

ISSN: 2582 - 2942



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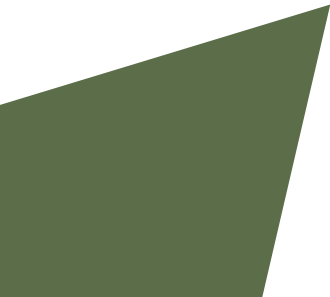
LEGAL JOURNAL

VOL- I ISSUE- V

JUNE 2020

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ISSN: 2582 - 2942

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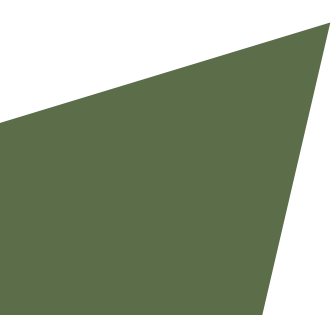
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Zero FIR: A FIR without Jurisdiction

Kushagra Goyal & Ananya Garg

ZERO FIR: A FIR WITHOUT JURISDICTION

ABSTRACT

The atrocious act of Nirbhaya's rape case left the country in agony and appalled the existing criminal laws for protection of women. Subsequently, stringent reforms were demanded for management of crime against women. One of main amendment in criminal procedure system was the concept of zero FIR which came as recommendation by the Justice Verma Committee. This imperative provision led to filing of FIR anywhere. This was quite a stepping stone in the history of criminal procedure system as it made the age-old hindrance of territorial jurisdiction of police to take cognizance of the matter obsolete. However, this legal right was still in the shadows and it was the movie 'Pink' which awakened the people about what is Zero FIR. This paper aims to discuss what Zero FIR and how this right can be exercised.

KEYWORDS

Cognizable, offence, zero, FIR, territorial, jurisdiction.

INTRODUCTION

Criminal law is the principal legal contrivance to avert anti-social acts. Once an offence is committed initial report is given to police which is also known as 'First Information Report' which is abbreviated as 'FIR'. It is a very important document as it sets the process of criminal justice into motion. Any criminal proceeding can be initiated only after registration of FIR.¹

The Supreme Court acknowledged in the case of *Soma Bhai v State of Gujarat*² that "It is the information given to a police officer in the form of a statement or allegations regarding the occurrence of or suspected commission of a cognizable offence. FIR is the information which is given to the police first in point of time on the basis of which the police may select and record as First Information."

The main motive of the FIR from the stand point of the authorities is to get hold of the information about commission of an alleged cognizable offence so as to commence investigation and trace and book the guilty. It is also the foundation stone for the build-up of the entire structure of the prosecution case.

FIR is lodged under Section 154 of the Cr.PC which has three-fold motive, which are:³

¹ K.N. Chandrashekharan Pillai, R.V. Kelkar's Criminal Procedure (Eastern Book Company, Lucknow 2008).

² A.I.R. 1975 S.C. 1453.

³ Y.V Chandrachud, J. (Rev'd.), Ratanlal & Dhirajlal's The Code of Criminal Procedure (15th edn., Wadhwa & Co., New Delhi 1998).

- Firstly, to apprise the District Magistrate and Superintendent of the Police, who are in-charge law and order of the district;
- Secondly, to report to the judicial officers before whom the case has to be eventually tried, and acquiesce the material evidences on the basis of which proceedings are commenced; and
- Thirdly, to congregate and protect data about the commission of the offence without wasting vital time and before forgetfulness and aggrandizement on the part of the informer.

However, people were devoid of this legal right due to limits of territorial jurisdiction. The gradual transition led to the evolution of criminal jurisprudence and paved the way for the progression of zero FIR.

NOTION OF ZERO FIR IN INDIA.

The notion of registering a FIR is to apprise the police about commission of a cognizable offence at the preliminary stage so that the police can start the investigation instantaneously without wasting any time and collect evidences at the imperative stage before they are manipulated or tampered. If the place offence committed is outside the jurisdiction then a FIR under 'zero number' can be registered so that police can conduct preliminary investigation.

In India more than 460 cases of cognizable offences are reported and many are under-reported or left un-investigated due to non-registration of FIR mainly due to lack of territorial jurisdiction. The prerequisites of acrimonious crimes like rape, murder or accidents are instantaneous action by the authorities.

The concept of Zero FIR was introduced after the commendation of the Justice Verma Committee in the Criminal Law Amendment Act, 2013 after the atrocious Delhi rape case. Zero FIR is jurisdiction free FIR. Zero FIR removes the hinderance faced by an informant while lodging the FIR caused because of the restrictions of territorial jurisdiction-imposed officer in-charge of the police station. A FIR ordinarily under Section 154 read with Section 156 is lodged in a police station where the magistrate has jurisdiction to take cognizance of the matter. The officer in-charge is to ought to register the crime under "ZERO" number and is authorized under Section 170 to conduct a preliminary investigation and after gathering sufficient evident and material which ensures that a cognizable offence has been committed beyond his territorial limits such has to be transmitted to the concerned police station.

In the case of *Kirti Vashisht v. State & Ors.*⁴, The Delhi High Court observed as according to Section 154 Cr.PC, if any information relating to the commission of a cognizable offence is received by any Police Station, such Police Station is duty bound to register the FIR. However, if the crime is not occurred in the jurisdiction of the said Police Station, then after registering the 'Zero FIR', the same has to be transferred to the concerned Police Station for investigation, where the offence has been committed... A Zero FIR can be filed in any police station by the victim, irrespective of their residence or the place of occurrence of crime.

The Bombay High Court acknowledged that "the police officer has a territorial jurisdiction under Section 156 (1) to investigate any cognizable case that comes under the within the local limits of such police station would have power to enquire into or try under the provisions of Chapter XIII. Besides, sub section (2) stipulates that no police officer shall be called or interrogated in the court on the pretext that such police officer lacked appropriate jurisdiction to probe into the matter. As per the law after conclusion of the investigation the report has to be submitted as per Section 168, 169 and 170 of the Criminal Procedure Code. Section 170 of the code incontrovertibly states that if, upon an inquisition, the station in- charge of that police station is of the rationale that there are adequate evidences and reasonable grounds to justify the advancement of the case to a magistrate, empowered to take cognizance of the case upon the police report to try or commit for trial in the concerned court. Additionally, if the investigating officer is of the assessment that the cause of action of the offence arose outside the territorial jurisdiction of the police station, then the FIR can be sent to the police station exercising jurisdiction over the area of offence. However, this does not imply that the police officer can deny recording of the FIR or investigating it."⁵

The Apex Court through its constitutional bench affirmed in the case of *Lalita Kumari v. Govt. of U.P.*⁶, that lodging of First Information Report is mandatory under Section 154 of the Code of Criminal Procedure, if the information discloses commission of a cognizable offence. The police officer cannot sidestep from his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who does not register the FIR if information received by him discloses a cognizable offence.

In the case of *State of Andhra Pradesh v. Punati Ramulu and Ors.*⁷ The Supreme Court ascertained the liability and failure on the part of the Police constable who refused to file a FIR when the information received showed the commission of cognizable offence on the ground of lack of territorial jurisdiction.

⁴CRL.M.C. 5933/2019 & CrI.M.A.40833/2019.

⁵ *Satish Dharmu Rathod & ors. V. State of Maharashtra & ors.* (2017) 1 A.I.R. Bom. R (Cri) 779.

⁶W.P. (CrI) No. 68/2008.

⁷A.I.R. 1993 S.C. 2644.

The purpose of FIR is to aid prompt investigation and not to act as an impediment. Generally, citizens are not aware about jurisdictional procedures. It is the duty of the police to determine jurisdiction. If FIRs are turned down on the grounds of lack of jurisdiction then this would demoralize the informants, which will also result in wastage of crucial time and provide a leeway to the accused to abscond or tamper the evidences. Zero FIR helps in taking prompt actions without the impediments of formal procedures and technicalities.

LEGAL PROVISIONS OF ZERO FIR

There is no provision in the Criminal Procedure Code that explicitly states the provision relating to filing of Zero Fir. However with course of time, the parliamentary jurisprudence and legal provisions evolved to provide the passage to filling of Zero Fir.

The newly supplemented Section 166A added in the Indian Penal Code after the recommendation of the Justice Verma Committee, sub section (c) states that if any public servant fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973, involving a cognizable offence ... shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, additionally shall also be liable to fine.

Section 460 of the Criminal Procedure Code provides a safeguard against the irregularities that may vitiate the criminal proceeding. Sub section (e) empowers the magistrate to take cognizance of an offence under Section 190 of the code beyond his jurisdiction and such shall not be invalid on ground of irregularity.

SCOPE AND ANALYSIS

Whenever there is any offence against any person he has to undergo two crises, the trauma of the offence and the subsequent criminal proceedings.

While the first one curbs the individual and disturbs their sense of security, especially in cases of offences against women where such offences are seriously detrimental to their dignity. Whereas the second is also no less potent concoction of agony. It not only forces the victim to relive the ordeal of the offence but also exposes them to an alien milieu, with the whole contraption and appurtenances of the criminal judicial system targeted upon the victim.

The initiation of any criminal proceeding against any offence by a private citizen is done either by lodging a first information report with the police, or he may lodge a complaint with the competent magistrate irrespective of whether the offence is a cognizable or a non- cognizable

one. Therefore, registration of the information by the authorities is of paramount importance. Keeping this in mind the apex court in the case of *Lalita Kumari v. State of U.P. &ors*⁸ unwaveringly stated that if there is information of any cognizable offence being committed then the police is bound to register the FIR and then start the investigation. In case of information of cognizable offence filed with the magistrate under a different jurisdiction, such magistrate is empowered to take cognizance of such offence and is protected under the immunity afforded to him under Section 190 of the Procedure Code.

Whenever there is commission of any cognizable offence and the matter is reported to the police, if the investigating officer comes to a conclusion that the matter does not arise within his territorial jurisdiction. Then he has to register the matter and direct the matter to the concerned magistrate who is empowered to take cognizance of the matter. Along with this the investigating officer has to send the copy of the FIR and all the evidences collected till date with report of the investigation to the concerned Police Station.

Same was affirmed in the case of *Satvinder Kaur v. Government of NCT of Delhi*⁹, where the Supreme Court overruled the order of the High Court, and quashed the FIR filed at the Delhi police station under Section 482 of Cr.PC citing lack of territorial jurisdiction with the police as the reason. However, the Apex court reiterated that the police can register and investigate the case even if the police do not have the territorial jurisdiction.

However, a perfunctory glance of the Indian roads will show that the directions given by the Supreme Court are openly flouted. It is saddening that the police force being the epitome of the criminal legal system implements such directions or the law only after being reprimanded by the court and that too for a matter of days. What is more appalling for the victim is the refusal by the police to take cognizance of the matter or initiate any criminal proceeding i.e. registering the Fir. What is more shocking is the inability of the government to implement the most basic security measures with any amount of proficiency.

IMPACT OF ZERO FIR

Zero FIR is an effective concept in encouraging citizens regarding reporting of offences and seeks redressal of offences. The iniquitous case against self-proclaimed God Asumal Sirumalani Harpalani, alias, Asaram Bapu was registered under 'zero FIR'. He was accused of raping a minor girl who a student in one of his ashrams. The atrocious was committed in Jodhpur, Rajasthan. Distressed father of the victim accosted Jodhpur and Saharanpur police station However, the police

⁸*Supra* note 6.

⁹Appeal (Crl.) 1031 of 1999.

rejected their claims and refused to lodge the FIR, due to the undue influence exercised by Asaram Bapu. Later, case was registered against Asaram Bapu at Kamla Nagar Police Station, New Delhi. This Fir was lodged under 'zero number' later transferred to Jodhpur for further investigation where later Asaram Bapu was convicted.

The concept of zero FIR has also lead to progression of e- FIR. Where FIR can be lodged by anyone anywhere at an online platform without precinct of going to a police station with appropriate jurisdiction. Zero FIR is also expedient for travellers who become victim or witness of a cognizable offence. They can conveniently contact any police station during their excursion or upon the arrival at their destination.

CONCLUSION

Zero FIR which evolved as a result of recommendation by The Justice Verma Committee is a FIR without a perimeter of jurisdiction acting as an impediment between the criminal justice system. It an immensely expedient concept which will help in stirring assurance in the minds of the general public regarding efficacy of the police in comprehending criminal activity.

This notion will act as recourse in perseverance of the grievances of the public. It is a noteworthy step towards access to criminal justice system.

However, possibility cannot be ruled out that exploitation of this contrivance is possible, unscrupulous people may connive with some corrupt police officials and register FIR in the jurisdiction of their preference so as to influence the investigation in the prejudicial manner. Since, in aftermath of every case the initial investigation done by the police is of chief prominence.

In the case of *Bimla Rawal and Ors. v. State (NCT of Delhi) and ors.*¹⁰ FIR was lodged in Delhi however act was committed in Mumbai. Writ petition was filed in Supreme Court regarding the malicious intention of the police acceding under the pressure asserted by the opposite party. Supreme Court quashed the FIR filed at Delhi and ordered filing of new FIR at Mumbai directed for initiation of fresh investigation of the case. It was held that the police abused the power of filing Zero FIR for the benefit of the opposite party.

Trepidation aside, we cannot let apprehension of likely abuse of utilitarian concept deter us from implementing this legal right for the benefit of general public. The government should organize awareness campaigns so as to make people aware of their legal rights facilitate them in achieving justice.

¹⁰ W.P. (Crl.) No. 1541/2007