

## A STUDY ON THE EVIDENTIARY VALUE OF FIR IN INDIA

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### Abstract:

The statements made to the police are in three categories- a) A statement which has been recorded as an First Information Report ( here in after referred to as FIR) 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.

**Keywords:** FIR, Evidentiary value, statement, Police.

### Hypothesis:

Ho:- FIR cannot be treated as substantive piece of evidence as it is neither investigation started nor any evidence is recorded.

Hs:- FIR can be treated as a substantive evidence under indian evidence act 1872.

**Objectives**

- To know about the role of the first information report in evidence.
- To have a brief study on the evidentiary value of FIR.
- To study when FIR can be accepted as evidence.
- To study the situations when FIR can become evidence.

**Material and methods**

The study is collected from national and international journals, books and publications from various websites which give importance to the abolition of death sentence under international law.

**Sources of study:**

The researcher has referred books, research articles, unpublished thesis and e-sources as a part of secondary sources for the writing of the project.

**Limitations:**

The researcher is unable to trace the primary sources needed to write about the topic as the topic demands research in the archives which is not available to the researcher as admission to the government archives is not allowed.

**Chapterisation:**

1. Chapter 1 deals with First information report and its legal provisions.
2. Chapter 2 deals with First information report and its evidentiary value.
3. Chapter 3 deals with situations when FIR can be accepted as evidence.

**Introduction**

Generally FIR has no evidentiary value but in few circumstances it carries evidentiary Value, as in the case of dying declaration. These circumstances have been mentioned in the cases mentioned in this chapter at relevant place. In State of Bihar V. Veer Kuer Paswan and Others the honorable Supreme Court decided that the informant- Satendra Kumar Sharma has not been

examined as such; First Information Report can not be used as Substantive piece of evidence inasmuch as on this ground as well the appellants are entitled to an order of acquittal.<sup>1</sup> The submission is totally misconceived. Even if the first information report is not proved, it would not be a ground for acquittal, but the case would depend upon the evidence led by prosecution. Therefore, non-examination of the informant cannot in any manner affect the prosecution case.

**Aim:** To study about the evidentiary value of FIR.

## Chapter 1

### First information report and its legal provisions

#### What is an FIR?

The information on the commission of a recognizable crime delivered to a police officer is "first information" and the corresponding report is understood as the "first information report (FIR)". It is a document written by a police officer in the registry prescribed by the state government.<sup>2</sup>

#### Why is FIR needed?

An FIR is a very important document against a recognizable offense, since it sets the criminal justice process in motion. Only after the FIR is registered at the police station, the police investigate the case.

#### Who can host an FIR?

Any person who is a victim of a recognizable offense or who is a witness to this crime or who is aware of the commission of such crime may submit an F.I.R.

#### You can submit FIR if:

You are the person against whom the offense was committed;

You know about an offense that has been committed;

You have seen the offense committed.

#### What is the procedure for submitting an FIR?

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<sup>1</sup> "Evidentiary value of First Information Report (F.I.R.) – LawSchoolNotes." 23 Apr. 2017, <https://lawschoolnotes.wordpress.com/2017/04/23/evidentiary-value-of-first-information-report-f-i-r/>. Accessed 3 Jun. 2018.

<sup>2</sup> "Evidentiary Value of First Information Report (FIR) - ResearchGate." [https://www.researchgate.net/publication/228226560\\_Evidentiary\\_Value\\_of\\_First\\_Information\\_Report\\_FI\\_R](https://www.researchgate.net/publication/228226560_Evidentiary_Value_of_First_Information_Report_FI_R). Accessed 3 Jun. 2018.

The procedure for filing an FIR is prescribed in Section 154 of the Code of Criminal Procedure of 1973. When information about the commission of a recognizable crime is given orally, the police must write it.

It is your right as a person who provides information or files a complaint to require that you read the information recorded by the police.

Once the information has been recorded by the police, it must be signed by the person providing the information.<sup>3</sup>

#### **Where can a FIR be Lodged?**

A FIR can be lodged if you stay in the police station of the area in question in whose jurisdiction the crime was committed or in any police station.

#### **What should you mention in the FIR?**

Your name and address;

Date, time and location of the incident reported;

The true facts of the incident when they occurred;

Names and descriptions of the people involved in the incident.

#### **Could the FIR be registered through Phone or E. Mail?**

Yes, the FIR can be registered by phone or even by email and it is not necessary for the informant to be personally present before the police for the FIR registration.

#### **Is it necessary for the FIR to be recorded at the same prescribed police station?**

No, the FIR can be registered at any police station, regardless of where the offense was committed.<sup>4</sup>

#### **What are the advantages of early FIR recording?**

The FIR must be registered as early as possible, after the offense.

The benefit of early FIR recording helps in the arrest of real criminals and also helps in gathering evidence of the crime.<sup>5</sup>

#### **What can you do if your FIR is not registered?**

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<sup>3</sup> "Evidentiary Value of FIR - Legal Services India."

<http://www.legalservicesindia.com/article/936/Evidentiary-Value-of-FIR.html>. Accessed 3 Jun. 2018.

<sup>4</sup> "CHAPTER-VI EVIDENTIARY VALUE OF THE FIR A ... - Shodhganga."

[http://shodhganga.inflibnet.ac.in/jspui/bitstream/10603/132545/15/15\\_chapter%206.pdf](http://shodhganga.inflibnet.ac.in/jspui/bitstream/10603/132545/15/15_chapter%206.pdf). Accessed 3 Jun. 2018.

<sup>5</sup> "Evidentiary value of FIR - Lawyersclubindia." 13 Jul. 2015,

<http://www.lawyersclubindia.com/articles/Evidentiary-value-of-FIR-6747.asp>. Accessed 3 Jun. 2018.

You can meet with the Superintendent of Police or other senior officers such as the Deputy Inspector General of the Police and the Inspector General of the Police and present your complaint upon notification;<sup>6</sup>

You can send your complaint in writing and by mail to the Superintendent of Police involved;

If the Superintendent of Police is satisfied with your complaint, he will either investigate the case or order an investigation to be conducted;

You can file a private complaint with the court that has jurisdiction;

You can also file a complaint with the State Human Rights Commission or the National Human Rights Commission if the police do nothing to enforce the law or do so in a partial and corrupt manner.<sup>7</sup>

#### **What things should you do after FIR has registered?**

You must sign the report only after verifying that the information recorded by the police is according to the details provided by you;

People who can not read or write should put their left thumbprint on the document after making sure it is a correct record. Always request a copy of the FIR, if the police do not give it to you. It is your right to obtain it at no cost.<sup>8</sup>

#### **Under what circumstances can the police not investigate a complaint, even if it submits an FIR?**

Sometimes, the police will not investigate a complaint, even if you have already filed an FIR;

The case is not serious in nature;

The police feel that there is not enough ground to investigate;

However, the police must record the reasons why an investigation is not carried out and, in the latter case, must also report it.<sup>9</sup>

- [Article 157, Code of Criminal Procedure, 1973]

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<sup>6</sup> "What To Do If The Police Refuse To Register An FIR? | Jaago Re." <https://www.jaagore.com/know-your-police/What-To-Do-If-The-Police-Refuse-To-Register-An-FIR>. Accessed 3 Jun. 2018.

<sup>7</sup> "What can I do if the police refuses to register an FIR based on my ...." 1 Sep. 2014, <https://www.quora.com/What-can-I-do-if-the-police-refuses-to-register-an-FIR-based-on-my-complaint-involving-serious-offences-such-as-fraud-or-dowry-demands>. Accessed 3 Jun. 2018.

<sup>8</sup> "What To Do When Police Refuse To Register The FIR? | Legal Eagles." 28 Jun. 2015, <http://www.ourlaw.in/2015/06/what-to-do-police-refuses-to-register-FIR.html>. Accessed 3 Jun. 2018.

<sup>9</sup> "Know Your Rights: What to Do If a Police Official Refuses to File Your ...." 2 Aug. 2017, <https://www.thebetterindia.com/110266/police-refused-file-complaint-done/>. Accessed 3 Jun. 2018.

## Chapter 2

### Evidentiary value of First Information Report

The Supreme Court has observed on the said subject matter, stating that “the first information report gives information of the commission of a cognizable crime. It may be made by the complainant or by any other person knowing about the commission of such offence. It is intended to set the criminal law in motion. Any information relating to the commission of a cognizable offence is required to be reduced to writing by the officer in charge of the police station which has to be signed by the person giving it and the substance thereof is required to be entered into a book kept by such officer in such form as the State Government may prescribe. It cannot be used as evidence against the person making it, if in case, he himself is accused in the matter, neither to corroborate or contradict other witnesses. It is not the requirement of law that the minutest details be recorded in the Fir lodged immediately after the occurrence. The fact of the state of mental agony of the person making who generally is the victim himself , If not dead, or the relations or associates of the deceased victim apparent under the shock of the occurrence reported has always to be kept in mind.”<sup>10</sup>

The FIR is the first version of the incident as received by the police. The statements in the FIR must naturally get their due weight. An FIR is not a substantive piece of evidence. The Court has to consider other evidence for deciding whether a case should stand or fall. An FIR, being not a substantive evidence, it can be used as a previous statement for the purposes of either corroborating its makers or for contradicting him. The statement of a victim of rape in cross-examination which was not there in the FIR could not be used for contradicting her.<sup>11</sup>

FIR is not an encyclopedia. It is only to set the law in motion. It need not elaborate but should contain necessary allegations to constitute cognizable offences. As per section 154 of the Criminal Procedure Code, stating the use of FIR, “a FIR is not a substantial piece of evidence. It can only be used for corroborating or contradicting its maker. It cannot be used to corroborate or

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<sup>10</sup> "Evidentiary Value of First Information Report (FIR) - ResearchGate."  
[https://www.researchgate.net/publication/228226560\\_Evidentiary\\_Value\\_of\\_First\\_Information\\_Report\\_FIR](https://www.researchgate.net/publication/228226560_Evidentiary_Value_of_First_Information_Report_FIR). Accessed 3 Jun. 2018.

<sup>11</sup> "First Information Report? What is Its Evidentiary Value? (CrPC, 1973 ...."  
<http://www.shareyouressays.com/knowledge/what-do-you-understand-by-first-information-report-what-is-its-evidentiary-value-crpc-1973-india/112880>. Accessed 3 Jun. 2018.

contradict other witnesses..." Further," corroboration of its maker is permissible, but the first information report cannot be used as substantive evidence or corroborating a statement of third party..."The fact that a minute details are not mentioned should not be taken to mean the non-existence of the fact stated. An FIR was made by close relatives of the deceased. Its reliability was not allowed to be doubted on the ground that it was highly improbable that a close relative would leave the victim in a hospital and would himself go to the police station, particularly so when other relatives had also arrived at the hospital. There was no delay in recording the FIR and sending the challanto the court. Absence of the names of the accused in the inquest report was of no value because the investigating officer and the officer conducting inquest were not questioned on that point.<sup>12</sup>

It was held in *Pandurang Chandrakant Mhatre v. State of Maharashtra*, that it is fairly well settled that first information report is not a substantive piece of evidence and it can be used only to discredit the testimony of the maker thereof and it cannot be utilised for contradicting or discrediting the testimony of other witnesses. Although first information report is not expected to be encyclopaedia of events, but an information to the police to be "first information report" under Section 154(1) must contain some essential and relevant details of the incident. A cryptic information about commission of a cognizable offence irrespective of the nature and details of such information may not be treated as an FIR. An FIR recorded without any loss of time is likely to be free from embroideries, exaggerations and without anybody intermeddling with it and polluting and adulterating the same with lies. The purpose of, FIR is to obtain the earliest account of a cognizable offence, before there is an opportunity for the circumstances to be forgotten and embellished. It is well settled that FIR is not a substantive piece of evidence and can be used to corroborate or contradict the statement of the maker thereof. It is also equally established that trustworthiness of the prosecution story can also be judged from the FIR. Besides first information report is relevant as it may be a part of the *res gestae*.

For the purpose of summoning someone mentioned in a FIR but has not been charge sheeted, the FIR can be taken into consideration because it is evidence at that stage. Where an FIR is registered on the basis of a written complaint submitted to the police and there was no mention

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<sup>12</sup> "evidentiary value of the first information report - Galgotias University." 22 Nov. 1974, <http://law.galgotiasuniversity.edu.in/pdf/3-Evidentiary-Value-First-Information-Report-Introspection-Dr-Raj-Kumar-27218.pdf>. Accessed 3 Jun. 2018.

of the presence of some persons as eye- witnesses in it, it was held that the presence of those eye-witnesses was rightly disbelieved.<sup>13</sup>

As already said, the FIR is not substantive evidence; however its importance as conveying the earliest information regarding the occurrence of a crime cannot be disputed. Moreover, it can be used to corroborate the informant under Section 157 of Indian Evidence Act, 1872, or contradict the witness under Section 145 of the same Act if the informant is called as a witness in the trial.

Following circumstances have been identified as the uses of FIR, which are non-confessional in nature, for evidentiary purposes:

1. For corroboration purposes: It cannot be ignored altogether and can be used to corroborate the statement of the eyewitnesses.
2. For contradicting the evidence of person giving the information.
3. For proving as an admission against the informer.
4. For refreshing informer's memory.
5. For impeaching the credit of an informer.
6. For proving informer's conduct.
7. For establishing identity of accused, witnesses & for fixing spot time as relevant facts under Section 9, the Indian Evidence Act, 1872<sup>14</sup>

### Chapter 3

#### Situations when FIR can be accepted as evidence

FIR may even become substantial evidence in the following circumstances:

1. During the declaration when a person who deposited on the cause of his death had died (ie, a declaration of death). In such a case, FIR will be admissible under Section 32 (1) of the Indian Evidence Act, 1872.

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<sup>13</sup> "CHAPTER-VI EVIDENTARY VALUE OF THE FIR A ... - Shodhganga."  
[http://shodhganga.inflibnet.ac.in/jspui/bitstream/10603/132545/15/15\\_chapter%206.pdf](http://shodhganga.inflibnet.ac.in/jspui/bitstream/10603/132545/15/15_chapter%206.pdf). Accessed 3 Jun. 2018.

<sup>14</sup> "First Information Report? What is Its Evidentiary Value? (CrPC, 1973 ...."  
<http://www.shareyouressays.com/knowledge/what-do-you-understand-by-first-information-report-what-is-its-evidentiary-value-crpc-1973-india/112880>. Accessed 3 Jun. 2018.



2. When the injuries are caused in the presence of the Station House officer at a police station and the injured person makes a statement to the SHO saying that the defendant was hurting him.
3. When the informant who has written the FIR or reads it, does not remember those facts, but is sure that the facts were correctly represented in the FIR at the time he wrote it or read it.

Case study: FIR as substantive evidence

Machhi Singh v. State of Punjab,<sup>15</sup>

APPOINTMENT: AIR 1983 SC 957: 1983 Cr LJ 1457

Facts:

A dispute between two families has had tragic consequences. Seventeen lives were lost in the course of a series of five incidents that occurred in rapid succession in five different villages, located in the vicinity of each other, in Punjab, on the night between August 12 and August 13, 1977.<sup>16</sup> The seventeen people who lost their lives and the three who suffered injuries included men, women and children related to a single Amar Singh and his sister Piaro Bai. In this regard, a Machhi Singh and his eleven companions, close relatives and associates were prosecuted in five case sessions, each belonging to the village in question in which the murders took place. Machhi Singh was the common defendant in each trial. The composition of the defendants jointly differed in number and in identity of trial to trial. At the conclusion of the series of trials, the defendants found guilty were convicted according to the corresponding provisions. Four of them were given the death penalty, while the sentence of life imprisonment was imposed on nine of them.<sup>17</sup> They were also convicted of different crimes and the appropriate punishment was inflicted on each of them in that name. The conviction and sentencing order resulted in five references of murder and fourteen appeals of those sentenced before the High Court of Punjab and Haryana. Having lost their appeals and confirmed the death sentences, the appellants have appealed in the form of special permits.<sup>18</sup>

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<sup>15</sup> "Machhi Singh And Others vs State Of Punjab on 20 July, 1983." <https://indiankanoon.org/doc/545301/>. Accessed 3 Jun. 2018.

<sup>16</sup> "machi singh | India Judgments | Law | CaseMine." <https://www.casemine.com/search/in?q=machi+singh>. Accessed 3 Jun. 2018.

<sup>17</sup> "10 Significant Guidelines Issued by Supreme Court on FIR | Live Law." 7 Sep. 2016, <http://www.livelaw.in/10-significant-guidelines-issued-supreme-court-fir/>. Accessed 3 Jun. 2018.

<sup>18</sup> "Process Of Trial Of Criminal Cases In India - Criminal Law - India." 5 Jun. 2014, <http://www.mondaq.com/india/x/318472/Crime/Process+Of+Trial+Of+Criminal+Cases+In+India>. Accessed 3 Jun. 2018.

Issues:

- (a) What normal guidelines should be followed to identify the "rarest of rare cases" formula for imposing the death penalty, as explained in *Bachan Singh v. State of Punjab*, [1980] 2 SCR 864;
- (b) Reliability of the eyewitnesses of a crime under the light thrown by the lantern in a village to identify a defendant with the crime;
- (c) the invocation of the doctrine of the benefit of the doubt;
- (d) the effect of not summoning the magistrate to register the death declaration.<sup>19</sup>

Trial in question:

The conviction order (approved by the Court of Sessions and confirmed by the High Court) is based, inter alia, on Mukhtiar Singh's death statement. He was fired and wounded shortly after midnight in the early morning of August.

He was transferred to the hospital that same day. His police statement (which was later treated as a death statement) was recorded on the 16th, that is, three days after the assault. He died on the 18th, two days later. The evidence shows that he was in good shape to make a statement and his statement was recorded faithfully and faithfully. Your statement has been considered true and true by the Court of Sessions and the High Court. It is true that the declaration of death has not been registered by a magistrate. But then, the evidence shows that Mukhtiar Singh was recovering well and, considering the condition of his health, he did not apprehend any danger to his life. It was in this situation that a magistrate was not summoned. Therefore, no error can be found legitimately in this score. In addition, the only important issue now is with respect to the solvency of the statement that has been registered. Since this claim has been found to be genuine and true, nothing can undermine its value. The evidence provided by the death statement is in itself good enough to support the conviction order. But this is not all. Evidence is also available from Ujagar Singh and his daughter-in-law, Munibai. The evidence of these two witnesses fully corroborates the death statement of the victim, and the Court of Sessions and the Supreme Court have rightly used this information. There is no reason to see the evidence doubtfully. The presence of these two witnesses in the home was natural. Their evidence shows that when they heard the report of the gun, they had hidden behind a herd of cattle and had witnessed the

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<sup>19</sup> "CHAPTER-VII QUASHING AND CANCELLATION OF ... - Shodhganga." 9 Feb. 1993, [http://shodhganga.inflibnet.ac.in/jspui/bitstream/10603/132545/16/16\\_chapter%207.pdf](http://shodhganga.inflibnet.ac.in/jspui/bitstream/10603/132545/16/16_chapter%207.pdf). Accessed 3 Jun. 2018.

incident from there. The Supreme Court had no reason to disagree with the opinion of the Tribunal. The Supreme Court accordingly confirmed the same unhesitatingly.<sup>21</sup>

**Conclusion:**

FIR is an important report and if duly recorded provides a valuable evidence. It is a valuable piece of evidence in any criminal trial either for corroborating evidence or for contradicting witnesses, FIR can be used to corroborate the Informant under S. 157 of Indian Evidence Act, 1872, or contradict the witness under S. 145 of the same Act if the informant is called as a witness in the trial.<sup>22</sup> Therefore, it becomes necessary that such report be recorded in all circumstances especially where the person has come to the police station to lodge an FIR against a particular crime. FIR considered as Substantial Evidence in certain cases which the paper will discuss and in other circumstances FIR can be used as non-confessional in nature for evidentiary purposes.<sup>20</sup>

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<sup>20</sup> "Witnesses under 18 years - Citizens Information." 24 Dec. 2013, [http://www.citizensinformation.ie/en/justice/witnesses/witnesses\\_under\\_17\\_years.html](http://www.citizensinformation.ie/en/justice/witnesses/witnesses_under_17_years.html). Accessed 3 Jun. 2018.

<sup>21</sup> Dr. Lakshmi T and Rajeshkumar S "In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes", IRJMST March 2018.

<sup>22</sup> Trishala A, Lakshmi T and Rajeshkumar S, "Physicochemical profile of Acacia catechu bark extract – An In vitro study", IRJMST April 2018.

