



GOVERNMENT OF INDIA
LAW COMMISSION OF INDIA

AMENDMENT IN SECTION 154 OF
THE CODE OF CRIMINAL PROCEDURE, 1973
FOR ENABLING ONLINE REGISTRATION OF FIR

Report No. 282

September, 2023

The 22nd Law Commission was constituted by Gazette Notification for a period of three years vide Order No. F No. 45021/1/2018-Admn-III(LA) dated 21st February, 2020 issued by the Government of India, Ministry of Law and Justice, Department of Legal Affairs, New Delhi. The term of the 22nd Law Commission was extended vide Order No. FA No. 60011/225/2022-Admn.III(LA) dated 22nd February, 2023.

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Law Commission of India



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Date: 27th September, 2023

Hon'ble Sri Arjun Ram Meghwal ji Namaste!

I am pleased to forward you **Report No. 282** of the Law Commission of India on "**Amendment in Section 154 of the Code of Criminal Procedure, 1973 for Enabling Online Registration of FIR**". The Law Commission received a reference from the Ministry of Home Affairs, Government of India, *vide* letter dated June, 2018, requesting the Commission to study the feasibility of amending Section 154 of the Code of Criminal Procedure, 1973 (CrPC) in order to enable online registration of FIRs. This reference arose from the DGPs/IGPs Conference-2017, held from 6th – 8th January, 2018 at BSF Academy, Tekanpur, Madhya Pradesh, wherein it was suggested that there should be an amendment in Section 154 of the CrPC for enabling online registration of FIRs.

The 21st Law Commission of India, on 20th July, 2018, wrote to the Chief Justices of all the High Courts, asking them to request the judicial officers in their jurisdiction to send in their written submissions on the subject. Subsequently, a session with Police Officers from different States was held on 06th August, 2018. The Commission received an overwhelming response, mostly in favour of amending Section 154 to provide for online registration of FIR. The responses also highlighted the merits, demerits and requirements associated with such a scheme like the IT infrastructure, digital literacy of the Police personnel as well as the citizens, and procedural aspects like verification of the complainant, information to the accused, amendments required in other legislations, etc.

In furtherance of the aforesaid, the 22nd Law Commission took up this reference and undertook a comprehensive study of the law relating to online registration of FIRs and its working in India, tracing its genesis and development in the digital era. The Commission also analysed the history of registration of FIRs, both in colonial and independent India, and the various pronouncements of the Hon'ble Supreme Court and the Hon'ble High Courts on the subject-matter. Additionally, the 22nd Law Commission held extensive consultations with entities involved in policing reforms, namely, the National Crime Records Bureau and the Bureau of Police Research & Development. Further, the Commission also held wide-ranging consultations with academicians, advocates, senior Police Officers, etc.

Due to the march of technology, means of communication have progressed in leaps and bounds. In such a landscape, clinging on to an archaic system of registering FIRs does not augur well for criminal reforms. In this regard, it is imperative to trace the creation of the Crime and Criminal Tracking Network & Systems (CCTNS). Under the aegis of CCTNS, at present, eight states have already allowed for the registration of e-FIRs. Further, all States have facilitated the online registration of complaints which may be converted into a FIR later.

Justice Ritu Raj Awasthi
(Former Chief Justice of High Court of Karnataka)
Chairperson
22nd Law Commission of India



न्यायमूर्ति ऋतु राज अवस्थी
(सेवानिवृत्त मुख्य न्यायाधीश, कर्नाटक उच्च न्यायालय)
अध्यक्ष
भारत के 22वें विधि आयोग

The Commission, therefore, is of the considered view that registration of e-FIR be enabled in a phased manner, beginning with offences bearing a punishment of upto three years imprisonment. This would allow the relevant stakeholders to test the efficacy of the proposed system, and at the same time, keep the possible misuse of such a facility to a bare minimum. If it is found that the proposed system is indeed working effectively, the ambit of the same can be extended through subsequent amendments. The Commission is of the measured view that a Centralised National Portal be created to facilitate the registration of e-FIR. A procedure to implement the same has been suggested by the Commission in this Report.

The Commission is of the considered opinion that enabling registration of e-FIR would tackle the long persisting issue of delay in registration of FIRs, allowing citizens to report crimes in real time. Further, the said move would also align with the National e-Governance Plan of Government of India. Keeping the above in mind, I am submitting this report for your kind perusal.

With warmest regards,

Yours sincerely,

(Justice Ritu Raj Awasthi)

Shri Arjun Ram Meghwal
Hon'ble Minister of State (Independent Charge)
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ACKNOWLEDGEMENT

Pursuant to receiving the reference for the subject-matter of this Report from the Ministry of Home Affairs, Government of India, *vide* letter dated June, 2018, requesting the Commission to study the feasibility of amending Section 154 of the Code of Criminal Procedure, 1973 in order to enable online registration of FIRs, the Law Commission undertook expansive discussions with the concerned Government Departments and entities engaged in the field of policing reforms. The Commission also held ample consultations with academicians, scholars, judges, advocates, senior Police Officers, etc. to get hold of the legalities associated with the subject and the practical difficulties therein existing as ground realities. We remain immensely thankful to all such people for their much needed advice.

The 22nd Law Commission extends its wholehearted gratitude towards the following individuals/organisations in particular, who took out their valuable time to furnish their valuable insights, comments and submissions on the present subject:

1. Bureau of Police Research & Development
2. National Crime Records Bureau
3. Shri Ashutosh Pandey, IPS, ADG State S.I.T, Uttar Pradesh
4. Shri Anish Gupta, IRS (C&IT), Additional Commissioner
5. Shri M. Nageswara Rao, IPS (Retd.), Former Director, CBI
6. Shri Sidharth Luthra, Senior Advocate, Supreme Court of India
7. Prof. (Dr.) N. K. Chakrabarti, Vice-Chancellor, The West Bengal National University of Juridical Sciences, Kolkata
8. Dr. Kumar Askand Pandey, Associate Professor (Law), Dr. Ram Manohar Lohiya National Law University, Lucknow

The Commission gratefully acknowledges the commendable assistance rendered in the preparation of this Report by **Mr. Rishi Mishra, Mr. Gaurav Yadav, Mr. Shubhang Chaturvedi, Mr. Davinder Singh, Ms. Priya Rathi and Ms. Ruchika Yadav**, who worked as Consultants. We place on record our fervent appreciation for their scrupulous efforts in conducting research and extending aid in drafting of this Report.



TABLE OF CONTENTS

1. INTRODUCTION	1
A. <i>Reference to the Law Commission of India</i>	1
B. <i>Consultations Carried out by the 21st Law Commission in 2018</i>	1
C. <i>Consultations Carried out by the 22nd Law Commission in 2023</i>	1
2. RELEVANT PROVISIONS RELATED TO F.I.R.	15
A. <i>An Introduction to Section 154 of the Code of Criminal Procedure, 1973</i>	15
B. <i>Evolution of provision of FIR under the Code of Criminal Procedure</i> . 16	
C. <i>Advantages and Importance of Section 154</i>	19
D. <i>Some other provisions in the Code w.r.t. FIR</i>	19
3. DEMAND FOR REGISTRATION OF e-FIR	21
A. <i>Reports of Commissions and Committees:</i>	21
B. <i>Difference between Complaint and FIR</i>	28
4. e-GOVERNANCE INITIATIVE OF THE GOVERNMENT.....	31
A. <i>Introduction of CCTNS</i>	31
B. <i>CCTNS ARCHITECTURE</i>	34
C. <i>CCTNS COMPLAINT REGISTRATION PROCESS</i>	35
D. <i>Present Status of Implementation of CCTNS</i>	35
E. <i>Lodging of e-FIR on web portal of States</i>	37
5. RELEVANT JUDICIAL PRONOUNCEMENTS ON REGISTRATION OF FIR	38
A. <i>Youth Bar Association v. Union of India</i>	38
B. <i>Lalita Kumari v. Govt. of Uttar Pradesh</i>	40
C. <i>Court on its Own Motion v. State</i>	40
D. <i>Tajinder Singh & Anr. v. Union of India & Ors.</i>	42
E. <i>Arnesh Kumar v. State of Bihar and Another</i>	43
F. <i>Satender Kumar Antil v. Central Bureau of Investigation and Another</i> 46	
6. CONCLUSION	48
7. RECOMMENDATIONS	55
A. <i>Registration of e-FIR to be permitted for all cognizable offences where the accused is not known</i>	55
B. <i>Registration of e-FIR to be permitted for all cognizable offences attracting punishment up to 3 years where the accused is known</i>	55
C. <i>States to have power to expand list of offences</i>	57

D. <i>Registration of e-FIR to not apply to all offences</i>	57
E. <i>e-Complaint to be allowed for all Non-Cognizable Offences</i>	58
F. <i>Verification of Informant/Complainant and Punishment for False Information</i>	58
G. <i>Privacy of the parties to be ensured</i>	59
H. <i>Capacity Building to be given importance</i>	59
I. <i>Miscellaneous Recommendations</i>	60
ANNEXURE A: PROCEDURE FOR REGISTERING E-FIR	62
ANNEXURE B: CENTRALIZED NATIONAL PORTAL	64



LIST OF ABBREVIATIONS

ADG	Additional Director General of Police.
App	Application
ATM	Automated Teller Machine
BPR&D	The Bureau of Police Research & Development
BSF	Border Security Force
CBI	Central Bureau of Investigation
CCTNS	Crime and Criminal Tracking Network and Systems
CCTV	Closed Circuit Television
CIPA	Common Integrated Police Application
CPGRAMS	Centralized Public Grievance Redress and Monitoring System
CrI.	Criminal
CrPC	Code of Criminal Procedure, 1973
DARPG	Department of Administrative Reforms and Public Grievances
Delhi-NCR	Delhi-National Capital Region
DGP	Director-General of Police
Dr.	Doctor
DySP	Deputy Superintendent of Police
EO	Enquiry Officer
etc.	<i>Et cetera</i>
F.I.R.	First Information Report
Govt.	Government
HP	Himachal Pradesh
ICJS	Inter-operable Criminal Justice System
ICT	Information & Communication Technology
ID	Identity
IEA	Indian Evidence Act, 1872
IGP	Inspector-General of Police
IPC	Indian Penal Code, 1860
IPS	Indian Police Service
IRS	Indian Revenue Service
IT	Information Technology
J&K	Jammu & Kashmir
KYC	Know Your Customer

MHA	Ministry of Home Affairs
MIS	Management Information System
MP	Madhya Pradesh
NCRB	National Crime Records Bureau
NCRP	National Cyber Crime Reporting Portal
NDPS	Narcotic Drugs and Psychotropic Substances
NICNET	National Informatics Centre Network
NPC	National Police Commission
OTP	One Time Password
PAN	Permanent Account Number
para	Paragraph
PCR	Police Control Room
Ph.D.	Doctor of Philosophy
PM	Prime Minister
POCSO	Protection of Children from of Sexual Offences
Retd.	Retired
s.	Section
S.I.T.	Special Investigation Team
SC	Supreme Court
SCC	Supreme Court Cases
SDC	State Data Centre
SHO	Station House Officer
SOP	Standard Operating Procedure
UP	Uttar Pradesh
UT	Union Territory
v.	Versus
w.e.f.	with effect from
w.r.t.	with respect to

1. INTRODUCTION

A. *Reference to the Law Commission of India*

- 1.1. The Ministry of Home Affairs ('MHA') *vide* letter dated 05th July, 2018, requested the Law Commission to consider "amending Section 154 CrPC for enabling online registration of FIR". This was in pursuance of a conference held from 6th to 8th January, 2018 at BSF Academy, Tekanpur, Madhya Pradesh involving the DGPs/IGPs from multiple states and the action points arising out of Prime Minister's address.

B. *Consultations Carried out by the 21st Law Commission in 2018*

- 1.2. The 21st Law Commission of India, on 20th July 2018, wrote to the Chief Justices of all the High Courts, asking them to request the judicial officers in their jurisdiction to send in their written opinion on the subject. In response to the above, the Commission received an overwhelming response, mostly in favour of amending section 154 to provide for registration of e-FIR, highlighting the merits and demerits associated with this scheme like IT infrastructure, digital literacy of the Police personnel as well as the citizens, and procedural aspects like verification of the complainant, information to the accused, amendments required in other legislations, etc. The Commission also received responses from the session held on 06th August, 2018 involving Police officers from different states.

C. *Consultations Carried out by the 22nd Law Commission in 2023*

- 1.3. The Commission held consultations with the following for preparing this report:



1. **Bureau of Police Research and Development:** A meeting with a representative from BPR&D was held on 13th June, 2023 wherein the Commission was informed that BPR&D is responsible for research pertaining to policing reforms and reviews legislations like IPC, CrPC, NDPS etc. BPR&D also informed the Commission that a Committee was constituted to review the provisions of the criminal laws including CrPC, IPC, and IEA, and that the Committee had submitted recommendations to the Ministry of Home Affairs. The said recommendations, while allowing e-FIRs to be registered, do not provide any list of offences for the same. Additionally, as per the correspondence dated 22nd May 2023¹, BPR&D informed the Commission that eight states (Delhi, Gujarat, Karnataka, Madhya Pradesh, Odisha, Rajasthan, Uttar Pradesh, and Uttarakhand) have implemented registration of e-FIR under the CCTNS Project of the NCRB. It further said that source code, both in Java & Microsoft stacks, along with SOPs of e-FIR module are made available under the Nodal Officer section of the NCRB website. As police is a state subject, the States/UTs had been informed and requested to download and implement the e-FIR module. Further, in its letter dated 3rd August, 2023, the BPR&D informed the Law Commission that the proposed amendments were submitted to the MHA and it is under consideration of the MHA. BPR&D also furnished a letter dated 18th November, 2019 addressed to the MHA stating the details

¹ Letter No. 32/31/2022-RD (E-14061) received from the Bureau of Police Research & Development dated 22nd May, 2023.

regarding formation of sub-committees for the purpose of review of the above-mentioned laws and that the sub-committee on CrPC has submitted the proposed amendments on the CrPC to the MHA.

2. **National Crime Records Bureau:** A meeting between NCRB and the Law Commission was held on 13th June, 2023, wherein NCRB informed the Commission that the CCTNS portal is providing online services in nine areas (lost and found articles, verification of tenants/servants, missing person/children reports, unidentified dead bodies etc.) and also informed about the current status in the eight States which are registering e-FIRs (Delhi, Gujarat, Karnataka, Madhya Pradesh, Odisha, Rajasthan, Uttar Pradesh, and Uttarakhand).

NCRB was asked to provide the data of misuse from the above-mentioned eight States which are presently allowing e-FIR along with the latest data of PRAGATI DASHBOARD.

In its reply dated 16th August 2023, NCRB enumerated the following points:

a. Checking the effectiveness of working of Cyber-Crime in all states:

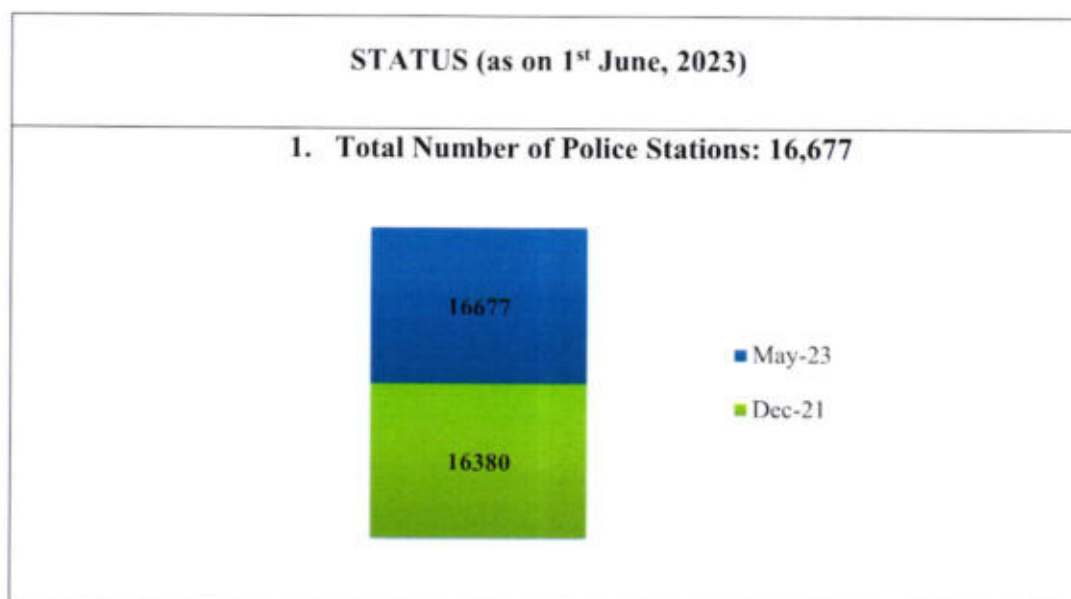
NCRB has been entrusted with the responsibility of Operation and Maintenance of National Cyber Crime Reporting Portal (NCRP) by the MHA. Citizens can lodge online complaints regarding cyber-crime of any category on this portal which are forwarded to the concerned States/UTs through the portal itself for taking appropriate action. As on 01st July, 2023,

24,74,813 complaints have been lodged on NCRP and all of them have been forwarded to the concerned States/UTs for taking appropriate action.

b. Data of misuse from the States which are presently allowing e-FIR:

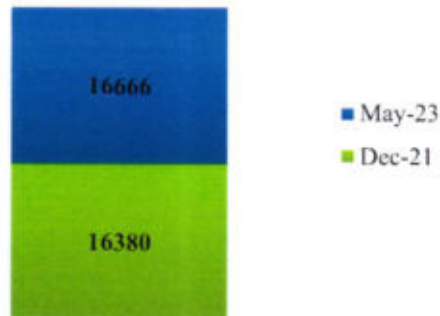
As regards the data on misuse from the eight States which are presently allowing e-FIR facility (Delhi, Gujarat, Karnataka, Madhya Pradesh, Odisha, Rajasthan, Uttar Pradesh, and Uttarakhand), it was stated that NCRB has no information on this point and any feedback on the misuse of this facility by the citizens can be given by the concerned States only.

c. Latest data of PRAGATI DASHBOARD (till May 2023):



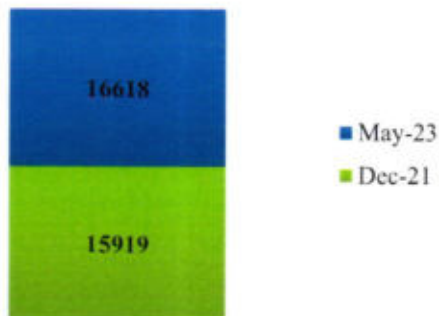
2. Total Number of Police Stations where CCTNS Application is deployed:

16,666



3. Number of Police Stations where networking connectivity is available:

16,618



3. **Prof. (Dr.) N. K. Chakrabarti, Vice Chancellor, The West Bengal National University of Juridical Sciences:** A consultation with Prof. N.K. Chakrabarti was held *via* Video Conferencing on 14th June, 2023 wherein he presented his views on the topic and suggested that e-FIRs be allowed to be registered in cases of cognizable offences to provide access to justice to people. He also suggested that stringent measures must be provided in order to avoid the misuse of registration of false e-FIR, including making section 182 of IPC more stringent.

4. **Dr. Kumar Askand Pandey, Associate Professor, Dr. Ram Manohar Lohiya National Law University, Lucknow:** Dr. K.A. Pandey presented his views to the Commission through video conferencing on 14th June, 2023 and suggested that registration of e-FIR may be allowed in cases of cognizable offences attracting punishment up to 3 years. Dr. Pandey also took note of the possibility of misuse and suggested that measures be put in place to prevent the same.

The Professors provided their written submissions together, which are as follows: -

- i. There cannot be any doubt that the dream of Digital India will remain unfulfilled unless Information and Communication Technology becomes an essential tool for accessing criminal justice. A dedicated online portal, where a victim or any other person who wishes to share information regarding the commission of crime should be launched across the country. However, it should be restricted to cognizable offences attracting a maximum of three years' imprisonment.
- ii. Additionally, as the present law requires the informant to sign the FIR (either by putting signature or thumb impression), after an FIR is registered based on online information, the informant shall be required to visit the concerned police station for signing it. It is submitted that in view of this legal requirement, the online facility will have only

limited utility that is sharing of information with the police without loss of time. It will also ensure that the police mandatorily register FIR in all cases of disclosure of cognizable offence in the online information submitted to the police.

- iii. The victim/informant while sharing information with the police through the online portal may share information concerning commission of both cognizable and non-cognizable offences, the police shall be obliged to register FIR in all cases where the online information discloses commission of cognizable offence. No other criterion is required in taking a decision as to which online information should be converted into FIR.
- iv. In order to prevent misuse of the online facility, it is suggested that the punishment should be a minimum prison term of one year which may go up to three years and a fine of rupees one lakh.
- v. In view of the huge digital divide in a country like India, it is also suggested that the Legal Services Clinics in the NLUs/Law schools/Colleges/Universities should act as a catalyst and facilitator in bringing about this online revolution.

5. **Shri Sidharth Luthra, Senior Advocate:**

Shri Sidharth Luthra, in his response, made a mention about the following issues: -

- i. As FIR must be mandatorily registered for cognizable cases, if registered, there is little escape from trial of the individual (if wrongly

accused), who will face arrest, investigation and possibly a trial where he/she seeks to prove his/her innocence.

- ii. Registration of e-FIR seems attractive but that would include oral and written information including anonymous complaints. If FIRs are registered and investigation ensues, it may affect individual's liberty, since the (police) practice in India is ordinarily to arrest. And despite multiple judgments from the Hon'ble Supreme Court, arrest is a norm in India barring by the CBI. Also, the directions in *Arnesh Kumar v. State of Bihar*² are evaded by adding offences with more than 7 years' punishment.
- iii. Another pitfall concerns laymen who are unaware of the ingredients of offences and hence may not be able to point out the cognizable offences or understand the difference between different kinds of offences.
- iv. On comparison with other countries with regard to the procedure followed for registration of FIRs, he suggested that while certain jurisdictions permit filing of e-complaints regarding specified offences, we must keep in mind the distinction between the criminal justice system of civil law countries and common law countries. While civil law countries follow an inquisitorial and prosecutorial system, it is adversarial in the common law countries. The presumption of

² (2014) 8 SCC 273.



innocence is a crucial part of common law jurisprudence and an FIR is not a basis to treat an individual as an accused, but only as a suspect.

- v. In his suggestions to the Commission, Shri. Luthra suggested that since the power to determine (at the first instance) whether a cognizable or non-cognizable offence is made out or not, is vested in a police officer, it would be appropriate to seek to amend the Code to introduce a provision for recording of the offence electronically in the case diary. Only if a cognizable offence is found either in a time bound inquiry or on a reading of the complaint/ information, then the information be recorded in the book maintained for recording of FIRs and a formal investigation should ensue. This would ensure that there is no mishap at the stage of recording of first information which is the crucial point to begin an investigation.

6. **Shri Ashutosh Pandey, IPS, ADG State S.I.T, Uttar Pradesh:**

The Law Commission invited valuable insights from Shri. Ashutosh Pandey with respect to the following points on which he submitted the following comments: -

- i. On the present status and implementation of registration of e-FIR in the State of Uttar Pradesh, he informed about the working of the CCTNS App and the UPCOP App.
- ii. Apropos the status of registration of e-FIRs and its misuse, he informed that every year around 1 lakh e-FIRs are registered in the State of UP and the segregation is not being done of false chargesheets and final

reports. Also, he mentioned that since there is no distinction between normal FIR and e-FIR, therefore, there is no bias during the investigation. Moreover, maximum number of cases registered online are primarily of cyber frauds, vehicle theft, theft and burglary.

- iii. Regarding the issue of adding more category of offences for enabling registration of e-FIR, mainly cognizable offences for which the maximum punishment is up to 3 years' imprisonment, offences against women such as sexual harassment, dowry-related offences, etc., he replied in affirmative but with caution that if it is allowed in cases where the accused is known, it will lead to gross misuse by false registration, as implicating someone would lead to hue and cry by the public, media and political leaders. It can be used to register cross FIRs and fake FIRs against victims of rape and other serious offences to facilitate a compromise.
- iv. With respect to the challenges faced in the adoption and utilization of this online system and the steps taken to prevent the misuse of the same, he informed that challenges were primarily from the Police, jurisdictional issues with respect to Delhi-NCR areas, high incidence of fake FIRs concerning vehicle theft etc. Another challenge flagged by him was the training of the concerned personnel in e-Thana headquartered in Lucknow to check any discrepancies while routing the e-FIRs.

- v. Regarding the measures being taken to ensure data security and privacy in the digital reporting process, he informed the commission that Data Security concern is being taken care of by the NIC.
- vi. He further stated that the benefits observed from the introduction of registration of e-FIR can be divided for the police force and the public. He informed that for the public, the benefits are enormous as this procedure saves them from all the hassles at the Police Station which ultimately saves their precious time. Also, early and timely registration of FIR especially in cases of stolen vehicles helps in getting insurance claims and recovery of vehicles. With respect to the Police, it helped in reducing the footfall at the Police Station and complainants can also check timely status of their complaints online.
- vii. Apropos any future plans to further improve and expand the scope of registration of e-FIR and whether there is sufficient infrastructure and workforce to deal with the same, he suggested that the software needs regular updating and improvement to match the aspirations and expectations of the people based on the feedback received and the improvement in technology.
- viii. On the possibility of misuse of the facility for filing e-FIRs, he suggested that misuse can be checked by making different provisions in the software but its benefits are highly appreciated by public and it is the need of the hour for smooth and effective running of criminal justice system.

7. **Shri Anish Gupta, IRS:**

Shri Anish Gupta, IRS, emphasized on the issues related to economic offences with regard to the introduction of registration of e-FIR. He stressed on the fact that economic offences are treated on a distinct pedestal and cannot be treated at par with other offences like theft, stolen documents, or matrimonial disputes. Also, the genesis as well as impact of an economic offence is far and wide, and are not just restricted to the specific individual or group and many of the economic offences as enumerated by the NCRB, MHA, Government of India, are governed by specialized legislations which invariably include the procedure for filing FIR/Complaint before the relevant forum. Moreover, Section 5, read with Section 4 of the CrPC, 1973 entails that the provisions of specialized legislations would prevail over the general provisions of the CrPC, 1973 and hence, the same are not governed by Section 154 of CrPC. In fact, in many of these specialized Acts, FIR is known by different variants and the same may be outside the focus area of the study.

He suggested that it may not be possible to allow filing of e-FIR for economic offences for varied reasons, some of which are: -

- i. Economic Offences being of **commercial nature**, invariably require a preliminary inquiry, so that the FIR/complaint can be as comprehensive as possible, to withstand the scrutiny of judicial *fora* as



confirmed by the Hon'ble Apex Court in the landmark judgment of *Lalita Kumari v. Govt. of U.P & Ors*³.

- ii. The accused involved in economic offences are often influential, represented by eminent lawyers, which makes it critical that the complaint is cogent, precise, and legally accurate. These unique characteristics may be difficult to be incorporated in an e-FIR.
- iii. He also made a mention of a case from the High Court of Delhi, *Tajinder Singh & Anr. v. Union of India*⁴ wherein, the judicial fora, in general, have resisted in expanding the scope of registration of e-FIR for all offences.
- iv. Based on the above-mentioned points and legal as well as practical impediments, he submitted that registration of e-FIR may not be introduced for any of the economic offences, as the same would be detrimental to both the defence and the prosecution.

8. **Shri M. Nageswara Rao, IPS (Retired), Former Director, CBI:**

Shri M. Nageswara Rao IPS (Retired), Former Director, CBI, firstly, stressed on the sociological context of this issue, that the demand for online registration of FIR is actually an *aarta naadam* of lonely citizens for immediate statist (police) intervention, as the victim is left with no familial or communal support, and often, there is also none to go all the way to the nearby police station to lodge the FIR. Secondly, while endorsing the proposal for registration of e-FIR in principle, *inter alia*, he raised the following concerns which, according to him, require consideration:

³ (2014) 2 SCC 1.

⁴ *Tajinder Singh & Ors. v. Union of India* 2019 SCC Online Del 12143.



- i. Registration of e-FIR will lead to explosion in the number of FIRs (criminal cases) registered and increase in registration of crimes (FIRs) is always a politically sensitive matter.
- ii. Sometimes, in the heat of the situation even petty crimes, non-cognizable offences or issues of non-criminal in nature get exaggerated and reported as serious crimes and if prompt action is not taken by the Police, it leads to media or public outrage.
- iii. He further suggested that, directions provided by the Hon'ble Supreme Court in the *Lalita Kumari*⁵ judgment may be followed in the manner that the information received impersonally such as through electronic means may be added to that indicative list (as given in para 111 (vi) of the said judgment) so as to address the concerns about registration of e-FIR. Accordingly, he further suggested that a sub-section may be inserted under section 154 CrPC providing for registration of a Preliminary Enquiry Report when the information is received through electronic mode, which should be enquired into within 24 hours by a police officer.



⁵ (2014) 2 SCC 1.

2. RELEVANT PROVISIONS RELATED TO F.I.R.

A. *An Introduction to Section 154 of the Code of Criminal Procedure, 1973.*

- 2.1. Section 154 of CrPC governs how the first information about the commission of a cognizable offence is recorded. The current framework is the result of extensive work done by numerous Commissions, Committees, and Courts over a period of years.
- 2.2. The principal object of the first information report from the point of view of the informant is to set the criminal law in motion and from the point of view of the investigation authorities, is to obtain information about the alleged criminal activity so as to be able to take suitable steps for tracing and bringing to book the guilty party. The first information report does not constitute substantive evidence though its importance as conveying the earliest information regarding the occurrence cannot be doubted. It can, however, only be used as a previous statement for the purpose of either corroborating its maker under Section 157 of the IEA, or for contradicting him under Section 145 of IEA. It cannot be used for the purpose of corroborating or contradicting other witnesses⁶. There must be information and it must disclose a cognizable offence.⁷
- 2.3. The Section and corresponding provisions that existed in the previous enactments of the CrPC have been discussed at length by the Constitution Bench (5 Judges) in *Lalita Kumari v. Government of U.P. & others*.⁸ The Supreme Court observed:

“30. The precursor to the present Code of 1973 is the Code of 1898 wherein substantial changes were made in the powers and procedure of the police to investigate. The starting point of the powers of police was changed from the power of the officer in-charge of a police station to investigate into a cognizable offence without the order of a Magistrate, to the reduction of the first

⁶ *Sheikh Hasib v. State of Bihar* (1972) 4 SCC 773.

⁷ *Lalita Kumari v. Government of U.P.* (2014) 2 SCC 1.

⁸ *Ibid.*



information regarding commission of a cognizable offence, whether received orally or in writing, into writing and into the book separately prescribed by the Provincial government for recording such first information.

31. As such, a significant change that took place by way of the 1898 Code was with respect to the placement of Section 154, i.e., the provision imposing requirement of recording the first information regarding commission of a cognizable offence in the special book prior to Section 156, i.e., the provision empowering the police officer to investigate a cognizable offence. As such, the objective of such placement of provisions was clear which was to ensure that the recording of the first information should be the starting point of any investigation by the police. In the interest of expediency of investigation since there was no safeguard of obtaining permission from the Magistrate to commence an investigation, the said procedure of recording first information in their books along with the signature/seal of the informant, would act as an "extremely valuable safeguard" against the excessive, mala fide and illegal exercise of investigative powers by the police."

B. Evolution of provision of FIR under the Code of Criminal Procedure.

2.4. Historical background of the section 154 of the Code seems to represent the following stages from 1861 to 2013:

1. Code of Criminal Procedure, 1861

"139.Complaint etc., to be in writing. - Every complaint or information preferred to an officer in charge of a police station, shall be reduced into writing and the substance thereof shall be entered in a diary to be kept by such officer, in such form as shall be prescribed by the local Government."

2. Code of Criminal Procedure, 1872

"112. Complaint to police to be in writing. - Every complaint preferred to an officer in charge of a police station, shall be reduced into writing, and shall be signed, sealed or marked by the person making it; and the substance thereof shall be entered in a book to be



kept by such officer in the form prescribed by the local Government.”⁹

3. **Code of Criminal Procedure, 1882**

“154. Information is cognizable cases. - Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a Police-station, shall be reduced to writing by him, or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such form as the Local Government may prescribe in this behalf.”

4. **Code of Criminal Procedure, 1898**

“154. Information is cognizable cases. - Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.”

- 2.5. Post-Independence, the Parliament of India restructured the Criminal Procedure Code and provided for the provision relating to registration of FIR under Section 154 of the new Code i.e., the Code of Criminal Procedure, 1973 which was further amended by the Criminal Law (Amendment) Act, 2013 and reads as follows:

5. **Code of Criminal Procedure, 1973**

“154. Information in cognizable cases- (1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to

⁹ The Code of Criminal Procedure (Act No. X of 1872), s. 112.

writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be video graphed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence."

C. *Advantages and Importance of Section 154*

- 2.6. The obligation to register FIR has inherent advantages and it is emphasized in para 88 of the judgment in *Lalita Kumari case*¹⁰ as under:

*“(a) It is the first step to ‘access to justice’ for a victim.
(b) It upholds the ‘Rule of Law’ in as much as the ordinary person bring forth the commission of a cognizable crime in the knowledge of the State.
(c) It also facilitates swift investigation and sometimes even prevention of the crime. In both cases, it only effectuates the regime of law.
(d) It leads to less manipulation in criminal cases and lessens incidents of ‘ante-dates’ FIR or deliberately delayed FIR.”*

D. *Some other provisions in the Code w.r.t. FIR*

- 2.7. It is essential to have a look at some of the provisions which relate to FIR, the definitions as given under Section 2 of the Code of Criminal Procedure, 1973 are enumerated as under:

“Cognizable Offence” means an offence for which, and “cognizable case” means a case in which, a Police Officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant.”¹¹

“Non-Cognizable Offence means an offence for which, and “non-cognizable case” means a case in which, a Police Officer has no authority to arrest without warrant.”¹²

- 2.8. Section 155 of the Code deals with information as to non-cognizable cases and investigation of such cases which reads as under:

“155. Information as to non-cognizable cases and investigation of such cases. —

(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in

¹⁰ (2014) 2 SCC 1.

¹¹ The Code of Criminal Procedure, s. 2(c).

¹² *Id.* s. 2(l).

such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable."



3. DEMAND FOR REGISTRATION OF E-FIR

A. *Reports of Commissions and Committees:*

- 3.1. Second Administrative Reform Commission was constituted in 2005 to prepare a detailed blueprint for revamping the public administration system. The Commission, *inter alia*, examined the issue of promoting e-governance. The Commission was of the view that a clear road map with a set of milestones should be outlined by Government of India with the ultimate objective of transforming the citizen-government interaction at all levels to the e-Governance mode by 2020. The Commission also outlined the benefits of e-Governance. Para 2.5 of its 11th Report¹³ reads as under:

“2.5 Benefits of e-Governance:

2.5.1 In the end, e-Governance is about reform in governance, facilitated by the creative use of Information and Communications Technology. It is expected that this would lead to:

i. Better access to information and quality services for citizens: ICT would make available timely and reliable information on various aspects of governance. In the initial phase, information would be made available with respect to simple aspects of governance such as forms, laws, rules, procedures etc later extending to detailed information including reports (including performance reports), public database, decision making processes etc. As regards services, there would be an immediate impact in terms of savings in time, effort and money, resulting from online and one-point accessibility of public services backed up by automation of back end processes. The ultimate objective of e-Governance is to reach out to citizens by adopting a life-cycle approach i.e. providing public services to citizens which would be required right from birth to death.

ii. Simplicity, efficiency and accountability in the government: Application of ICT to governance combined with detailed business process reengineering would lead to simplification of complicated processes, weeding out of redundant processes, simplification in structures and changes in statutes and regulations. The end result would be simplification of the functioning of government, enhanced

¹³ Second Administrative Reforms Commission, Government of India, “11th Report on Promoting e-Governance: The Smart Way Forward” 12 (Department of Administrative Reforms and Public Grievances, December 2008).

decision-making abilities and increased efficiency across government – all contributing to an overall environment of a more accountable government machinery. This, in turn, would result in enhanced productivity and efficiency in all sectors.

iii. Expanded reach of governance: Rapid growth of communications technology and its adoption in governance would help in bringing government machinery to the doorsteps of the citizens. Expansion of telephone network, rapid strides in mobile telephony, spread of internet and strengthening of other communications infrastructure would facilitate delivery of a large number of services provided by the government. This enhancement of the reach of government – both spatial and demographic – would also enable better participation of citizens in the process of governance.”

- 3.2. The Second Administrative Reform Commission, in its 12th Report¹⁴ made an observation on Centralized Public Grievances Redress and Monitoring System (CPGRAMS) as under:

“7.5.1 The Department of Administrative Reforms and Public Grievances launched the CPGRAMS in 2007 for receiving, redressing and monitoring of grievances from the public. CPGRAMS provides the facility to lodge a grievance ‘online’ from any geographical location. It enables the citizen to track online his/her grievance being followed up with departments concerned and also enables the DARPG to monitor the grievance. CPGRAMS is a web enabled application and can be accessed by Ministries/Departments/Organizations through a PC using an internet connection and an internet browser. The citizen can access the system online through the portal www.pgportal.nic.in. As the system developed has been recently launched, its efficacy and response by other Ministries/Departments is yet to be tested. However, the system is an excellent use of modern technology.

7.5.2 The Commission is of the view that a similar system should be installed at the State and district levels because a decentralized system would benefit a larger number of citizens on the one hand and would also help in improving the effectiveness of field offices on the other. Similar concepts have already been tried in several States, for example, the Lokvani in Uttar Pradesh.”

¹⁴ Second Administrative Reforms Commission, Government of India, “12th Report on Citizen Centric Administration” 81 (Department of Administrative Reforms & Public Grievances, February 2009).

- 3.3. Further, the Second Administrative Reform Commission in its 5th Report¹⁵ recommended regarding registration of FIR and also reiterated the recommendations made by the National Police Commission (1980) as under:

“7.5.1.11 Recommendations:

a. Registration of FIRs should be made totally citizen friendly. Technology should be used to improve the accessibility of police stations to the public. Establishing call centers and public kiosks are possible options in this regard.

b. Police stations should be equipped with CCTV cameras in order to prevent malpractice, ensure transparency and make the police more citizen-friendly. This could be implemented in all police stations within a time frame of five years.

c. Amendments to the CrPC should be made as suggested by the National Police Commission.

d. The performance of police stations should be assessed on the basis of the cases successfully detected and prosecuted and not on the number of cases registered. This is necessary to eliminate the widely prevalent malpractice of ‘burking’ of cases.

7.5.1.4 The Commission is of the view that since registering the FIR is the first step in the criminal justice system and unless shortcomings in the registration procedure are set right, other reforms particularly in the subsequent stages would have limited impact. Therefore, a system has to be evolved in which registration of FIRs is totally transparent and instances of refusal to register FIRs are eliminated.

7.5.1.9 As noted by the National Police Commission (NPC) (1980), FIRs have drawn a number of court rulings that have tended to give undue importance to the omission of any salient fact in the FIR even if such omission was due to the disturbed or confused state of mind of the complainant. As a result, according to the NPC, police officers resort to the malpractice of delaying the FIR in order to obtain additional details because of the inordinate evidentiary value placed by the courts on the FIR. The NPC therefore recommended the following amendments in Section 154 Cr.P.C to remedy the situation:

- Police should be allowed to query the informant to obtain additional details and clarifications;*

¹⁵ Second Administrative Reforms Commission, Government of India, “5th Report on Public Order” 172 (Department of Administrative Reforms & Public Grievances, June 2007).

- *Make it clear that registration of FIR is mandatory, whether or not the alleged offence has taken place within the jurisdiction of the police station; and*
- *Allow constituent units of the police station such as police outposts etc. to also record FIRs."*

3.4. The Law Commission of India, in its 239th Report¹⁶ titled 'Expeditious Investigation and Trial of Criminal Cases against Influential Public Personalities', (submitted in March 2012) mentioned two important steps for speeding up the criminal justice which are as under:

- "(a) Deployment of technology at the level of police stations.*
- (b) Strengthening Criminal Courts' infrastructure and upgrading facilities and amenities therein.*

These steps have to be taken up in a phased manner after due planning.

A. Deployment of technology at the Police Stations: (a) *Recording of FIRs: It is found that many of the acquittals are due to the delay, ante timing and absence of the necessary details of the incident in the FIRs. This one single factor can be eliminated by providing for compulsory and automatic recording of all landlines provided in the Police Stations. There should also be a provision for automatic relay of the telephone conversation between the caller and Police Station operator to all the Patrol vehicles of the police deployed in the area to reduce the response time of police. The patrol vehicles should also have connectivity with the police net for knowing the antecedents of the suspects/vehicles/documents etc. on the spot and instantly. FIRs shall be recorded on the computer and they shall be instantly sent to the Magistrates' Courts by e-mail. The practice of sending FIR through e-mail should be legally recognized. Similarly, section 161 statements should also be placed on the computer and posted on the website of the concerned court.* (b) *Police Stations: Modernization:* (i) *Networking of all police stations to establish a link with all the courts:* (ii) *Digital videography to be installed at police stations. At the time of receiving FIR/complaint, videography should be made compulsory. By this process, the earliest version of the informant will be evident. So also, at the time of inspection of the scene of offence and recovery of material objects, videography should be*

¹⁶ Law Commission of India, "239th Report on Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities" 31 (March, 2012).

insisted upon. (iii) Interrogation Rooms: Each Police Station should be provided with secure interrogation rooms, with simultaneous audio-visual recording facilities by two cameras, one focusing on the close-up of the face of the witness or the suspect and the second giving a wide angled picture to show that there is no coercion to influence the statement of the witness or the suspect. Statement of all suspects and witnesses should, by law, be required to be recorded in such windowless interrogation rooms with mirrors on the two walls. The question of treating as admissible the statements of the accused and witnesses examined in secure interrogation rooms deserve serious consideration."

- 3.5. The Report of the Committee on Amendments to Criminal Law headed by Justice J.S. Verma¹⁷ while examining 'Filing and Registration of Complaints' recommended the following:

"(a) This Committee recommends that the guidelines issued for the police by the High Court of Delhi in Delhi Commission for Women v. Lalit Pandey and Another, must be mandatory and immediately followed in relation to all sexual offence complaints across the country. This is as per Standing Order No. 303/2010 issued by the Delhi Police in the Guidelines to be followed by the Police whilst investigating cases of Rape.

Of these, the guideline that the duty officer, immediately, upon receipt of the complaint/ information must intimate the "Rape Crises Cell" on its notified helpline number is especially important. The Rape Crisis Cell must then send to the complainant an appropriately qualified person to provide legal assistance in the filing of the FIR and to provide counseling to the complainant.

(b) All police stations should have CCTVs at the entrance of the police station, in police cells and in the questioning room. All PCR vans should also contain CCTV's.

The CCTV's must not be tampered with and every month an independent expert should ensure that the CCTV footage has not been tampered with. This is an additional method to ensure safety in police stations and that proper procedure is followed in handling complaints, the recording and filing of FIR's and in treatment of those in police custody. We understand that this may not be possible

¹⁷Government of India, "Report of the Committee on Amendments to Criminal Law" 331 (Government of India, 23 January 2013).

in all rural areas but feel that where possible CCTV's should be installed.

(c) In addition to every individual being able to register an FIR at any police station irrespective of the jurisdiction in which the crime was complained of in writing, every individual must also be able to register his complaint online on a designated website. After this a complaint number should be automatically generated so the complainant can track the FIR.

The same complaint would then be generated at the nearest police station and a copy would also be provided to an ombudsman office located in every district. It will still be the case that an FIR cannot be registered anonymously and the individual who has registered an FIR online will then have to go to any police station to verify his identity and the FIR. The Delhi Police already have the facility for online registration and tracking of FIR. Something of this nature must be replicated and made operational across the country. The FIR should also be recorded on a national online database for ready accessibility by the complainant."

3.6. Department-Related Parliamentary Standing Committees¹⁸, Malimath Committee¹⁹ and National Police Commission²⁰ while considering issues pertaining to complainants on Sexual violence and other complainants observed that complainants are treated indifferently by police and sometimes harassed when they go to them with their grievances. In this regard the following recommendations are made as under:

a. Department-Related Parliamentary Standing Committee on Home Affairs in its 167th Report on the Criminal Law (Amendment) Bill, 2012²¹ recommended as under:

"5.36.2 The Committee feels that registration of FIRs should be made mandatory. The Committee is of the strong view that strict action should be taken for dereliction of duty against the officer, who

¹⁸ Government of India, "167th Department-Related Parliamentary Standing Committee on Home Affairs" 48 (Rajya Sabha, March 2013).

¹⁹ Government of India, "Committee on Reforms of Criminal Justice System" 78 (Ministry of Home Affairs, March 2003).

²⁰ Government of India, "4th Report of National Police Commission" 4 (National Police Commission, 1980).

²¹ Government of India, "167th Department-Related Parliamentary Standing Committee on Home Affairs" 48 (Rajya Sabha, March 2013).

refuses to receive complaints on Sexual violence. The Committee also recommends that once the FIR is lodged, it must be passed on to the higher police officer for information and necessary direction in the matter to ensure time bound investigation. The Committee further recommends that investigation should be done within a period of 60 days, and charge sheet should be filed in time so that justice is not denied."

- b.** Department-Related Parliamentary Standing Committee on Home Affairs in its 189th Report²² examined the problems in registration of FIRs and recommended that the resilient mechanism should be evolved so that all FIRs are registered. The committee also reiterated its recommendations made in 167th Report in respect of registration of FIRs.
- c.** As regards Complaints, the Malimath Committee²³ while examining the criminal justice system observed as under:

"6.7.5 Complainants say that they are treated indifferently by police and sometimes harassed when they go to them with their grievances. There are complaints that the police do not truthfully record the information but distort facts as found convenient to them. Cognizable cases are made non-cognizable and vice versa. Complainants are sometimes made the accused and investigations initiated accordingly. Though these are unauthorized by the law and are rare, yet whenever it happens the victim gets disillusioned and alienated from the system itself."

16.7 FIRST INFORMATION REPORT

16.7.1 It is a matter of common knowledge that women in India are quite reluctant to disclose even to their dear and near ones that they were victims of rape partly because of the shame, apprehension of being misunderstood and fear of consequences besides her deeply traumatized and confused state of mind. This often contributes to

²² Government of India, "189th Report on Action Taken by the Government on the Recommendations/Observations contained in the 176th Report on the Functioning of Delhi Police" 9 (Rajya Sabha, December 2015).

²³ Government of India, "Committee on Reforms of Criminal Justice System" 78 (Ministry of Home Affairs, March 2003).

delay in lodging FIR. Unexplained delay in submitting the FIR often proves fatal to the prosecution. The Committee therefore suggests that a suitable provision be incorporated in the Code fixing a reasonable period for presenting FIR in such cases."

- d. The National Police Commission²⁴ examined various police reforms including provisions of Code of Criminal Procedure, 1973. Para 27.6 of the 4th Report the National Police Commission proposed to amend section 154 as under:

"Section 154 CrPC may be amended to-

Enable the officer in-charge of police station to ascertain adequate information from a complainant and incorporate it in the form prescribed for registering First-Information Report;

Make it clear that the registration of First-Information Report is mandatory whether or not the alleged offence has taken place in the jurisdiction of the police station; and

Facilitate the recording of First-Information Report in constituent units attached to the police station- for example; police out of post or such other reporting centers as may be evolved in due course. (Para 27.6)"

- e. Further, Padmanabhiah Committee on police reforms was of the view that the present classification of offences into cognizable and non-cognizable made 150 years ago is not very relevant today.²⁵

B. Difference between Complaint and FIR.

- 3.7. '**Complaint**'²⁶ as defined under Section 2(d) of the Code of Criminal Procedure, 1973 reads as under:

"(d) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Explanation. —*A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable*

²⁴ Government of India, "4th Report of National Police Commission" (National Police Commission, 1980).

²⁵ Government of India, "Padmanabhiah Committee Report on Police Reforms" (Ministry of Home Affairs, January 2000).

²⁶ The Code of Criminal Procedure, 1973, s. 2(d).

offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant."

- 3.8. 'FIR' has not been defined as such anywhere except that 'Information' relating to cognizable offences finds a mention under Section 154(1) of the Code of Criminal procedure, 1973 and reads as under:

"154. Information in cognizable cases²⁷.—(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

[Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, 2[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB], section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, 1[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB], section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be video graphed;

²⁷The Code of Criminal Procedure, 1973, s. 154.

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.]

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence."

3.9. Thus, any information about a cognizable offence, oral or written, has to be entered by the officer in charge of a police station in a book meant for the purpose. This information, which is also signed by the informant, is known as the First Information Report, or FIR.

3.10. Also, Complaint is different from FIR in the sense that Complaint is cogent yet lucid, accurate, yet legal, but FIR is more of a technical document which is prepared by the police known as TEHRIR which involves the terms from the Criminal Codes and hence intervention of police cannot be avoided wherever there arises a need to register an FIR.

3.11. Moreover, as suggested by the BPR&D in their letter, the online complaint may be converted into FIR by SHO based on enquiry report submitted by Enquiry Officer (EO).²⁸

²⁸ Letter No. 32/31/2022-RD (E-14061) received from the Bureau of Police Research & Development dated 22nd May, 2023.

4. E-GOVERNANCE INITIATIVE OF THE GOVERNMENT

A. *Introduction of CCTNS.*

- 4.1. The Digital India Program of the Government of India was initiated with a vision to transform India into a digitally empowered society and knowledge economy. The main thrust for e-Governance was provided by the launching of NICNET in 1987 – the national satellite-based computer network. The E-Governance initiatives took a broader dimension in the mid-1990s for wider sectoral applications with emphasis on citizen-centric services. In the ensuing years, with ongoing computerization, tele-connectivity and internet connectivity established a large number of e-Governance initiatives, both at the Union and State levels.²⁹
- 4.2. Common Integrated Police Application (CIPA) project was introduced in 2004-05 which aimed at digitization of crime and criminal records on a standalone basis taking police station as a unit. It was felt that there is a need for inter-linking all Police Stations in the country for aiding investigation and for providing citizen services that involve verification of antecedents, which cannot be achieved unless data is shared across the board and aggregated centrally. Hence, Crime and Criminal Tracking Network and Systems (CCTNS) project was started in 2009. CCTNS is a mission mode project under the National e-Governance Plan of Government of India and aims at creating a comprehensive and integrated system for enhancing the efficiency and effectiveness of policing through adopting of principle of e-Governance and creation of a nationwide networking infrastructure for evolution of IT-enabled-state-of-the-art tracking system around 'Investigation of crime and detection of criminals'. The overall vision of project CCTNS is to create - A State-of-

²⁹ Introduction, Digital India, Government of India, available at <https://digitalindia.gov.in/introduction/> (last visited on 13th July 2023).

Art System that allows access to real-time crime and criminal information to all stakeholders.³⁰

4.3. Objectives of CCTNS³¹:

- a. Achieve computerization of Police Processes (FIRs, Investigations, Challans)
- b. Provide pan India search on National database of Crime & Criminal records.
- c. Generate Crime and Criminal reports at State and Center.
- d. Provide Citizen Centric Police Services via a web portal.
- e. Sharing of Crime and Criminal data among Police Stations, Courts, Prisons, Forensics and Prosecution for more effective justice delivery.
- f. Providing enhanced tools for crime investigation, crime prevention, law and order maintenance and other functions such as traffic management, emergency response etc.
- g. Increasing operational efficiency by reducing redundancy in processes through their streamlining and standardization, increasing communication by providing access to and availability of additional communication modes such as police messaging, email, mobile telephony etc., automating back office functions such as information collection, MIS, workflows etc.
- h. Creating national platform to share information and intelligence.

4.4. Benefits of CCTNS³²:

The following are the benefits envisaged from successful implementation of the CCTNS:

³⁰ CCTNS, Women Safety Division, Ministry of Home Affairs, Government of India, *available at* <https://www.mha.gov.in/en/divisionofmha/women-safety-division/cctns> (last visited on 13th July 2023).

³¹ CCTNS Project Brief and Status, Ministry of Home Affairs, Government of India, *available at* <https://www.mha.gov.in/en/divisionofmha/women-safety-division/cctns> (last visited on 13th July 2023).

³² CCTNS, National Crime Records Bureau, Ministry of Home Affairs, Government of India, *available at* <https://ncrb.gov.in/en/crime-and-criminal-tracking-network-systems-cctns> (last visited on 13th July 2023).

a) Benefits to Police Department

- i. Enhanced tools for investigation.
- ii. Centralized crime and criminal information repository along with the criminal images and fingerprints with advanced search capabilities.
- iii. Enhanced ability to analyze crime patterns and/ or modus operandi
- iv. Enhanced ability to analyze road incidents and other accidents.
- v. Faster turnaround time for the analysis results (criminal and traffic) to reach the officers on the field.
- vi. Reduced workload for the police stations back-office activities such as preparation of regular and ad-hoc reports and station records management.
- vii. A collaborative knowledge-oriented environment where knowledge is shared across different regions and units.
- viii. Better co-ordination and communication with external stakeholders through implementation of electronic information exchange systems.

b) Benefits to Citizens

- i. Multiple channels to access services from police.
- ii. Simplified process for registering petitions.
- iii. Simplified process for accessing general services such as requests for certificates, verifications, and permissions.
- iv. Simplified process and accurate means of tracking the progress of the case during trials.
- v. Simplified and accurate access to view/report unclaimed/recovered vehicles and property.
- vi. Simplified process and channel for grievance registration.
- vii. Improved relationship management for victims and witnesses.
- viii. Faster and assured response from police to any emergency calls for assistance.

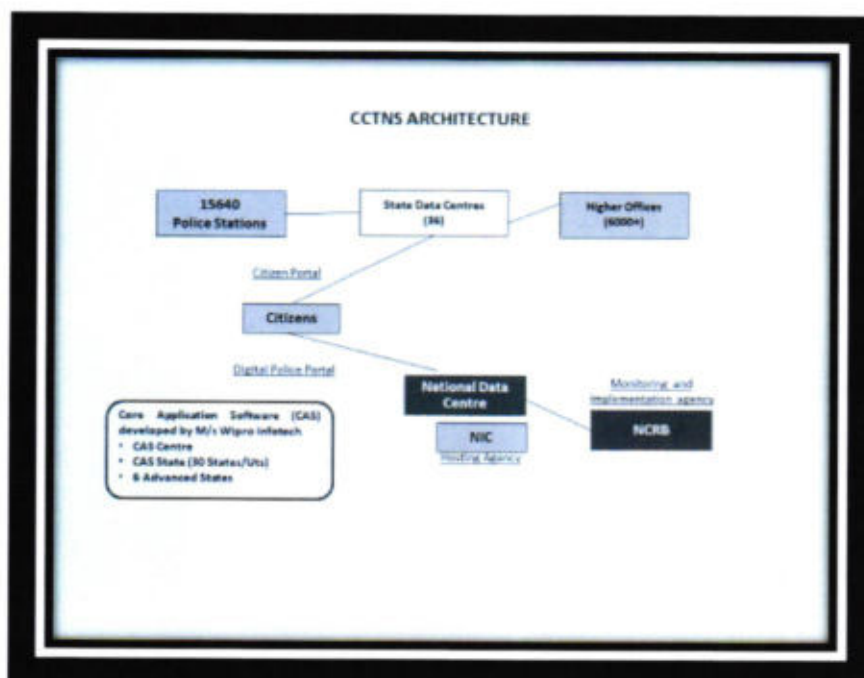


c) Benefits to external departments

- i. Seamless integration with police systems for better citizen service delivery and improved law enforcement.
- ii. Quick exchange of accurate information with the police department.

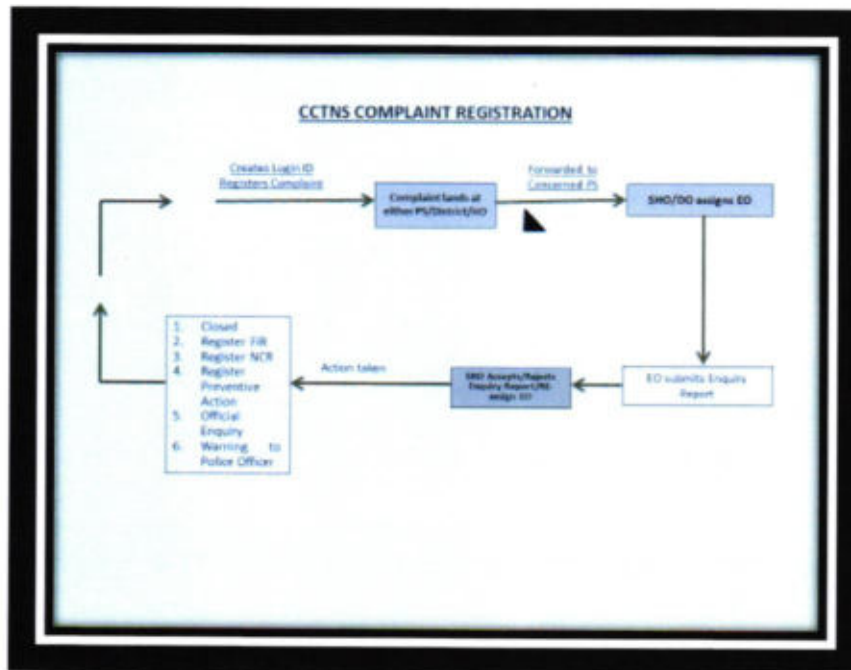
In *Youth Bar Assn. of India v. Union of India*³³, online filing of complaints under the project 'Crime & Criminal Tracking Network & Systems (CCTNS)' was discussed wherein it was submitted by Mr. Tushar Mehta, learned Additional Solicitor General appearing for the Union of India, that the Central Government is supporting all the States to set up a mechanism for online filing of complaints under the project 'Crime & Criminal Tracking Network & Systems (CCTNS)'.

B. CCTNS ARCHITECTURE



³³ AIR 2016 SC 4136.

C. CCTNS COMPLAINT REGISTRATION PROCESS



D. Present Status of Implementation of CCTNS³⁴

- 4.5. The following figures illustrate the status related to CCTNS Software and its usage. The first figure deals with CCTNS Software deployment at Police Stations, the second one with Police Stations connected to State Data Centre (SDC), and the third with Police Stations entering 100% FIR in CCTNS.

³⁴Dr. Prashun Gupta & Narendra Kumar Koli, "Project Management of CCTNS" 1 *NCRB Journal* 80 (November 2022).

Figure 1: CCTNS Software deployment at Police Stations³⁵

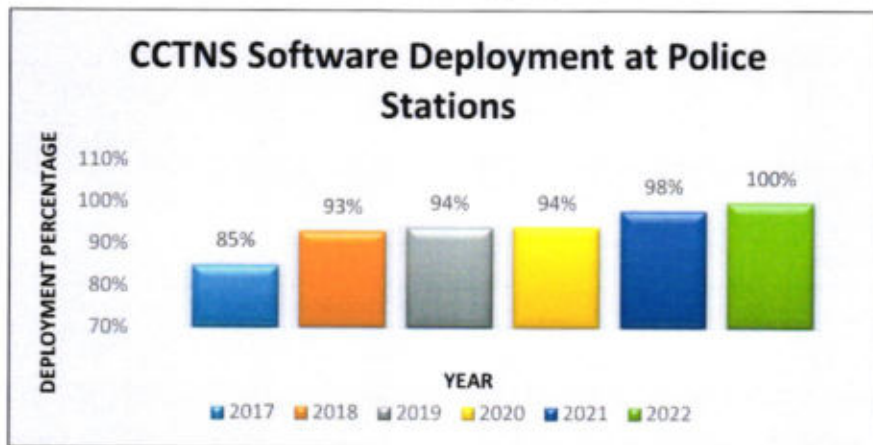


Figure 2: Police Stations connected to State Data Centre (SDC)³⁶

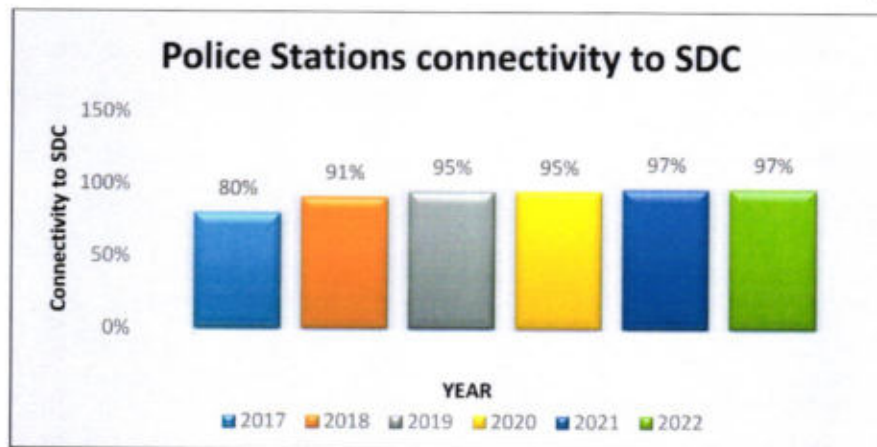
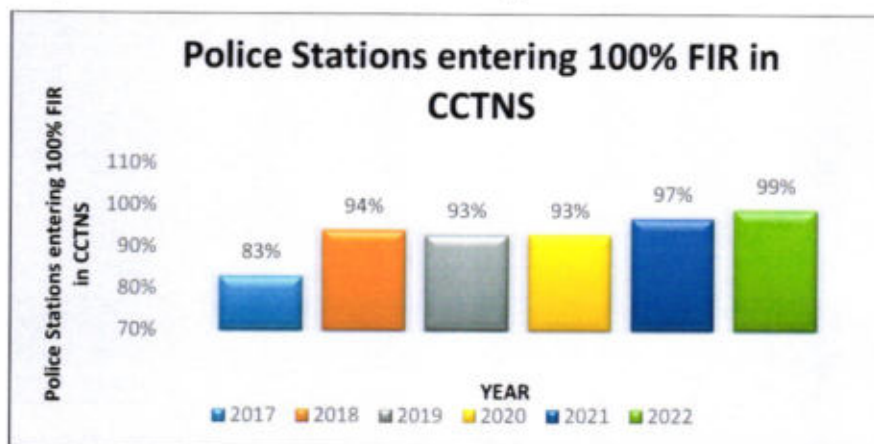


Figure 3: Police Stations entering 100% FIR in CCTNS³⁷



³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

4.6. As per the NCRB data dated 31st August 2018, following Mobile Applications have been developed in the states for citizens and Police:

- a. Complaint Registration (Telangana, Jharkhand, HP, Puducherry, J&K Tamil Nadu, MP, Maharashtra, J&K)
- b. Online lodging of FIR for Motor Vehicle Theft and Property Theft (Delhi, Chhattisgarh, UP)
- c. Track Missing child/Person (HP, Andhra Pradesh, Chhattisgarh, Delhi)
- d. Un-Identified Dead Body Matching (Chhattisgarh, Andhra Pradesh, Maharashtra, MP)
- e. Citizen Tip (Maharashtra, MP)
- f. Citizen Help App and e-FIR - Uttar Pradesh Gujarat, MP)

E. *Lodging of e-FIR on web portal of States.*

- 4.7. As per the correspondence dated 22nd May 2023³⁸, the Bureau of Police Research & Development has informed the Law Commission of India that eight States (Delhi, Gujarat, Karnataka, Madhya Pradesh, Odisha, Rajasthan, Uttar Pradesh, and Uttarakhand) have implemented registration of e-FIR under the CCTNS Project of the NCRB. Source Code, both in Java & Microsoft stacks, along with SOPs of e-FIR module are made available under the Nodal Officer section of the NCRB website. As police is a state subject, the States/UTs were informed and requested to download and implement the e-FIR module.
- 4.8. However, the registration of the online complaint facility is available in all the States/UT on their State Citizen Portal developed under CCTNS Project.³⁹

³⁸ Letter No. 32/31/2022-RD (E-14061) received from the Bureau of Police Research & Development dated 22nd May, 2023.

³⁹ *Ibid.*

5. RELEVANT JUDICIAL PRONOUNCEMENTS ON REGISTRATION OF FIR

A. *Youth Bar Association v. Union of India*⁴⁰

- 5.1. In *Youth Bar Association of India v. Union of India*, the Hon'ble Supreme Court while issuing directions to the States to upload each and every FIR registered in all the Police Stations within the territory of India in their official website, *inter alia* issued the following directions:

“

11.1 *An accused is entitled to get a copy of the First Information Report at an earlier stage than as prescribed under Section 207 of the CrPC.*

11.2 *An accused who has reasons to suspect that he has been roped in a criminal case and his name may be finding place in a First Information Report can submit an application through his representative/agent/parokar for grant of a certified copy before the concerned police officer or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the Court. On such application being made, the copy shall be supplied within twenty-four hours.*

11.3 *Once the First Information Report is forwarded by the police station to the concerned Magistrate or any Special Judge, on an application being filed for certified copy on behalf of the accused, the same shall be given by the Court concerned within two working days. The aforesaid direction has nothing to do with the statutory mandate inhered under Section 207 of the CrPC.*

11.4 *The copies of the FIR, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under POCSO Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the First Information Report so that the accused or any person connected with the same can download the FIR and file appropriate application before the Court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical*

⁴⁰ AIR 2016 SC 4136.

location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be extended maximum up to 72 hours and it is only relatable to connectivity problems to geographical location.

11.5 The decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. In case, the States where District Magistrate has a role, he may also assume the said authority. A decision taken by the concerned police officer or the District Magistrate shall be duly communicated to the concerned jurisdictional Magistrate.

11.6 The word 'sensitive' apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy regard being had to the nature of the FIR. The examples given with regard to the sensitive cases are absolutely illustrative and are not exhaustive.

11.7 If an FIR is not uploaded, needless to say, it shall not ensure per se a ground to obtain the benefit under section 438 of the CrPC.

11.8 In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation to the Superintendent of Police or any person holding the equivalent post in the State. The Superintendent of Police shall constitute a committee of three officers which shall deal with the said grievance. As far as the Metropolitan cities are concerned, where Commissioner is there, if a representation is submitted to the Commissioner of Police who shall constitute a committee of three officers. The committee so constituted shall deal with the grievance within three days from the date of receipt of the representation and communicate it to the grieved person.

11.9 The competent authority referred to hereinabove shall constitute the committee, as directed herein-above, within eight weeks from today.

11.10 In cases where in decisions have been taken not to give copies of the FIR regard being had to the sensitive nature of the case, it will be open to the accused/his authorized representative/parokar to file an application for grant of certified copy before the Court to which the FIR has been sent and the same shall be provided in quite

promptitude by the concerned Court not beyond three days of the submission of the application.

11.11 The directions for uploading of FIR in the website of all the States shall be given effect from 15-11-2016."

B. *Lalita Kumari v. Govt. of Uttar Pradesh*⁴¹

5.2. In this case, the Hon'ble Supreme Court while allowing preliminary enquiry before registration of FIR in certain cases, held that:

"v. The scope of preliminary enquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

vi. As to what type and in which cases preliminary enquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary enquiry 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 three-month 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 enquiry.

vii. While ensuring and protecting the rights of the accused and the complainant, a preliminary enquiry 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."

C. *Court on its Own Motion v. State*⁴²

5.3. In *Court on its Own Motion v. State*, the Division Bench of Delhi High Court dealt with the issue of entitlement of an accused to have a copy of FIR and held that FIR is a public document as defined under section 74 of the IEA and fair and impartial investigation is a facet of Art. 21 of the Constitution of India and presumption as regards the innocence of an

⁴¹ (2014) 2 SCC 1.

⁴² 2011 CrLJ 1347.

accused is a human right. Therefore, a person who is booked under criminal law has a right to know the nature of allegations so that he can take necessary steps to safeguard his liberty. It is imperative in a country governed by Rule of Law. The court held as under:

“(A) An accused is entitled to get a copy of the First Information Report at an earlier stage than as prescribed under section 207 of the CrPC.

(B) An accused who has reasons to suspect that he has been roped in a criminal case and his name may be finding place in a First Information Report can submit an application through his representative/agent/parokar for grant of a certified copy before the concerned police officer or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the Court. On such application being made, the copy shall be supplied within twenty-four hours.

(C) Once the First Information Report is forwarded by the police station to the concerned Magistrate or any Special Judge, on an application being filed for certified copy on behalf of the accused, the same shall be given by the Court concerned within two working days. The aforesaid direction has nothing to do with the statutory mandate inhered under section 207 of the CrPC.

(D) The copies of the FIR, unless reasons recorded regard being had to the nature of the offence that the same is sensitive in nature, should be uploaded on the Delhi Police website within twenty-four hours of lodging of the FIR so that the accused or any person connected with the same can download the FIR and file appropriate application before the Court as per law for redressal of his grievances.

(E) The decision not to upload the copy of the FIR on the website of Delhi Police shall not be taken by an officer below the rank of Deputy Commissioner of Police and that too by way of a speaking order. A decision so taken by the Deputy Commissioner of Police shall also be duly communicated to the Area magistrate.

(F) The word ‘sensitive’ apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy regard being had to the nature of the FIR.

(G) In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation with the Commissioner of Police who shall constitute a committee of three high officers and the committee shall deal with the said grievance within three days from the date of receipt of the representation and communicate it to the grieved person.

(H) The Commissioner of Police shall constitute the committee within eight weeks from today.

(I) In cases wherein decisions have been taken not to give copies of the FIR regard being had to the sensitive nature of the case, it will be open to the accused/his authorized representative/parokar to file an application for grant of certified copy before the Court to which the FIR has been sent and the same shall be provided in quite promptitude by the concerned Court not beyond three days of the submission of the application.

(J) The directions for uploading the FIR on the website of the Delhi Police shall be given effect from 1st February, 2011."

D. *Tajinder Singh & Anr. v. Union of India & Ors.*⁴³

- 5.4. The court in this case dismissed the petition praying for a policy decision to be taken by the respondents for lodging e-FIR against both cognizable and non-cognizable offences and resisted in expanding the scope of e-FIR for all offences by saying that,

"For several types of offences, e-FIR is already permitted by the respondents, but we do not want to allow e-FIR to be filed in all type of offences."

- 5.5. The court in this petition further observed that:

"It ought to be kept in mind that in all cases e-FIR cannot be permitted mainly for the reason that sometimes a victim who has to file an FIR may not be aware of the fine niceties and therefore the ingredients of the offences may not be incorporated in e-FIR. If at

⁴³ *Tajinder Singh & Ors. v. Union of India* 2019 SCC Online Del 12143.

all it is permitted, in that eventuality if in any proceedings initiated by the accused under the inherent powers of the High Court, the same is granted on account of any such infirmity, the very purpose of lodging of an FIR will be frustrated. There can be e-FIR for such other type of cases for which e-FIR is not permissible as per policy decision taken by the respondents.”

E. *Arnesh Kumar v. State of Bihar and Another*⁴⁴

5.6. The Hon'ble Supreme Court in this case allowed the appeal and issued detailed directions on the exercise of power of arrest and held that:

“5. Arrest brings humiliation, curtails freedom and casts scars forever. Lawmakers know it so also the police....

6... no arrest should be made only because the offence is non-bailable and cognizable and therefore, lawful for the police officers to do so. The existence of the power to arrest is one thing, the justification, for the exercise of it is quite another. Apart from power to arrest, the police officers must be able to justify the reasons thereof. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent and wise for a police officer that no arrest is made without a reasonable satisfaction reached after some investigation as to the genuineness of the allegation...

7. ...

41. When police may arrest without warrant. — (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

*(a) * * * * *;*

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely: —

*(i) * * * * *;*

(ii) the police officer is satisfied that such arrest is necessary—

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

⁴⁴ (2014) 8 SCC 273.

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or
(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,
and the police officer shall record while making such arrest, his reasons in writing:

Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest;

7.1 From a plain reading of the aforesaid provision, it is evident that a person accused of offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on its satisfaction that such person had committed the offence punishable as aforesaid. A Police officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the Court or the police officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts.

7.2 The law mandates the police officer to state the facts and record the reasons in writing which led him to come to a conclusion covered by any of the provisions aforesaid, while making such arrest. The Law further requires the police officers to record the reasons in writing for not making the arrest. ...”

- 5.7. In order to ensure that the accused are not arrested unnecessarily and Magistrates do not authorize detention casually and mechanically, the Hon’ble Supreme Court gave the following directions:

“... ”

11.1 All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is

registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, CrPC;

11.2 All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);

11.3 The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4 The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;

11.5 The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from c the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

11.6 Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

11.7 Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

11.8 Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court."

5.8. The court also added that

*"...the directions aforesaid shall **not only** apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, **but also** such cases where offence is punishable with imprisonment for a term which may be less than*

seven years or which may extend to seven years; whether with or without fine.” (emphasis in original)

F. *Satender Kumar Antil v. Central Bureau of Investigation and Another*⁴⁵

- 5.9. In the case of *Satender Kumar Antil v. Central Bureau of Investigation and Another* (2022)⁴⁶, the Hon’ble Supreme Court while reiterating the provisions related to arrest under the CrPC, discussed the intention of the Parliament as follows-

“20. The Code of Criminal Procedure, despite being a procedural law, is enacted on the inviolable right enshrined under Article 21 and 22 of the Constitution of India. The provisions governing clearly exhibited the aforesaid intendment of the Parliament.

21. Though the word ‘bail’ has not been defined as aforesaid, Section 2A defines a bailable and non-bailable offense. A non-bailable offense is a cognizable offense enabling the police officer to arrest without a warrant. To exercise the said power, the Code introduces certain embargoes by way of restrictions.”

“24. This provision mandates the police officer to record his reasons in writing while making the arrest. Thus, a police officer is duty-bound to record the reasons for arrest in writing. Similarly, the police officer shall record reasons when he/she chooses not to arrest. There is no requirement of the aforesaid procedure when the offense alleged is more than seven years, among other reasons.”

- 5.10. On the scope and objective of Section 41 and 41A, the Hon’ble Supreme Court held that they are obviously facets of Article 21 of the Constitution and reiterated its judgment in *Arnesh Kumar v. State of Bihar*⁴⁷ and held that the directions given in the aforesaid case ought to be complied with in letter and spirit by the investigating and prosecuting agencies and that,

⁴⁵ (2022) 10 SCC 51.

⁴⁶ *Ibid.*

⁴⁷ (2014) 8 SCC 273.

“...the directions aforesaid shall not only apply to the cases under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine.”



6. CONCLUSION

- 6.1. Police (including railway police and village police), subject to the provisions of Entry 2A of List I (Union List), falls under Entry 2 of List-II (State List) of the Seventh Schedule of the Constitution of India.⁴⁸ Police, a part of the Government's administrative apparatus, is responsible for upholding the law, preventing, detecting, and investigating crimes, and maintaining public safety and order.⁴⁹
- 6.2. Substantive law and procedural law share a symbiotic relationship. An effective procedural regime is necessary for the proper implementation of substantive law. Through a well laid out procedural law, substantive law is made relevant, meaningful, and accessible to the citizens.
- 6.3. Grievances arising out of abuse of office and corruption for non-registration of FIR have been highlighted by most of the Commissions and Committees and various suggestions have been made by them from time to time so that all FIRs are registered by the police and public grievances are addressed adequately. However, the problem of non-registration of FIR even in cognizable cases is experienced by the public even today and is one of the main causes for delay in disposal of cases involving commission of heinous crimes.
- 6.4. The advent of digital technology has decreased the role of paper-based documents and thereby necessitated the need to make changes in the procedural laws of the country. There is no provision for registration of e-FIR under the Code of Criminal Procedure, 1973. However, eight States⁵⁰ (Delhi, Gujarat, Karnataka, Madhya Pradesh, Odisha, Rajasthan, Uttar Pradesh, and Uttarakhand) have developed a mechanism for registering e-FIRs. Currently, these online portals facilitate registration of e-FIRs for

⁴⁸ Constitution of India, Entry 2, List II, Schedule VII.

⁴⁹ Enabling Transformation of Police Functioning via Digitization, Hitachi, *available at* <https://social-innovation.hitachi/en-in/knowledge-hub/collaborate/transformation-of-police/> (last visited on 13th July 2023).

⁵⁰ Letter No. 32/31/2022-RD (E-14061) received from the Bureau of Police Research & Development dated 22nd May, 2023.

vehicle or property theft, for lost articles, like wallet/purse, PAN Card, Passport, important documents like School or College Mark Sheets or Degree, Aadhaar Card, Driving License etc. Uploading of FIR on the police website is also being done as directed by the Supreme Court. The following table lists the offences for which e-FIR is being done in the above-mentioned eight states:

List of Offences for which Registration of e-FIR is being done in the following 8 States

S. No.	STATES	LIST OF OFFENCES
1.	Delhi ⁵¹	1. Property Theft Case 2. M.V. Theft cases
2.	Gujarat ⁵²	1. Mobile Theft 2. Vehicle Theft
3.	Karnataka ⁵³	e-FIR for Reporting of Stolen Vehicles.
4.	Madhya Pradesh ⁵⁴	e-FIR in cases of vehicle theft up to 15 lakh or general theft up to one lakh.
5.	Odisha ⁵⁵	Citizen can lodge FIR electronically for MV Theft Cases in the following Circumstances: i) Unknown Accused ii) Not involved in Crime (Vehicle should not be involved in any Crime. Complaint shall give mandatory self-certification that the vehicle is not involved in any crime at the time of filing of e-FIR)

⁵¹ Delhi Police, India, available at <https://delhipolice.gov.in/viewfir> (last visited on September 13th, 2023).

⁵² Gujarat Police, India, available at <https://gujhome.gujarat.gov.in/portal/> (last visited on September 13th, 2023).

⁵³ Karnataka Police, India, available at <https://ksp.karnataka.gov.in/english> (last visited on September 13th, 2023).

⁵⁴ Department of Public Relations, Government of Madhya Pradesh, India, available at: <https://www.mpinfo.org/Home/TodaysNews?newsid=20211008N92&fontname=FontEnglish&LocID=32&pubdate=10/08/2021> (last visited on September 13th, 2023).

⁵⁵ Odisha Police, India, available at: <https://citizenportal-op.gov.in/citizen/AboutComplaint.aspx> (last visited on September 13th, 2023).

		iii) Not traced (Vehicle should not have been recovered till the filing of e-FIR. Complainant shall give mandatory self-certification to this effect. There shall be provision for verification of vehicle information from Vahan/Sarathi applications.) iv) No injury
6.	Rajasthan ⁵⁶	Vehicle Theft only
7.	Uttar Pradesh ⁵⁷	e-FIR facility available for unknown accused cases
8.	Uttarakhand ⁵⁸	e-FIR facility is available only for unknown accused

- 6.5. India has successfully implemented several online services like Centralized Public Grievance Redress and Monitoring System, online RTI portal and e-passport services etc. This has not just exhibited an excellent use of modern technology and digitalizing the economy but has also ensured greater transparency and improved convenience for the citizens.
- 6.6. The Information Technology Act, 2000 contains provisions on legal recognition of digital signatures and authentication, attribution, acknowledgement, dispatch and security of electronic records, regulation of certifying authorities etc. The relevant provisions of the Indian Penal Code, 1860 and Indian Evidence Act, etc. have also been amended by this Act of 2000.
- 6.7. The Law Commission of India in its 239th Report⁵⁹ titled “Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities” proposed that:

⁵⁶ Rajasthan Police, India, available at <https://police.rajasthan.gov.in/citizen/indexcitizen.htm> (last visited on September 14th, 2023).

⁵⁷ Uttar Pradesh Police, India, available at <https://uppolice.gov.in/#Find%20Your%20Police%20Station> (last visited on September 13th, 2023).

⁵⁸ Uttarakhand Police, India available at <https://policecitizenportal.uk.gov.in/efir/Login.aspx> (last visited on September 13th, 2023).

⁵⁹ Law Commission of India, “239th Report on Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities” 31 (March 2012).

"FIRs shall be recorded on the computer and they shall be instantly sent to the Magistrates' Courts by e-mail. The practice of sending FIR through e-mail should be legally recognized."

- 6.8. The Commission also proposed the networking of all police stations to establish a link with all the courts.
- 6.9. In *Youth Bar Association of India v. Union of India*⁶⁰ the Supreme Court directed for uploading of FIR (unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism, offences under POCSO Act and such other offences) on the website of all the States with effect from 15th November, 2016.
- 6.10. The Report of the Committee on Amendments to Criminal Law headed by Justice J.S. Verma⁶¹ recommended that:

"(c) In addition to every individual being able to register an FIR at any police station irrespective of the jurisdiction in which the crime was complained of in writing, every individual must also be able to register his complaint online on a designated website. After this a complaint number should be automatically generated so the complainant can track the FIR."

The same complaint would then be generated at the nearest police station and a copy would also be provided to an ombudsman office located in every district. It will still be the case that an FIR cannot be registered anonymously and the individual who has registered an FIR online will then have to go to any police station to verify his identity and the FIR. The Delhi Police already have the facility for online registration and tracking of FIR. Something of this nature must be replicated and made operational across the country. The FIR should also be recorded on a national online database for ready accessibility by the complainant."

- 6.11. Due to advancements in technology, the growth of justice and law enforcement systems, policing is going through a major transition. India is

⁶⁰ *Youth Bar Association v. Union of India* AIR 2016 SC 4136.

⁶¹ Government of India, "Report of the Committee on Amendments to Criminal Law" 355-356 (Government of India, 23 January 2013).

no exception being the second largest internet-using population.⁶² And as technology permeates daily life, police systems are quickly adapting to state-of-the-art technologies to keep up with the changing nature of law enforcement and the legal system. Traditional administrative and governance structures are being replaced by an ICT-driven e-governance paradigm as Digital India gathers traction. IT and digital technologies are becoming more and more integrated into policing, modernizing operations and improving the availability, efficacy, and quality of police services. Information and Communication Technology (ICT) is already being used in police operations across states to varying degrees. In an effort to modernize the police force, the Ministry of Home Affairs conceptualized the Crime and Criminal Tracking Networks and Systems (CCTNS) project as a Mission Mode Project under the National e-Governance Plan (NeGP), a Government of India initiative during the year 2009. It focused on the modernization of the Police to improve outcomes in the area of crime investigation, criminal detection, information gathering and its dissemination across various police organizations and units across the country and to enhance services to citizens.⁶³

- 6.12. The Digital India program of the Government of India initiated with a vision to transform India into a digitally empowered society and knowledge economy which includes Crime and Criminal Tracking Network & systems (CCTNS). To facilitate the implementation of e-governance projects at various levels across the country, registration of e-FIR will be one of the most important steps. Apart from improving transparency, it will improve overall efficiency and convenience for the citizens and Police alike. Secured data will be generated by the registration of e-FIR and would provide for better track of evidence during trial.

⁶²Sanjay Mathur and Dr. Prashun Gupta, "CyTrain: Cybercrime Training Portal with Simulated Learning" 1 *NCRB Journal* 1-10 (November 2022).

⁶³Dr. Prashun Gupta & Narendra Kumar Koli, "Project Management of CCTNS" 1 *NCRB Journal* 76-84 (November 2022).

- 6.13. Implementation of section 154 CrPC in its undiluted form is not only possible but also desirable. The process of registration of FIR may be made simple by allowing multiple modes of providing information. Most of the States in India have provided online portals to citizens enabling them to lodge complaints. The complaints are all enquired into and final reports are prepared. The same or similar system can be used to register e-FIR. The Government of India has already provided CCTNS facilities to all the States. Adequate hardware and software have already been provided in most locations. The use of these facilities to promote free registration of e-FIR will give legitimacy to the criminal justice process and increase the faith of the common man in law. Unless the citizens are allowed unhindered and equal access to the criminal justice system, for which registration of FIR is the first step, there can be no equality before law, or equal protection of law, as envisioned in Article 14 of the Constitution of India.⁶⁴
- 6.14. At present, as per the correspondence with BPR&D and NCRB, the States and Union Territories across the country are providing online services in nine areas like verification of tenants, domestic help and employees, issuance of character certificates, etc. However, only eight states are registering e-FIR. The data from all the CCTNS portals are stored in the respective State Data Service Centres. CCTNS was also expected to help in the deployment of the Interoperable Criminal Justice System (ICJS), which aimed at integrating police data under CCTNS with prisons data, prosecution, forensics and courts. CCTNS was conceptualized to automate the police working. It facilitates the entry of data related to crime reported at police stations including details of the scene of crime, accused involved, property seized, and final report filed in the court. It also provides a search facility in respect of persons and property, which makes the investigation process easier and faster. NCRB, as one of the main stakeholders, was

⁶⁴Hanif Qureshi, "Whether India is Ready for Online FIRs" 65 *Indian Police Journal* 73-80 (2018), available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3651230 (last visited on 13th July 2023).

entrusted with monitoring and coordination of this project at the National Level.

- 6.15. Digitization of data ensures access to all stakeholders in the system: courts, transport authorities, hospitals, municipal authorities, etc. It helps address the challenges of public order and crime control more effectively. Importantly, CCTNS implementation rests on integrated service delivery. Fortifying citizen-police interfaces augurs well with this premise. As per the latest data till May, 2023 of the PRAGATI DASHBOARD (provided by NCRB), it can be seen that Network Connectivity in the Police Station has improved and almost 99% Police Stations are equipped with the CCTNS software.
- 6.16. In areas where visiting the Police Station might not be feasible due to security or other infrastructural issues, filing e-FIR may prove to be a boon. Also, filing of e-FIR would help in overcoming reluctance shown by police officers to file FIRs in cases of petty offences. Moreover, it would overcome the difficulties resulting from low police to public ratio.
- 6.17. By automating processes and functions at the level of Police Stations and improving delivery of citizen-centric services through effective use of Information & Communication Technology (ICT), the ultimate goal is to make the Police functioning citizen-friendly, transparent, accountable, effective and efficient.



7. RECOMMENDATIONS

A. *Registration of e-FIR to be permitted for all cognizable offences where the accused is not known*

- 7.1. In tune with India's progressive Digital India mission and National e-Governance Plan, the Commission recommends that in cases where the accused is not known, registration of e-FIR should be allowed for all cognizable offences as per section 154 of the Code of Criminal Procedure, 1973.

B. *Registration of e-FIR to be permitted for all cognizable offences attracting punishment up to 3 years where the accused is known*

- 7.2. The Commission further recommends that where the accused is known, as a preliminary step, registration of e-FIRs may be allowed for all cognizable offences wherein the punishment prescribed under the Indian Penal Code, 1860 and other laws for the time being in force, is **up to three years**. Such a limited roll-out of the e-FIR scheme in the initial phase would ensure that for the time being, there is no disruption relating to the procedure adopted for reporting and investigation of serious offences.

- 7.3. The Hon'ble Supreme Court in *Satender Kumar Antil v. Central Bureau of Investigation (2022)*⁶⁵, emphasized on the presumption of innocence of the accused and observed:

"...14. Presumption of innocence has been acknowledged throughout the world. Article 14 (2) of the International Covenant on Civil and Political Rights, 1966 and Article 11 of the Universal Declaration of Human Rights acknowledge the presumption of innocence, as a cardinal principle of law, until the individual is proven guilty."

⁶⁵ (2022) 10 SCC 51.

- 7.4. Further, the Apex Court in *Arnesh Kumar v. State of Bihar*⁶⁶ had issued detailed directions on the exercise of power of arrest and held that since arrest brings humiliation, curtails freedom and casts scars forever, therefore, no arrest should be made only because the offence is non-bailable and cognizable and also cannot be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent and wise for a police officer that no arrest is made without a reasonable satisfaction reached after some investigation as to the genuineness of the allegation. The Court also clarified that the directions given in this case shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.
- 7.5. As per the above-mentioned judgments, the strict guidelines are to be adhered to while making an arrest where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine. Therefore, implementing this scheme of registration of e-FIR for all cognizable offences wherein the punishment prescribed under the Indian Penal Code, 1860 and other laws for the time being in force, is **up to three years**, would also protect the accused from arrest, in cases of any misuse as the Police is duty bound to adhere to the said guidelines.
- 7.6. Additionally, as per sub-clause (2) of Clause 283 of the Bharatiya Nagarik Suraksha Sanhita, 2023⁶⁷, Magistrates have been empowered to try in a summary way all or any of the offences **not punishable with** death or

⁶⁶ (2014) 8 SCC 273.

⁶⁷ Bill No. 123 of 2023.

imprisonment for life or imprisonment for a term exceeding **three years** (presently this is allowed for offences not punishable with death, imprisonment for life or imprisonment for a term exceeding **two years** under section 260 of the CrPC). Therefore, to protect the accused from any abuse, this recommended scheme can be implemented in a phased manner and initially for all the cognizable offences wherein the punishment prescribed under the Indian Penal Code, 1860 and other laws for the time being in force, is **up to three years**.

C. *States to have power to expand list of offences*

- 7.7. In addition to the above, the Commission recommends that States may expand the list of offences for which e-FIR may be registered in future, if the working of registration of e-FIR turns out to be effective.

D. *Registration of e-FIR to not apply to all offences*

- 7.8. The present scheme of registration of e-FIR may not be allowed in all cases due to the following reasons:

- i. The Hon'ble Supreme Court of India in the landmark judgment of *Lalita Kumari v. Govt. of Uttar Pradesh*⁶⁸, while allowing the preliminary enquiry before registration of FIR, has held;

"v. The scope of preliminary enquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

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

- a. Matrimonial disputes/family disputes*
- b. Commercial offences*
- c. Medical negligence cases*
- d. Corruption cases*

⁶⁸ (2014) 2 SCC 1.

e. Cases where there is abnormal delay/latches in initiating criminal prosecution, for example, over three-month 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 enquiry.

vii. While ensuring and protecting the rights of the accused and the complainant, a preliminary enquiry 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."

- 7.9. Further, a layman may not be aware of these legal intricacies and once registration of FIR by way of e-FIR in all cases is allowed, it may cause extremely high investigative burden on police apart from curtailing its power to conduct preliminary enquiry in appropriate cases as is required under a clear mandate of the Hon'ble Supreme Court.

E. *e-Complaint to be allowed for all Non-Cognizable Offences*

- 7.10. Registration of e-Complaint should be allowed for all non-cognizable offences as per section 155 of the Code of Criminal Procedure, 1973, as is being currently done in all the States/UTs.

F. *Verification of Informant/Complainant and Punishment for False Information*

- 7.11. In order to avoid false registration of e-Complaints/e-FIR and for the constructive use of the facility, it is important that the verification of complainant or informant is done using e-authentication techniques. This can be achieved by verifying mobile number through OTP for the purpose of registering e-FIR/e-Complaint and mandating the uploading of valid ID proof like Aadhaar or any other Government approved ID.
- 7.12. Declaration by the informant that the facts contained in the e-FIR are true to the best of knowledge, information and belief of the informant must be made mandatory.

(This is also in line with the judgment of *Priyanka Srivastava v. State of UP*.⁶⁹)

- 7.13. A minimum punishment of imprisonment and fine should be inflicted for false registration of e-complaints or e-FIR. This can be achieved by amending the provision under section 182 of the Indian Penal Code, 1860 as,

"...shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both."

G. *Privacy of the parties to be ensured*

- 7.14. It must be ensured that data provided while registering the FIR online is not compromised with and there is no infringement of privacy of the parties involved. Privacy of the Informant/Complainant and the person named as 'Suspect' on the Centralized National Portal is to be secured till the e-FIR is not signed by the Informant/Complainant. In case the registered information is not signed by the informant deliberately within the prescribed time, the information shall be deleted from the Centralized National portal after 2 weeks. Privacy of sexual offence victims must be given prime consideration at all stages.

H. *Capacity Building to be given importance*

- 7.15. For the successful implementation of the recommended IT initiatives, capacity building at various levels is extremely important. Hence, it is recommended that training programs must cover general/basic computer awareness programs in addition to CCTNS-specific programs to ensure adoption of the system at the police station level.

⁶⁹ (2015) 6 SCC 287.

- 7.16. The Legal Services Clinics in the Law Schools/Colleges/Universities should act as a catalyst and facilitator in bringing about this online revolution.
- 7.17. In order to promote awareness *en masse* for the implementation of registration of e-FIR, information regarding this facility shall be widely disseminated so that the common man is encouraged to report offences without facing the hurdles of procedural formalities.⁷⁰ Since raising mass awareness is a continuous process, the following methods can be adopted:
- a. Information about registration of e-FIR registration should be prominently displayed on government websites and portals, including detailed guides, FAQs, infographics and video tutorials.
 - b. Workshops and webinars may be organized in various regions to educate the public about the process of registration of e-FIR.
 - c. Advertisements may be placed in newspapers and magazines, especially in regional and local publications.
 - d. The public must be informed about the initiative's progress, and any improvements made to the system.
 - e. It also must be ensured that information and resources are available in multiple local languages to reach a wider audience.

I. *Miscellaneous Recommendations*

- 7.18. All e-FIRs should be forwarded to the Courts concerned by linking the website of police with e-Courts portal. This can be achieved by using the Inter-operable Criminal Justice System (ICJS), which allows digital signing of e-FIR and automatically sending it to the court.
- 7.19. The Commission recommends that suitable amendments be made to the Indian Evidence Act, 1872, the Information Technology Act, 2000, the

⁷⁰ *Kodungallur Film Society v. Union of India*, (2018) 10 SCC 713.



Indian Penal Code, 1860, and other legislation to facilitate the registration of e-FIR.

7.20. The proposal of electronic registration of FIR which is being partly implemented for specified crimes in eight states (as per the information provided by BPR&D) has taken one step forward under Clause 173 in the proposed Bharatiya Nagarik Suraksha Sanhita Bill, which will replace the CrPC, 1973. However, as per the proposed Clause 173 in the new Bill, while information can be given electronically for cognizable offences without any bar on jurisdiction, the police officer is required to take it on record after it has been signed within three days of giving the first information. Further, the same has to be kept for record in a book by the Police Officer as prescribed by the State Government.

7.21. The online portal developed for registering e-FIR or e-Complaint must be user friendly. A Centralized System, as proposed under **Annexure B**, may be setup for processing information in order to expand the mode of electronic communication. The Police Officer shall use the information provided on this portal to check whether a cognizable offence has been committed or not and will proceed accordingly.

7.22. For registration of e-FIR, the suggestive procedure as stipulated in **Annexure-A** may be adopted.

The Commission recommends, accordingly.

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ANNEXURE A: PROCEDURE FOR REGISTERING E-FIR

(to be followed by Police and other Investigating Agencies)

STEP 1: INFORMATION comes from the Centralized National Portal to the Police Station concerned



The Police Officer concerned, who is responsible for handling the online information from the Portal will check the details as provided on the Centralized National Portal by the Informant and check whether any Cognizable Offence, attracting punishment up to 3 years (as prescribed under the Indian Penal Code, 1860 and other special laws for the time being in force) has been committed or not.

STEP 2:

A.

IN CASE COGNIZABLE OFFENCE IS MADE OUT

B.

IN CASE NON-COGNIZABLE OFFENCE IS MADE OUT

Cognizable Offence attracting punishment up to 3 years is made out

Cognizable Offence attracting punishment above 3 years is made out

The Police Officer will register the said information by filing it in the prescribed format provided in Annexure-C, mentioning all the relevant details: -

1. Act involved,
2. Relevant sections of law,
3. Place of Occurrence,
4. Time of Incident,
5. Police Station concerned,
6. Beat Number, etc.

The Police Officer will follow the conventional mode of registering the FIR in accordance with section 154 of the Code of Criminal procedure, 1973

The Police officer will not register the information as e-FIR and give the reasons for the same in writing. The reasons shall also be uploaded on the Centralized National Portal under the tab 'STATUS'.

Where, Non-Cognizable Offence is committed, the Police will proceed as per section 155 of the Criminal Procedure Code, 1973.

THIS MUST BE COMPLETED BY THE POLICE OFFICER WITHIN 3 DAYS OF RECEIVING THE INFORMATION ON THE CENTRALIZED NATIONAL PORTAL

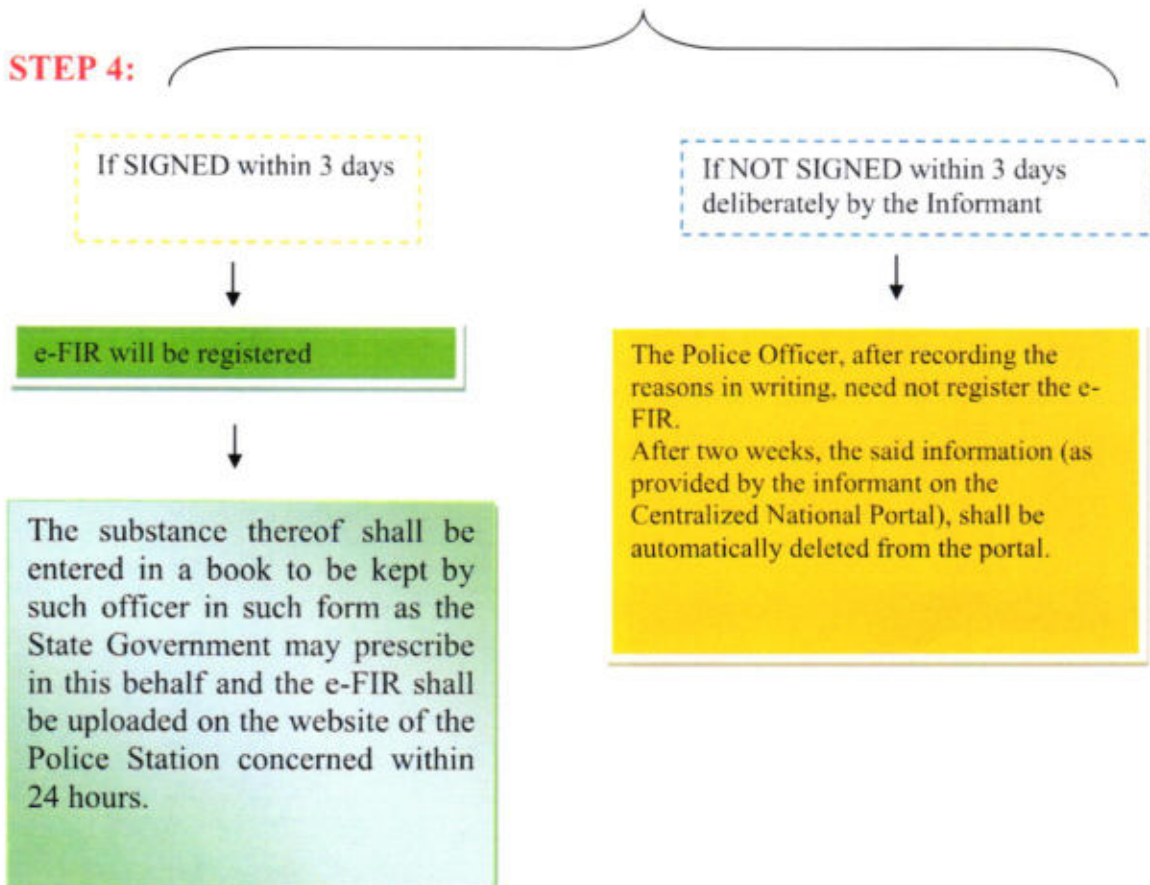
STEP 3: The Police Officer registering the information in the prescribed FIR format will inform the informant (via text on the mobile or using any other electronic mode and on the portal, under the tab 'STATUS')

- ❖ This will go automatically, in every case, whether the information is registered in the prescribed FIR format or not.



THE POLICE OFFICER CONCERNED WILL GET THE SIGNATURE OF THE INFORMANT WITHIN THREE DAYS IN THE MANNER WHICH IS FEASIBLE UNDER THE CIRCUMSTANCES.

STEP 4:



* Regardless of this facility, the informant is free to adopt the conventional mode for the purpose of registration of FIR.

ANNEXURE B: CENTRALIZED NATIONAL PORTAL

(to be used for filing e-FIR)

STEP 1: Select

STATE



DISTRICT



PIN CODE



POLICE STATION (optional)

STEP 2: Stage of **SIGN UP:**

MOBILE NO.



OTP



FULL NAME



CAPTCHA

STEP 3: Stage of providing **USER DETAILS:**

1. Name
2. Gender
3. Date of Birth
4. Address
5. Mobile Number
6. Aadhaar Number or any other valid Government ID
7. Upload proof of the Valid ID:

STEP 4: NATURE OF INCIDENT:

Following is a suggestive drop-down list of broad categorization of offences committed against the following: -

1. Against Children
2. Against Defence and Paramilitary Force
3. Against Department

4. Against Foreigners
5. Against Individual
6. Against Organization
7. Against Police Officer
8. Against Public Servant
9. Against Public
10. Against Senior Citizen
11. Against Women
12. Cyber Crime
13. Wild Life Case
14. Any other case

STEP 5: DETAILS OF INCIDENT:

1. **Date of Incident** (DD/MM/YYYY); (From __ to __)
2. **Place of Incident** (State-District-Zone etc.)
3. **Time of Incident** (HH: MM: SS)
4. **Description of the Incident** (complete details)

STEP 6: DETAILS OF SUSPECT:

Can you identify the suspect: -?



1. Name of the suspect
2. Number of Suspect
3. Age
4. Gender
5. Vehicle used by the suspect, if any
6. Weapon used, if any

STEP 7: ANY OTHER DETAILS:

A green handwritten signature or mark.

STEP 8: DECLARATION:

"I _____ hereby declare that the information given by e is true to the best of my knowledge, information and belief and that nothing has been concealed or distorted. If any information given by me is found to be false or frivolous, I shall be liable to be prosecuted/punished under the laws for the time being in force applicable"

STEP 9: SIGNATURE:

STEP 10: STATUS/ ACTION TAKEN BY POLICE ON THE INFORMATION: A tab will be there for the convenience of the informant wherein the action taken by the Police on the information can be checked.

*A check must be put in place by restricting the filing of information bearing same details of incident (like date, time and place of incident and the name of suspect) in order to avoid repeated filing of e-FIR on the Centralized National Portal.





[Justice Ritu Raj Awasthi]

Chairperson



[Justice K.T. Sankaran]

Member



[Prof. (Dr.) Anand Paliwal]

Member



[Prof. D.P. Verma]

Member



[Mr. K. Biswal]

Member Secretary



[Dr. Niten Chandra]

Member (Ex-Officio)



[Dr. Reeta Vasishta]

Member (Ex-Officio)



[Mr. M. Karunanithi]

Part-time Member



[Prof. (Dr.) Raka Arya]

Part-time Member