

The Basic Concepts of FIR

Introduction:

The First Information Report (FIR) is an essential document in the criminal justice system, signifying the commencement of legal action upon receiving information about the perpetration of a cognisable offence.

Under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, the First Information Report (FIR) occupies a crucial role, closely mirroring its predecessor in the Criminal Procedure Code (CrPC), 1973, although including essential modifications to enhance the legal process. This assignment examines the vital ideas related to FIR under BNSS, 2023, encompassing its definition, method, significance, evidential value, and the recent revisions under BNSS.

An FIR is a written document drafted by the police upon receiving information about the occurrence of a cognizable offence. A cognizable offence is one for which the police can make an arrest without a warrant and initiate an investigation independently, without requiring court orders. In such cases, police officers are obligated to register the FIR and can even commence investigations without it. These offences are typically serious and non-bailable. The FIR represents the initial information received by the police regarding the crime, usually lodged by the victim or someone acting on their behalf.

Definition and Objective of FIR:

An FIR is delineated under Section 154 of the CrPC, 1973, as the information provided to a police officer concerning the perpetration of a cognisable offence. Under BNSS, 2023, this concept is preserved, with an enhanced focus on enabling the public to file complaints efficiently and without apprehension. The FIR initiates the criminal process, aimed at activating the legal system by notifying authorities of the offence.

The fundamental goal of the FIR is to:

- Provide the police with information about a cognizable offence.
- Commence an inquiry.
- Serve as a record of the complainant's statement of events.
- Preserve evidence for future proceedings.

Cognizable vs. Non-Cognizable Offenses under BNSS, 2023:

The classification of offences into cognizable and non-cognizable remains the same under BNSS, 2023. In the case of **cognizable offences**, police officers can investigate and arrest without a warrant (**e.g., murder, theft, rape**). FIR is lodged in circumstances of cognizable offences. For **non-cognizable offences** the police cannot investigate without the consent of a magistrate, and no FIR is filed—only a complaint is recorded. (**e.g., defamation, public annoyance**).

The BNSS underscores the importance of this distinction, helping expedite the process for both police personnel and civilians.

Essential Elements of FIR

For a FIR to be valid, certain conditions must be fulfilled:

1. **Cognizable Offense:** The information must pertain to a cognizable offence.
2. **Information Provided to the Police Officer:** This can be provided by any person

who has knowledge of the crime.
3. **In Writing:** The information must be recorded in writing by the police officer. If

supplied orally, the officer is expected to copy it.
4. **Signature of the Informant:** The informant must sign the document after it has been

written.
5. **Time and Date:** The time, date, and place of the incident, together with specifics of

the crime, must be provided.

Procedure for Lodging an FIR under BNSS, 2023

The method for filing an FIR under the BNSS follows a similar structure as in the CrPC. However, BNSS introduces procedures to shorten the filing process, ensuring better access and efficiency.

1. **Filing by the Aggrieved Party or Any Other Person:** The person who directly witnessed or experienced the crime or any other individual with knowledge can file

the FIR. Under BNSS, the emphasis on accessibility is apparent in regulations for e- FIRs, notably for heinous crimes, boosting accessibility for victims.

2. **Oral or Written Complaint:** The complaint may be oral or written. If oral, it must be recorded by the officer on duty. BNSS, 2023, continues to support the adoption of digital technology to facilitate easier filing, enabling citizens to lodge FIRs through online platforms.
3. **Recording of Information:** Once received, the officer must record the information verbatim, in the language in which it is conveyed. If the informant is illiterate, the contents of the FIR must be read back to them before signing.
4. **Signing the FIR:** After recording, the informant must sign or adhere a thumb impression on the FIR. Failure of the police to record or file the FIR can result in sanctions under the law.
5. **Supply of Copy to the Informant:** A copy of the FIR shall be delivered to the informant free of cost as per Section 173(2) of the CrPC, and this has been reinforced under the BNSS.

Timeframe for Filing FIR:

There is no statute of limitations for filing an FIR under Indian law, as reiterated under the BNSS, 2023. However, an unjustified delay in lodging the FIR can damage the case, since it may reflect fabrication or an impaired memory of the events. Courts often seek an explanation for delays, which must be reasonable and justifiable.

Registration of FIR:

Mandatory vs. Discretionary:

Under Section 173, the registration of an FIR is obligatory for cognizable offences. The Supreme Court of India has further strengthened this in ***Lalita Kumari v. Govt. of U.P. (2013)***, finding that registration of FIR is necessary for police officers upon obtaining information on a cognizable offence. The BNSS adopts this idea, making it mandatory for the police to record an FIR if a cognizable offence is reported.

In circumstances where the material does not expose a cognizable offence, a "preliminary inquiry" may be conducted, as specified in Lalita Kumari, but it must be time-bound. BNSS follows this strategy, combining the requirement for inquiry with preventing misuse of the law.

E-FIR and Modern Developments in BNSS, 2023:

One of the key innovations implemented by BNSS, in 2023, is the convenience of submitting FIRs electronically. The BNSS now includes a provision for lodging information electronically (e-FIR) under Section 173(1), requiring the informant's signature to be obtained within three days prior to the official recording of the e-FIR.

E-FIRs can be filed for some kinds of offences, such as motor vehicle theft or missing persons, particularly when the offence does not need rapid investigation at the scene. This modernization intends to address accessibility difficulties, especially in remote areas, and to allow citizens to register complaints without physically visiting police stations.

Copy to victim:

Section 154(2) of the CrPC mandates that a copy of the information be provided free of cost solely to the informant, whereas Section 173(2) of the BNSS expands this provision to include both the victim and the informant.

Refusal to File FIR

There have been cases where the police have declined to register FIRs. The BNSS, 2023, provides mechanisms to address such problems. If the police refuse to register an FIR, the aggrieved person can:

1. Approach the **Superintendent of Police (SP)** or **District Magistrate**, who is duty-bound to direct the filing of the FIR if the information exposes a cognizable offence.
2. Approach the **Judicial Magistrate** under Section 175(3), seeking a command for the police to record the FIR and conduct an inquiry.

Evidentiary Value of FIR

An FIR is not considered substantial evidence, meaning it cannot be used to show the facts of the case. However, it is significant in supporting evidence as it reflects the original account of events and helps the police begin their investigation.

The evidentiary significance of FIR lies in:

- **Corroboration:** The contents of an FIR can corroborate the testimony of witnesses.
- **Contradiction:** It can be utilised to dispute the credibility of a witness if their account

during trial deviates from what was stated in the FIR.

- **Dying statement:** In circumstances where the person submitting the FIR later dies, the FIR may be recognised as a dying statement under Section 26 of the Bharatiya Sakshya Adhiniyam, 2023.

Consequences of Non-Registration of FIR

Non-registration of a FIR might have dire implications. The Supreme Court, in various judgements, notably **State of Andhra Pradesh v. Punati Ramulu (1993)**⁷, has declared that failure to register an FIR may be grounds for departmental action against the officer in issue.

BNSS, 2023, adds stronger sanctions and accountability mechanisms for officers who fail to register FIRs for cognizable offences.

Conclusion

The initial Information Report (FIR) remains a cornerstone in the criminal justice system, giving the initial stage in the investigation process. The BNSS, 2023, while preserving most of the framework of the CrPC, introduces improvements that guarantee accessibility, accountability, and modernization in the FIR process. By streamlining the procedures for submitting FIRs and adopting e-FIR systems, the BNSS intends to make the process more citizen-friendly, ensuring justice reaches all areas of society.

The FIR, as a preliminary document, serves a critical function in determining the route for investigation, but it must be submitted accurately and without delay to preserve the integrity of the criminal process.