



Supreme Court guidelines on First Information Report

First Information Report¹ (hereinafter referred as “FIR”) is a report of a crime pertaining to cognizable offence² filed with the police to record and initiate the investigation process.

Youth Bar Association of India V/s. UOI & Others [W.P. (CRL) No.68/2016]

Facts of the case: A Writ of Mandamus was filed by the petitioner before the Supreme Court of India, to direct the Union of India and the States to upload each and every FIR registered in all the police stations within the territory of India in the official website of the police of all States, as early as possible, preferably within 24 hours from the time of registration.

The Court entertained the Writ and issued the following directions:

- a. An accused is entitled to get a copy of the FIR at an earlier stage than as prescribed under Section 207 of the Cr.P.C.
- 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 FIR 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 FIR 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 inhere under Section 207 of the Cr.P.C.
- d. The copies of the FIRs, 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

¹ **Section 154 in The Code of Criminal Procedure, 1973 (Cr.P.C):** 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 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.

(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.

² **Section 2 (c) of Cr.P.C** defines: " 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.

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 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 due to geographical location.

- e. 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.
- 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. The examples given with regard to the sensitive cases are absolutely illustrative and are not exhaustive.
- g. If an FIR is not uploaded, needless to say, it shall not enure *per se* a ground to obtain the benefit under Section 438 of the Cr.P.C.
- h. 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.
- i. The competent authority referred to hereinabove shall constitute the committee, as directed herein-above, within eight weeks from today.
- j. 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.



The above said guidelines solve many unnecessary problems faced by the accused persons and their family members.

Once the Criminal law is set in motion and liberty of an individual is at stake, he should have the information so that he can take necessary steps to protect his liberty which is the fundamental right guaranteed under Article 21 of the Constitution of India.

Divorced Daughter Eligible for Freedom Fighter's Pension

In *Khajani Devi Vs. UOI*³ the Division bench of High Court of Punjab and Haryana set aside the decision of single Judge that “the divorced, unemployed daughter of a freedom fighter would not be entitled to family pension after the death of her parents.”

Facts of the Case:

Father of Khajani Devi namely Norang, who was a freedom fighter was admitted to the benefit of Swatantrata Sainik Samman Pension Scheme (hereinafter referred to as “the Scheme”) died on 08.02.1994 leaving behind his wife, who later died on 12.06.1995 and Khajani Devi who had divorced her husband in 1989 and moved in with her parents. She has no child.

Issue: After the death of her parents, the benefit was denied to her on the grounds that she was divorced and ineligible⁴ under the scheme.

Verdict: The bench, observing that pension schemes were intended to honor the valor of the uniformed people who laid down their lives or suffered for the cause of the country. “We would, thus, not place any demeaning interpretation on the scheme to deprive the unsung heroes of the country of benefits meant to ensure a life of dignity to their dependents,” the bench said, **adding there was no rationale in including unmarried daughters but excluding divorced daughters.**

The High Court division bench said that the object of the clause in the Scheme was that one member of the family be paid, hence Khajani was eligible and divorced daughter is admissible under the scheme.

Conclusion: The verdict is a welcome move to secure the interest of women. The lack of economic security leads to lot of deprivations to women and there is need to bring social security schemes for all women in economic distress.

JUDGEMENT

Important Reading:

25 Significant Judgments of Supreme Court of India in 2016

<http://www.livelaw.in/best-2016-read-25-significant-judgments-2016/>

³ Letters Patent Appeal No.1721 of 2015

⁴ “WHO ARE ELIGIBLE DEPENDENTS: For the purpose of grant of Samman pension, family include (if the freedom fighter is not alive), mother, father, widower/widow if he/she has not since remarried, unmarried daughters. Not more than one eligible dependent can be granted pension and in the event of availability of more than one dependent the sequence of eligibility will be widow/widower, unmarried daughters, mother and father.”

