POLICE COMPLAINT TO FIR

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INTRODUCTION

The registration of a First Information Report (FIR) is a cornerstone of the Indian criminal justice system, ensuring the prompt initiation of investigations for cognizable offenses. However, the process is not without its nuances. The landmark judgment in *Lalita Kumari v. Government of Uttar Pradesh* delineates the circumstances under which a preliminary inquiry may precede FIR registration, striking a balance between the imperatives of justice and the need for due diligence in complex or sensitive cases. These principles have been codified in the Bharatiya Nagarik Suraksha Sanhita (BNSS), which builds upon judicial precedents to refine procedural safeguards.

This article explores the categories of cases where preliminary inquiry is permitted, emphasizing the rationale and procedural requirements established by judicial pronouncements and legislative frameworks. It also examines specific grounds for the refusal of FIR registration, analyzing their validity in light of key legal provisions and judgments. By addressing issues such as matrimonial disputes, medical negligence, corruption, and the influence of vague or frivolous complaints, the discussion aims to provide a comprehensive understanding of how these mechanisms ensure a fair and efficient criminal justice process while protecting the rights of all stakeholders.

CATEGORIES OF CASES WHERE PRELIMINARY INQUIRY IS REQUIRED

The Supreme Court, in its landmark judgment in *Lalita Kumari v. Government of Uttar Pradesh*, established that while the registration of an FIR for cognizable offenses is mandatory, there are specific categories of cases where a preliminary inquiry may be conducted before an FIR is registered. These exceptions, now reflected in the procedural framework of the Bharatiya Nagarik Suraksha Sanhita (BNSS), aim to balance the interests of justice with the need for due diligence in complex or sensitive cases. The relevant paragraph that deals with the cases where preliminary inquiry is permitted is mentioned herein:-

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"111. In view of the aforesaid discussion, we hold:

(i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

(ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

(iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

(iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

(v) The scope of preliminary inquiry 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 inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry 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 3 months 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 inquiry.

(vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and, in any case, it should not exceed fifteen days generally and in exceptional cases, by

giving adequate reasons, six weeks' time is provided. The fact of such delay and the causes of it must be reflected in the General Diary entry.

(viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station; we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above."

1. Matrimonial Disputes/Family Conflicts

Matrimonial disputes involve intricate interpersonal issues that may not always constitute cognizable offenses. The court in *Lalita Kumari* emphasized the need for preliminary inquiry in such cases to prevent misuse of the legal process. The inquiry ensures that criminal law is not invoked frivolously in disputes better suited for mediation or civil resolution.

2. Commercial Offenses

In cases involving allegations of financial fraud, breach of contract, or other commercial disputes, a preliminary inquiry is warranted to ascertain whether the complaint pertains to criminal conduct or merely a civil disagreement. This principle, as highlighted in *Lalita Kumari*, safeguards businesses from unwarranted criminal proceedings and prevents the misuse of FIRs for settling commercial scores.

3. Medical Negligence Cases

Medical negligence claims require expert opinion to determine whether a prima facie case exists. The Supreme Court, recognizing the technical complexities of such cases, directed that a preliminary inquiry is essential to assess the validity of allegations before an FIR is registered.

4. Corruption Cases

Corruption allegations involve scrutiny of records and verification of facts before initiating formal proceedings. A preliminary inquiry ensures that cases are not filed based on unsubstantiated claims, which could tarnish reputations and lead to undue harassment.

5. Cases Involving Delay/Laches

When there is an abnormal delay in reporting a criminal offense—such as a gap of three months or more—a preliminary inquiry helps determine the credibility of the complaint. Unexplained delays can cast doubt on the veracity of the allegations, as noted in *Lalita Kumari*.

In *G.D. Iyer v. State*, the court clarified that the statutory limitation and preliminary inquiry serves as a procedural safeguard to prevent stale claims from being resurrected arbitrarily. Similarly, in *Shyam Sunder Bhartia v. State*, the judiciary emphasized that delay in lodging an FIR should be examined critically to ascertain whether it undermines the integrity of the allegations, and any exception must be backed by cogent reasons. For instance, where a delay is satisfactorily explained or where the cause of action is continuous, courts may exercise discretion in admitting complaints filed after the prescribed limitation period. The relevant paragraph from the judgement is: -

> *"14. As far as the other question with regard to limitation is concerned, the facts show that the complaint was made in September 2000. Without going too deep into the matter it can be safely assumed that the incident occurred in June-July 2000; the informant lodged the FIR then. Such being a position mere lodging of a complaint on a later date and the time taken for its investigation, in the circumstances would not enlarge the period of limitation or stall its operation. Therefore, the complaint filed on 12th September, 2001was time barred in view of the provisions of Section 468(2)(b) of the Code."*

6. Insufficient Information

In cases where the complaint lacks specific details or is overly vague, police may conduct a preliminary inquiry to gather additional facts before registering an FIR as stated in ***Netaji Achyut Shinde (Patil) Vs. State Of Maharashtra***. This safeguard prevents frivolous or speculative complaints from consuming valuable resources. The relevant paragraph from the aforementioned judgement is mentioned herein: -

> *"21. A cryptic phone call without complete information or containing part-information about the commission of a cognizable offence cannot always be treated as an FIR. This proposition has been accepted by this Court in T.T. Antony v. State of Kerala and Damodar v. State of Rajasthan. A mere message or a telephonic message which does not clearly specify the offence, cannot be treated as an FIR."*

SPECIFIC GROUNDS FOR POLICE REFUSAL TO REGISTER FIRS

While the Bharatiya Nagarik Suraksha Sanhita (BNSS) and judicial precedents emphasize the mandatory registration of FIRs for cognizable offenses, there are specific grounds on which police may lawfully or unlawfully refuse to register an FIR. This section delves into these grounds, analyzing their validity considering legal provisions and case laws.

1. Non-Cognizable Offenses

If the reported offense is non-cognizable—where police lack the authority to arrest or investigate without prior Magistrate approval—an FIR cannot be registered directly. Under Section 155 of the BNSS, the complainant is advised to approach the Magistrate to obtain necessary directives. This principle was reinforced in *Lalita Kumari v. Government of Uttar Pradesh*, ensuring adherence to procedural safeguards.

2. Insufficient Information

A vague or speculative complaint, lacking concrete facts, may lead police to decline FIR registration until further details are provided. This safeguard prevents frivolous complaints from derailing the investigative process, as noted in *Lalita Kumari*, *Netaji Achyut Shinde (Patil) Vs. State of Maharashtra [CrA 121 OF 2019] etc*. However, police must document their reasons for refusal and advise complainants on steps to rectify the deficiencies. The relevant paragraph from the judgement is mentioned herein: -

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3. Civil Matters

Disputes of a purely civil nature—such as contractual disagreements or property disputes—are not subject to criminal proceedings unless a clear element of criminality is involved. In *M/S Indian Oil Corporation v. NEPC India Ltd.*, the Supreme Court held that civil disputes masquerading as criminal complaints should not lead to FIR registration, emphasizing the need to distinguish between civil and criminal jurisdictions. The relevant paragraph from the judgement is mentioned herein: -

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged. In G. Sagar Suri vs. State of UP [2000 (2) SCC 636], this Court observed:

"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process, a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice." While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under section 250 Cr.P.C. more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may."

4. Alternative Methods of Dispute Resolution

In minor offenses, police may encourage parties to resolve disputes through mediation or alternative mechanisms rather than registering an FIR. While this approach aligns with the principles of restorative justice, as noted in ***B.S. Joshi & Ors. v. State of Haryana***, it must be pursued only with the voluntary consent of all parties. The relevant paragraph from the judgement is mentioned herein: -

"The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3 SCC 693] are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts."

5. Lack of Evidence

An initial assessment by police suggesting that the complaint lacks significant evidence may result in refusal to register an FIR. Courts have upheld this approach in cases like ***State of Punjab v. Bhajan Lal***, while also cautioning against arbitrary or biased judgments by law enforcement. The relevant paragraph from the judgement is mentioned herein:-

4. The core of the Sections 156, 157 and 159 of the Code of Criminal Procedure is that if a police officer has reason to suspect the commission of a cognizable offence, he must either proceed with the investigation or cause an investiga- tion to be proceeded with by his subordinate; that in a case where the police officer sees no sufficient ground for investigation, he can dispense with the investigation alto- gether; that the field of investigation of any cognizable offence is exclusively within the domain of the investiga- tion agencies over which the Courts cannot have control and have no power to stiffle or impinge upon the proceedings in the investigation so long as the investiga- tion proceeds in compliance with the provisions relating to investigation and that it is only in a case wherein a police officer decides not to investigate an offence, the concerned Magistrate can intervene and either direct an investigation or in the alternative, if he thinks fit, he himself can, at once proceed or depute any Magistrate sub-ordinate to him to proceed to hold a preliminary inquiry

into or otherwise to dispose of the case in the manner provided in the Code. [283G-H; 284A-B] State of Bihar and Anr. v. J.A.C. Saldanha and Ors., [1980] 1 SCC 554; S.N. Sharma v. Bipen Kumar Tiwari and Ors., [1970] 3 SCR 946; Emperor v. Khwaja Nazir Ahmad, AIR 1954 P.C. 18 and Abhinandan v. Dinesh, [1967] 3 SCR 668; referred to.

6. Public Officers and Sanctions

When an FIR is filed against a public officer, a preliminary inquiry and formal sanction for prosecution are often required. This safeguard is designed to prevent frivolous complaints from disrupting governance, as highlighted in ***P. Sirajuddin v. State of Madras*** and *Lalita Kumari*. The relevant paragraph from the judgement is mentioned herein: -

17. In our view the procedure adopted against the appellant before the laying of the first information report though not in terms forbidden by law, was so unprecedented and outrageous as to shock one's sense of justice and fairplay. No doubt when allegations about dishonesty of a person of the appellant's rank were brought to the notice of the Chief Minister it was his duty to direct as enquiry into the matter. The Chief Minister in our view pursued the right course. The High Court was not impressed by the allegation of the appellant that the Chief Minister was moved to take an initiative at the instance of person who was going to benefit by the retirement of the appellant and who was said to be a relation of the Chief Minister. The High Court rightly held that the relationship between the said person and the Chief Minister, if any, was so distant that it could not possibly have influenced him and we are of the same view. Before a public servant, whatever be his status, is publicly charged with acts of dishonesty which amount to serious misdemeanour or misconduct of the type alleged in this case and a first information is lodged against him, there must be some suitable preliminary enquiry into the allegations by a responsible officer. The lodging of such a report against a person, specially one who like the appellant occupied the top position in a department, even if baseless, would do incalculable harm not only to the officer in particular but to the department he belonged to, in general. If the Government had set up a Vigilance and Anti-Corruption Department as was done in the State of Madras and the said department was entrusted with enquiries of this kind, no exception can of taken to an enquiry by officers of this department but any such enquiry must proceed in a fair and reasonable manner. The enquiring officer must not act under any preconceived idea of guilt of the person whose conduct was being enquired into or pursue the enquiry in such a manner as to lead to an inference that he was bent upon securing the conviction of the said person by adopting measures which are of doubtful validity or

sanction. The means adopted no less than the end to be achieved must be impeccable. In ordinary departmental proceedings against a Government servant charged with delinquency, the normal practice before the issue of a charge-sheet is for some one in authority to take down statements of persons involved in the matter and to examine documents which have a bearing on the issue involved. It is only thereafter that a charge-sheet is submitted and a full-scale enquiry is launched. When the enquiry is to be held for the purpose of finding out whether criminal proceedings are to be restored to the scope thereof must be limited to the examination of persons who have knowledge of the affairs of the delinquent officer and documents bearing on the same to find out whether there is prima facie evidence of guilt of the officer. Thereafter the ordinary law of the land must take its course and further inquiry be proceeded with in terms of the Code of Criminal Procedure by lodging a first information report.

8. Cryptic or Anonymous Complaints

Complaints lacking verifiable details or made anonymously, such as a cryptic phone call, do not qualify for FIR registration. Judicial precedents like **K.V.Bhaskar vs The State Of Andhra Pradesh** affirm that such communications, unless substantiated, cannot form the basis of an FIR. The relevant paragraph from the judgement is mentioned herein: -

"23. 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."

9. Duplicate Complaints

Police are not obligated to register an FIR if the complaint pertains to an incident for which an FIR has already been registered. This ensures efficient use of resources and avoids redundancy.

10. Frivolous or Malicious Complaints

If a complaint appears vexatious, motivated by malice, or intended to harass the accused, police may refuse to register an FIR. This principle, upheld in ***State of Punjab v. Bhajan Lal***, protects individuals from unwarranted legal proceedings while emphasizing police accountability. The

relevant paragraph from the judgement is mentioned herein: -

> *51. Resultantly, the condition precedent to the commencement of the investigation Under Section 157(1) of the Code is the existence of the reason to suspect the commission of a cognizable offence which must be, prima facie disclosed by the allegations made in the first information laid before the police officer Under Section 154(1).*

11. Influence of the Accused

Although unlawful, undue influence or pressure from powerful individuals can sometimes affect police decisions to refuse FIR registration. Such instances are strongly criticized in cases like ***M/S. Skipper Beverages Pvt. Ltd. v. State***, underscoring the need for strict oversight. The relevant paragraph from the judgement is mentioned herein: -

> *7. It is true that Section 156(3) of the Code empowers a Magistrate to direct the police to register a case and initiate investigations but this power has to be exercised judiciously on proper grounds and not in a mechanical manner. In those cases where the allegations are not very serious and the complainant himself is in possession of evidence to prove his allegations there should be no need to pass orders under Section 156(3) of the Code. The discretion ought to be exercised after proper application of mind and only in those cases where the Magistrate is of the view that the nature of the allegations is such that the complainant himself may not be in a position to collect and produce evidence before the Court and interests of justice demand that the police should step in to held the complainant. The police assistance can be taken by a Magistrate even Under Section 202(1) of the Code after taking cognizance and proceeding with the complaint under Chapter XV of the Code as held by Apex Court in 20001 (1) Supreme Page 129 titled " Suresh Chand Jain Vs. State of Madhya Pradesh & Ors."*

12. FIR can be registered against a dead person, but criminal proceedings cannot be pursued.

Even though, there is no prohibition on recording an FIR against a dead person, the subsequent criminal proceedings cannot be pursued as they are abated upon the individual's death. This principle stems from the fundamental legal tenet "*Actio personalis moritur cum persona*" which means the *action dies with the person*, meaning that criminal liability is personal and ceases with the demise of the accused.

CONCLUSION

The interplay between the mandatory registration of FIRs and the need for preliminary inquiries in specific cases underscores the delicate balance inherent in the Indian criminal justice system. Through landmark judgments such as Lalita Kumari v. Government of Uttar Pradesh and subsequent codifications in the Bharatiya Nagarik Suraksha Sanhita (BNSS), the judiciary and legislature have sought to safeguard individual rights while ensuring the integrity of the investigative process.

By categorizing cases that warrant a preliminary inquiry—such as matrimonial disputes, medical negligence, corruption, and commercial offenses—the legal framework mitigates the risk of misuse of the FIR mechanism, promotes accountability, and fosters public trust in law enforcement. Similarly, the clearly defined grounds for refusing FIR registration aim to prevent frivolous complaints and ensure procedural propriety, while upholding the rights of complainants to seek justice.

In conclusion, the evolving jurisprudence surrounding FIR registration and preliminary inquiries reflects a dynamic and responsive legal system committed to balancing expediency with fairness. The principles discussed in this article reinforce the importance of due diligence, transparency, and accountability, serving as a guide for law enforcement and a safeguard for citizens navigating the complexities of criminal law.

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