a balance between protecting the right to complain and preventing abuse of the FIR mechanism.

The paper will look into whether remedies available to the accused against whom a false FIR is registered are effective? and the main loopholes faced by the criminal justice system regarding registration of false FIR and the possible reforms to curb harassment?

The paper tries to answer whether the legal system can balance the rights of genuine victims with rights of innocent accused.

## METHODOLOGY:

The researcher has adopted doctrinal research by analysing secondary sources available on the internet, the paper will also analyse law reports such as the NCRB, Delhi commission on women, further the paper will look into case laws and will aim to provide an understanding of statutory provisions in the BNS and BNSS.

**KEYWORDS:** First Information Report [FIR], False FIR, Bharatiya Nyaya Sanhita[BNS], Bharatiya Nagarik Suraksha Sanhita[BNSS], quashing false FIR.

## 1. INTRODUCTION:

First Information Report (FIR) is defined under Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)[1] which was previously defined under Section 154 of the Code of Criminal Procedure [2].

FIR is a document recorded by a police officer when they receive initial information about a cognizable offence which is defined under Section 2[c] of the Code of Criminal Procedure [3] and Section 2[g] of the BNSS [4].

Which means a serious criminal act where the police can arrest the accused without a warrant and initiate an investigation without the permission of the magistrate. But many times FIR can be filed with an ulterior motive [malice] or ill-will and these are called false FIRs which might have serious consequences on the accused but the Indian legal framework protects such innocents and imposes penalties on the accuser which can be both civil and criminal. The main purpose of a false FIR is to harass or falsely accuse a person in a false case.

The paper will first aim to analyse the procedure to file an FIR, secondly the remedies available to the accused in the case of a false FIR, thirdly regarding the punishment and liability of the complainant for reporting a false complaint and police respectively and lastly the paper will look into the contemporary challenges faced and suggest reforms to curb registering of false FIRs.

## 2. PROCEDURE TO FILE AN FIR:

- An FIR can be filed in two ways: online or by physically registering it at the nearest police station under whose jurisdiction the act took place. An FIR can be filed by the victim, witness or any other person who has knowledge of the criminal act. It can also be filed by a police officer who has knowledge that a crime has taken place.
- The complainant has to provide every detail of the incident either in writing or spoken including the trivial ones and also details of the witnesses after which the police officer will register the FIR. This is called the recording stage.
- The next stage is to check and verify whether the information provided is correct. This is to ensure that the FIR is true and not malafide.
- After the verification is complete the complainant must sign the FIR and confirm the accuracy of the report. A copy of this report will be given to the complainant at no cost.
- The last stage is registering the FIR if all the other conditions are met and the police officer must begin investigation without any delays, this includes going to the place of the incident, recording evidence, questioning the witnesses if any.
- It is very important that the FIR must contain the name and address of both the complainant and the accused if known, place of the incident, date, time, name of police station, charges, witnesses if they are present and the FIR number.

Because the procedure of filing an FIR is very simple, there is a high probability of an increased number of false FIRs to be filed.

In the case of Lalita Kumari v. Government of UP AIR 2014 SUPREME COURT 187 [5]

Bench: Constitutional bench P Sathasivam, B.S. Chauhan, Ranjana Prakash Desai, Ranjan Gogoi, S.A. Bobde.

The Supreme Court held that registering a First Information Report (FIR) when a cognizable offence is reported to the police is mandatory, but this judgement unintentionally led to an increasing number of false FIR registrations.

The judges in the Lalita Kumari case intended to ensure that genuine complainants are not discouraged from reporting but this in turn led to misuse, because the police officers must register even weak or doubtful complaints. The criminal justice system has always faced a challenge of balancing the rights of the victim and the accused. Genuine victims may not come forward because the system frequently fabricates cases against innocent persons, especially in dowry and property disputes. Therefore the law should ensure that the genuine victims are heard and not silenced from reporting offences.

According to the Delhi commission on women [6] [DWC] data, many rape cases filed between the year 2013-2014 were found to be false FIRs. According to NCRB [7] report 13,297 cases were registered under the dowry prohibition act in 2019 out of which 874 cases were dismissed and 4808 accused were acquitted and in the year 2020, the police registered 28,046 rape cases out of which 3375 cases were closed by the police as false filed with an intent to defame the accused and 5403 accused were acquitted.

This shows the growing number of false FIRs discouraging the genuine victims which must be curbed in order to preserve human rights and stand by the constitutional principles.

## **2.1 DIFFERENCE BETWEEN A FIR AND COMPLAINT**

Section 2[1][f] of the BNSS [8] defines a complaint. It is a verbal or written statement made by a person to a police officer regarding a crime. It can be made by anyone either the witness, victim or even a third party. A complaint does not always lead to filing of an FIR. It can be made for both cognizable and non-cognizable offences. Investigation by the police is not mandatory. A complaint is not a legally binding document which means it is not legally enforceable. There is no time limit for filing a complaint. It can be filed at any time. The purpose of this is to initiate a judicial proceeding.

On the other hand, FIR is a formal document registered by the police when they receive information about commissioning of a cognizable offence. It is usually registered at a police station with jurisdiction over the incident. It is compulsory to register an FIR when a cognizable offence is reported. It can be registered only for a cognizable offence. A police investigation is mandatory.

FIR is legally binding and enforceable by law. It must be registered as soon as a cognizable offense is reported. The purpose is to initiate a police investigation.

By making FIRs legally binding and mandatory for cognizable offences and complaints that are usually not binding, the law gives an upper hand to FIRs as the primary tool for dispute settlement. This shows why parties want to register criminal allegations and not claim any civil remedies that led to FIR becoming a weapon of harassment rather than providing criminal justice to genuine victims.

## **2.2 DIFFERENT TYPES OF FIR:**

### **1. ZERO FIR:**

When a police station receives a report about a crime not falling within its jurisdiction, it files a formal complaint and forwards it to another police station for further investigation, this is known as a zero FIR. It was recommended by the Justice Verma Committee [9] after the Nirbhaya case in 2012.

This means that it can be filed in any police station throughout India, irrespective of where the crime took place, that is a zero FIR is not restricted to jurisdiction.

This ensures reporting during emergency situations especially serious crimes without any delays. Such an FIR is also called transferable FIR. The police station where the FIR is initially reported must conduct a preliminary investigation before transferring the case.

### **2. E-FIR:**

An electronic FIR is registered for cognizable offences like murder, rape, dowry deaths and more. The purpose of such FIR is to ensure that the identity of the victim is protected. Such FIRs are reported through official police portals. The bureau of police research and development has informed the Law Commission of India [10] that eight states have implemented E-FIR, these states are namely Delhi, Karnataka, Madhya Pradesh, Gujarat, Odisha, Rajasthan, Uttar Pradesh and Uttarakhand. This has made it easier for citizens to file FIRs even if they come from remote areas but due to lack of awareness and internet connectivity, the pros of e-filings are neglected.

### 3. CROSS FIR:

When both parties register FIRs against each other regarding the same matter. Here the court dealing with such a matter must try both the cross cases together to ensure there are no conflicting judgements about the same matter.

### **3. THE REMEDIES AVAILABLE AGAINST FALSE FIRs:**

- Anticipatory bail can be filed either in the sessions court or high court before the arrest is made under Section 438 of the CrPC [11] now Section 482 of BNSS [12] which deals with direction for grant of bail to a person apprehending arrest but the court will grant such bail based on the seriousness of the accusation, the previous conviction of the accused, the accusation if made with malice and since anticipatory bail depends on the decision of the court which cannot be predicted and can be discretionary this does not protect the innocent accused against financial and social damage.
- An application can also be filed before the High Court to quash the false FIR under Section 482 of the CrPC [13] now Section 528 of the BNSS [14] since the High Court has an inherent power in such a case in order to ensure justice and no abuse of power. The High Court quashes such FIRs only if it mentions any acts or omissions that are not an offense, or the offense never took place, or contains false or baseless accusations to defame the accused. This is in order to prevent abuse of the process of courts and to secure ends of justice for the people.

There are some grounds that give the high court inherent power to quash a false FIR, they are acts of omission that do not constitute an offence, the offence against the accused never happened, FIR was baseless.

Such FIRs can be quashed only before the filing of the chargesheet by the police or after filing of the chargesheet for discharge under Section 227 of CrPC [15] but has to prove that the evidence chargesheet is inadmissible or during the pendency of trial or after the commencement of the trial leads to acquittal under Section 232 of CrPC [16].

In the case of Som Mittal v. Government of Karnataka, 2008 (1) SCC 586 [17]

Bench: Division bench

H.K. Sema & Markandey Katju.

The Supreme Court held that when a grave miscarriage of justice would be committed if a trial is allowed to proceed or when the accused would be harassed unnecessarily in case the trial is allowed or when prima facie it appears to court that the trial would likely end in acquittal.

In the case of P. Sirajuddin v. State of Madras [1970] 1 SCC 595 [18]

Bench: Division bench

G.K. Mitter, J.M. Shelat.

The court warned regarding false FIR being used as a tool of harassment causing harm to the career, reputation and dignity of the accused.

These judgements show that the courts are willing to quash false FIRs and curb miscarriage of justice.

In the case of State of Haryana and Ors v. Bhajan Lal and Ors, 1992 Supp.[1] SCC 335 [19]

Bench: Division bench

S.R. Pandian, Justice K. Jayachandra Reddy.

The Supreme Court laid down the guidelines to be followed to quash a FIR under Section 482.

These are the guideline:

- (1) When the allegations made are taken at face value, they cannot be considered prima facie an offence against the accused.
- (2) When the FIR and any materials with such regard do not expose a cognizable offence which requires investigation of the police under Section 156[1] of Code of Criminal Procedure [20].
- (3) Where the uncontroverted allegations in the FIR and the evidence collected do not disclose the commission of any offence.
- (4) Where the FIR is not registered for a cognizable offence but for a non cognizable offence and there is no police investigation unless there is an order by the magistrate under Section 155[2] of the Code of Criminal Procedure [21].

(5) Where the FIR is so absurd and inherently improbable that no prudent person can come to a conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar to the institution and continuance of the proceedings or there is an alternative remedy.

(7) Where a criminal proceeding is knowingly mala fide and the proceeding is maliciously instituted with an ulterior motive for causing harassment to the accused due to personal grudge.

Though these guidelines are very effective they lack implementation leading to misuse.

- A writ petition also safeguards the accused who has falsely been charged filed under Article 226 of the Constitution [22]

This is the most useful remedy against false FIRs but in reality it is inaccessible to weaker sections of the society due to higher litigation costs.

There are two kinds of writs that the high court can issue- writ of mandamus against the police officer who registered a false complaint, directing him to do his duty lawfully and the writ of prohibition to a subordinate court to stop the criminal proceedings against the victim falsely accused since it violates fundamental rights such as article 14,19 and 21 of the constitution.

Though the law provides remedies to the accused who is facing false allegations such as anticipatory bails, quashing of FIRs, writ petition but the harm to the accused's dignity and reputation is already made which causes a social stigma and to prove that the FIR is false the burden of proof lies on the accused for which he/she may incur expenses and usually the accused is from weaker sections of the society which leads to the accused being punished for false accusations or for an offense not committed. But even in cases until FIR is discharged on grounds of being false the complainant usually does not incur much loss. This discourages the genuine victims from reporting because of long proceedings and social stigma such as damage to reputation. This highlights that law provides many remedies but the effectiveness of these remedies are limited.

#### 4. PUNISHMENT:

- Section 217 of BNS [23] which punishes giving false information to a public servant which leads them to use their lawful power to injure the other knowing it to be false be punished with imprisonment extending to one year or fine up to ten thousand or both. Previously present under Section 182 of the IPC [24] under which the punishment was fine which may extend to six months or with fine which may extend to one thousand rupees or with both.

Example: 'A' registers a FIR falsely accusing 'B' for trespass knowingly that 'B' is not guilty. 'A' will be liable and be punished for false FIR.

- Section 211 of the IPC [25] which dealt with false charge of offence made with intent to injure be punished with imprisonment which may extend up to two years or with fine or both. IPC now Section 248 of BNS [26] increases the punishment up to 5 or 10 years depending on the severity of the accusations. Section 248 of the BNS deals with false charge with intent to injure without a reasonable cause will be punished with imprisonment extending to five years or with fine extending to one lakh rupees or both and if a criminal suit is instituted then the punishment will extend to ten years and fine.

Example: 'A' registers a false FIR against 'B' for defamation with an intention to injure his reputation. Here 'A' will be punished.

In the case of Varun Bagga v. State of Punjab and Anr 2023 Supreme [P&H] 1392 [27]

Bench: Single judge bench Jasjit Singh Bedi.

The Punjab and Haryana high court held that false FIRs have become very common and it misuses the legal system.

- The falsely accused person can also claim compensation for accusations without reasonable cause under Section 250[2] of the Code of Criminal Procedure [28] but only if the magistrate acquits the accused against whom the false FIR was registered but the magistrate must give adequate opportunity to the complainant to show cause why compensations should not be paid.

BNS has aimed to provide stricter penalties for false complaints to protect genuine victims and it shows that even the legislature intends to curb its misuse. But it becomes very hard to prove that that FIR filed is false and because the legal system is time consuming the genuine victims avoid reporting and many individuals think that they will not be punished for filing false FIR and this makes such cases more leading to misuse.

#### **4.1 POLICE OFFICER LIABILITY:**

If a police officer negligently or knowingly registers a false FIR, the accused can file an application under Section 156[3] [29] or a complaint under Section 200 of the Crpc [30].

Such officers can also have criminal liability under Section 167, 218 or 220 of the IPC, currently under Section 201, 256 or 258 of the BNS respectively.

- ❖ Section 167 of IPC punishes a police officer who knowingly frames or translates a document incorrectly with intent to cause harm to any person which is punishable with imprisonment up to three years or with fine or both [31] currently under Section 201 of BNS [32].
- ❖ Section 218 of IPC is a serious offense related to abuse of power punished with imprisonment up to three years or with fine or both, it deals with a false FIR registered by a public servant deliberately to save a person from legal punishment or forfeiture of property [33]. Currently under Section 256 of BNS [34].
- ❖ Section 220 of the IPC dealt with a public servant who misused their authority given by law confines or maliciously corrupts a person to trial knowingly that such action is against law of the land, be punished with imprisonment up to seven years or fine or both [35]. Now under Section 258 of the BNS [36].

This shows that it is not only the complainant that is punished but even the corrupt police officers who misuse their powers are also held liable.

Though these Sections punish the corrupt police officers and make them accountable but in practice these Sections are rarely imposed this may be because of corruption and hierarchy in the

police structure. Even if the genuine victims approach the magistrate in case of refusal by the police officer it does not overcome the delay in filing the FIR and it has become merely a formality which in turn causes harassment of victims with genuine allegations. This shows that in practice there is a lack of implementation of the law leading to misuse though it provides for accountability.

#### **4.2 REFUSAL TO FILE AN FIR BY THE POLICE:**

- A complaint can be written and submitted to an officer with higher rank such as the superintendent of police who may appoint another officer to investigate the matter.
- A direct complaint can be given to the magistrate who will direct the police to conduct an investigation.

### **5. CONTEMPORARY CHALLENGES:**

There has always been an issue of delay in filing of FIRs on the part of the police officers which can be due to various reasons like political pressure, corruption and more due to which genuine victims are discouraged to register FIRs since the police will not take immediate action and after a lapse in time the defence gets a benefit of doubt giving them a chance to prove that the FIR was faulty.

False FIRs were mostly reported in the cases of dowry harassment, Section 85 of the BNS previously present under Section 498A of the IPC [37], which punishes the husband or his relatives with up to three years of imprisonment and fine. But if the wife has filed a false dowry FIR then she will be punished with up to two years of imprisonment and fine. Many High courts have held that false FIRs are a growing concern especially in cases involving property disputes and dowry harassment, therefore the police officers should be cautious while registering such FIRs.

Section 85 BNS [38] previously under Section 498A of the IPC is gender-specific where it safeguards the women who is facing mental or physical cruelty with regard to dowry but its misuse in the form of false FIRs has led to a backlash that sometimes seems like all complainants are false which means even if a woman is facing dowry harassment she will have to prove her allegations.

## 5.1 SUGGESTIONS

Delays in FIR registration and misuse in dowry cases has created a situation of confusion where the genuine victims are scared that their allegations will be used against them and be called false. This makes them lose trust in the legal system. In order to ensure that there is a balance between protecting genuine victims and safeguarding the accused against false charges, preliminary enquiry should be conducted by the police officers as suggested by the court in Lalitha Kumari case and such enquiries should be conducted especially in dowry cases and property disputes.

Since not many citizens are aware of E-FIRs, the government should conduct awareness campaigns especially in remote areas so that genuine victims are protected.

There should be an establishment of an independent body to oversee the registration of FIRs by the police officers to curb corruption and making the process of filing FIRs more transparent where before registering an FIR the accused must be questioned regarding the offence and if a police officer is refusing or voluntarily causing delay in filing a FIR, there should be stringent action taken against him/her.

There should be special benches to quash FIRs because even false cases take a longer duration to be resolved, in such cases even if the accused is not punished by law he/she is affected mentally and financially. Therefore through these special benches delays can be avoided.

## 6. CONCLUSION:

The paper aimed to examine whether the legal framework governing false FIRs is able to balance the rights of genuine complainants and protect innocent accused persons. The paper shows that the law through statutes and judicial decisions provides remedies, but these remedies are more effective in theory than practice.

The paper highlights an imbalance in the system that ensures access to criminal justice easily through mandatory FIR registration, but it also places a burden on the accused to prove that the allegations are false. Remedies such as anticipatory bail, quashing of FIRs, and writ petitions,

though are effective to protect the accused but they are time-consuming, costly, and sometimes punitive in nature. The system also shows a low rate of enforcement of penalties for false complaints that weakens deterrence which leads misuse to exist even after the efforts to curb them. This imbalance is further elevated because of challenges such as delay in FIR registration, lack of police accountability, and misuse in sensitive disputes like dowry and property matters.

Thereby making FIR a tool to deliver justice and facilitate harassment. This directly highlights the problem in this paper which is the difficulty faced by the legal system in maintaining a balance between rights of genuine victims and preventing harm to the accused.

Therefore, the paper concludes that the existing legal framework is adequate but it suffers from gaps in implementation. Thereby making reform a must which should focus not only on strengthening laws but also on improving enforcement, ensuring accountability, and safeguards that prevent misuse at the initial stage itself. That is when the criminal justice system can regain trust of the public and create a balance between the interests of the complainants and the accused.

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