

# A STUDY ON THE EVIDENTIARY VALUE OF FIRST INFORMATION REPORT

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## ABSTRACT

*The statements made to the police are of three categories:*

*1) A statement which has been recorded as First Information Report.*

*2) Statement recorded by the police in the course of investigation*

*3) A statement recorded by the police but not falling under the above (1) and (2) category.*

*None of the above statements can be combined as substantial evidence, that is to say, as evidence of facts there in. Because it is not made during trial, it is not given on oath, nor it is tested by cross examination. Generally FIR has no evidentiary value but in few circumstances it carries evidentiary value, as in the case of dying declaration. FIR cannot be used as substantive piece of evidence. The value of F.I.R must always depend on the facts and circumstances of a given case. First Information Report can only be used to corroborate or to contradict the maker of FIR. It may be utilized by the defence to impeach the credit of the informant under Section 155 of the Code of Criminal Procedure. FIR is the earlier version of the case of prosecution and it must be placed before the judge to weigh the truth or falsity and for corroboration and contradiction of the story of the maker of the information. A First Information Report is not supposed to be a detailed document. FIR is a public document prepared under Section 159 of Cr.PC.*

**Keywords:** *First Information Report; Corroboration; Contradictory; Evidentiary value; Statement; Police.*

## INTRODUCTION

Statements made in the FIR are not privileged ones. They do not enjoy immunity. The prosecution can be launched for defamatory statement in the F.I.R. If there is difference between FIR and the version narrated in the court, it is always a matter of grave suspicion to the court. The FIR is a document and had to be proved like any other document. FIR is not a substantive piece of evidence. Therefore, even if the written report filed has not been duly proved the prosecution case will not fail on that ground alone and the court has to consider the substantive evidence which has been adduced by the prosecution<sup>1</sup>.

The value of FIR must always depend on the facts and circumstances of a given case<sup>2</sup>. In **Asharam and Anr Vs State of M.P<sup>3</sup>**, the Apex Court held that we do not find any merit in the

<sup>1</sup> Kanichal Thankur Vs State of Bihar, 2003 Cri. L.J 375 ( Pat)

<sup>2</sup> Dharma Rama Bhargava Vs State of Maharashtra, 1973 Cri. L.J 680(Sc)

<sup>3</sup> AIR 2007 SC 2594 Para 18

contentions made in this case. According to the trial court, the foundation of the investigation was not proved and therefore all the accused were entitled to acquittal. In this connection, the main circumstance on which the trial court relied upon to ante-timing of the FIR. It is well settled that an FIR is not a substantive piece of evidence. It cannot contradict the testimony of the eye witnesses even though it may contradict its matter.

### **What is FIR?**

The information on the commission of a cognizable crime delivered to a police officer is “first information” and the corresponding report is understood as the “first information report (FIR)”. It is a document written by a police officer in the registry prescribed by the state government.

### **Why is FIR needed?**

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

### **Who can host an FIR?**

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

### **You can submit FIR if :**

- You are the person against whom the offence was committed;
- You know about an offence that has been committed;
- You have seen the offence committed.

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

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

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

Once the information has been recorded by the police, it must be signed by the person providing the information<sup>4</sup>.

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

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

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<sup>4</sup> Evidentiary Value of FIR- Legal Services India <http://www.legalservicesindia.com/article936/Evidentiary-Value-of-FIR.html> Accessed 3 Jun, 2016

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

Your name and address;

Date, time and location of the incident reported;

The true facts of the incident when they occurred.

Names and descriptions of the people involved in the incident.

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

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

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

No, the FIR can be registered at any police station, regardless of where the offence was committed<sup>5</sup>.

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

The FIR must be registered as early as possible, after the offence. The benefit of early FIR recording helps in the arrest of real criminals and also helps in gathering evidence of the crime<sup>6</sup>.

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

You can meet with the Superintendent of Police or other senior officers such as the Deputy Inspector General of the Police and the Inspector General of the police and present your complaint upon notification<sup>7</sup>.

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

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

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

You can also file a complaint with the State Human Rights Commission or the National Human Rights Commission if the police do nothing to enforce the law or do so in a partial and corrupt manner<sup>8</sup>.

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

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

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<sup>5</sup> CHAPTER- VI Evedentary Value of the FIR.....Shodhganga

<http://shodhganga.inflibnet.ac.in/ispui/bitstream/10603/132545/15/15chapter%206.pdf>. Accessed 3 Jun 2016

<sup>6</sup> Evidentary Value of FIR- Lawyersclubindia. 13 Jul 2015 <http://www.lawyersclubindia.com/articles/Evidentiary-value-of-FIR-6747.asp> Accessed 3 Jun 2016

<sup>7</sup> What to do if the Police refuse to register an FIR?, Jaago Re, <https://www.jaagore.com/know-your-police/what-to-do-if-the-police-refuse-to-register-an-FIR>. Accessed 3 Jun 2016

<sup>8</sup> What can I do if the police refuses to register an FIR based on my..... 1 Sep 2014, <https://www.quora.com/what-can-I-do-if-the-police-refuses-to-register-an-FIR-based-on-my-complaint-involving-serious-offences-such-as-fraud-or-dowry-demands>. Accessed 3 Jun 2016

People who cannot read or write should put their left thumbprint on the document after making sure it is a correct record. Always request a copy of the

FIR, if the police do not give it to you. It is your right to obtain it at no cost<sup>9</sup>.

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

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

The case is not serious in nature;

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

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

[Section 157, Code of Criminal Procedure, 1973]

### **F.I.R CAN BE USED ONLY FOR CONTRADICTIONARY AND CORROBORATORY PURPOSES.**

An F.I.R is not a substantive piece of evidence and can only be used to corroborate the statement of the maker under Section 157, Evidence Act or to contradict it under Section 145 of the Evidence Act. It can only be used for corroboration or contradiction purposes that too when F.I.R was lodged by a person having direct knowledge about the occurrence<sup>10</sup>. In other cases<sup>11</sup> also the same view has been expressed. When the F.I.R is clouded with suspicion as it was product of undue deliberation and consultation then F.I.R loses its corroboration value.<sup>12</sup> F.I.R cannot be relied upon unless it is tendered by the prosecution in accordance with Section 157, Evidence Act.<sup>13</sup> F.I.R cannot be used against the maker at the trial if he himself becomes an accused not to corroborate or contradict other witnesses<sup>14</sup>.

In **Bhagawan Singh and Others V State of M.P.**,<sup>15</sup> the Honorable Supreme Court decided that non-mention of name of witness in FIR is not relevant. A First Information Report is not supposed to be a detailed document. The F.I.R is a document which sets the criminal law into motion, and it has to be appreciated keeping in mind the facts and circumstances of each individual case.<sup>16</sup> FIR can be used to discredit testimony of its maker, it cannot, however, be used to discredit or contradict testimonies of eye witnesses, if found otherwise reliable and trustworthy.<sup>17</sup> F.I.R is not

<sup>9</sup> What to do when Police refuse to register the FIR?, Legal Eagles, 28 Jun 2015. <http://www.ourlaw.in/201/06/what-to-do-police-refuses-to-register-FIR.html>. Accessed 3 Jun 2016

<sup>10</sup> State of Bombay Vs. Ruyy Mistry; 1960 Cri. L.J.

<sup>11</sup> Krishna Kumar Vs. State, (1983) Del L. T. 442

<sup>12</sup> Kanhai Vs. State of P., 1986 All. Cr. R. 473; 1986 All C.C. 459

<sup>13</sup> Damodar Pd. Vs. State of Maharashtra, A. IR. 1972 S.C. 622

<sup>14</sup> Nissar Ali Vs. State of U.P., A.I.R 1957 S.C. 366

<sup>15</sup> AIR 2002 SC 1621 para 13

<sup>16</sup> Jhoda Khoda Rabari Vs. State of Gujarat, 1992 Xri. L. J. 3298

<sup>17</sup> Kapil Singh Vs. State of Bihar, 1990 Xri. L. J. 1248

substantive evidence. Before it can be used its scribe or the informant must be examined in court. Hence by mere mention of name of accused in F.I.R or number of a vehicle does connect such person or vehicle with the crime.<sup>18</sup>

In **Dhirendra Nath V State**,<sup>19</sup> the Calcutta High Court while emphasizing the value of the F.I.R observed as follows “I am aware that the First Information Report is at times, regarded as part of the res-gestae and on that basis it is sometimes used, not merely for the purpose of corroborating or contradicting the person who lodged it but also for the purpose of lending some assurance to or negating the general account as given by other witnesses”.

The Orissa High Court also in, **The State Vs Makund Harijn**<sup>20</sup> while holding the same view observed that “No doubt a First Information Report can, strictly speaking, be used only to corroborate or contradict the maker of it. But omissions of important facts, affecting the probabilities of the case, are relevant under Section 11 of the Evidence Act in judging the veracity of the prosecution case”

It is settled law that the First Information Report is not substantive evidence it can be used only to contradict the maker thereof or for corroborating his evidence and also to show that the implication of the accused was not an after-thought. Since the examination of first informant was dispensed with by consent, F.I.R became part of the prosecution evidence<sup>21</sup>.

An F.I.R recorded without any loss of time is likely to be free from embroideries, exaggerations and without anybody intermeddling with it and polluting and adulterating, the same with lies. The purpose of F.I.R is to obtain the earliest account of a cognizable offense before there is an opportunity for the circumstances to be embellished.

Though the F.I.R is not a substantive piece of evidence and can be used to corroborate or contradict the statement of the maker thereof, it can also be used to test and measure the trustworthiness of the prosecution story as a whole<sup>22</sup>. When the case of prosecution was that accused caused injury on the check of the informant and when the F.I.R did not disclose such fact, then such omission in the F.I.R would seriously impeach credibility of informant<sup>23</sup>.

The first Information Report is never treated as a substantive piece of evidence it can only be used for corroborating or contradicting its maker when he appears in Court as a witness. Its value must always depend on the facts and circumstances of a given case. The First Information Report can only discredit the testimony of the maker thereof. It can by no means be utilized for contradicting or discrediting the other witnesses who obviously could not have any desire to spare the real culprit and to falsely implicate an innocent person. Prosecution case cannot be thrown out on the mere

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<sup>18</sup> 1972 R.L.W. 637

<sup>19</sup> A.I.R. 1952 Cal. 621

<sup>20</sup> 1983 Cri. L. J 1870

<sup>21</sup> Malkit Singh Vs. State of Punjab, 1991 (2) Crimes 191(197) S.C.

<sup>22</sup> Gulshan Kumar Vs. State 1993 Cri. L.J. 1525-1993(1) Crimes 964.

<sup>23</sup> Purandas Bhukta Vs. State of Orissa, 1991 Cri. L. J. 1388 (1389-90)

ground that in the First Information Report an altogether different version was given by the informant<sup>24</sup>.

Contents of FIR can be used for purpose of corroborating or contradicting maker of it if he was examined and under no circumstance as substantive evidence.<sup>25</sup> The F.I.R can be used to discredit the testimony of the maker of the report and the prosecution case cannot be thrown out merely on the ground that entirely different version is given therein by its maker<sup>26</sup>.

It is trite saying that the F.I.R can also be used to test and measure the trust-worthiness of the prosecution story as a whole<sup>27</sup>. The FIR is admissible under Section 157 of the Evidence Act. It is not substantive evidence it can be used for one of the limited purposes of corroboration or contradicting the maker thereof; another purpose for which the FIR can be used to show the implication of the accused to be not an afterthought or that the FIR can be used under Section 32(1) of the Evidence Act or under Section 8 of the Evidence Act as to the cause of the informant's death or as part of the informer's conduct<sup>28</sup>. FIR cannot be used to discredit a witness<sup>29</sup>. Similarly FIR made by one cannot be used to discredit the statement of another<sup>30</sup>. FIR cannot be distrusted unless its genuineness is not challenged during cross examination<sup>31</sup>.

Their Lordships of Supreme Court observed in **Kishan Chand V State of Rajasthan**<sup>32</sup> that when witness was dead before he could give evidence in Court and is equally true that the FIR was lodged by him on November 22, 1974, cannot be used as substantive Evidence nor the contents of the report can be said to furnish testimony against the accused, then such FIR would not be covered by any of the clauses of Sections 32 and 33 of the Evidence Act and were not be admissible as substantive evidence. But their Lordships took a slightly different view in **Maqsoonan V State of U.P.**<sup>33</sup> wherein it was held that when a person who has made a statement, may be in expectation of death, is not dead, it is not a dying declaration and is not admissible under Section 32 of the Evidence Act. Where the makers of the statement are not only alive but they deposed in the case, their statements are not admissible under Section 32; but their statements, however, are admissible under Section 157 of the Evidence Act as former statement made by them in order to corroborate their testimony in court.

Further when the time of making F.I.R is not free from doubt then F.I.R loses its corroborative value<sup>34</sup>.

When the F.I.R was recorded by father of murdered boy and omissions of important facts were left out, then such F.I.R is relevant under Section 11 of the Evidence Act in judging veracity of

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<sup>24</sup> State of Gujarat Vs. Anirudh Singh, AIR 1997 (SC) 2780

<sup>25</sup> Harikirat Singh Vs. State of Punjab, AIR 1997 SC 3231

<sup>26</sup> Barkau Vs State of U.P., 1993 Cri. L. J2950 (All.); O.K. Bhagare V State of Maharashtra. 1993 Cri.L.J 680 SC : A.I.R. 1973 SC 476(Followed)

<sup>27</sup> Gulshan Kumar Vs. State, 1993(2) Crimes 239 (Delhi)

<sup>28</sup> Damodar Pd. Chandrika Pd Vs State of Maharashtra, 1972 S.C.C(Cri.) 110; A.I.R 1972 S.C622. Cri. L.J 451 Shankar V State of U.P., (Supra).

<sup>29</sup> Tehsildar Vs State of U.P., A.I.R. 1977 S.C 1078.

<sup>30</sup> Ajmer Singh Vs. State of Punjab, A.I. R 1977 S.C 1078.

<sup>31</sup> Swaran Singh Vs. State of Punjab, A.I.R 1976 S.C 2304.

<sup>32</sup> A.I.R. 1982 S.C 1511: 1982 Cri. L.J. 1.

<sup>33</sup> 1983 Cri. L. J 218: A.I.R. 1983 S.C 126: 1982 All Lj. 1524:1983 S.C.C(Cri.) 176.

<sup>34</sup> Kanhai Vs. State of U.P., 1985 All Lj.1039.

witnesses<sup>35</sup> Where the prosecution fails to get the FIR lodged on behalf of the injured, exhibited and proved, it is duty of the Court to see that the same is duly proved and exhibited in the case. FIR is merely used by way of corroboration or contradiction and no further. If the FIR is not duly proved or if a statement recorded as FIR could not be used as FIR in legal grounds. Merely for that reason the evidence of eye witnesses would not be rejected if the same is found to be otherwise reliable<sup>36</sup>. It is trite that an FIR is not substantive evidence unless of course it is admitted under Section 32(1) of the Evidence Act and can be used to corroborate or contradict the maker thereof and therefore, the question of corroborating P.W.1 by his purported statements as contained in Ext P.1 could not arise<sup>37</sup>.

### **EVIDENTIARY VALUE OF F.I.R SENT WITH DELAY TO MAGISTRATE UNDER SECTION 157, CODE OF CRIMINAL PROCEDURE, 1973**

Element of delay in registering the complaint or sending the same to the jurisdictional Magistrate by itself would not be fatal to the prosecution, if the evidence adduced by the prosecution was worthy of credence<sup>38</sup>. The extraordinary delay in sending FIR to the Magistrate is a circumstance which provides a legitimate basis for suspecting that the FIR was recorded much later than the stated date and hour affording sufficient time to the prosecution to introduction improvements and embellishment and set up a distorted version of the occurrence. In such a case, the evidence of eye-witnesses cannot be accepted at its face value<sup>39</sup>. The same view was taken in another important case<sup>40</sup> decided by Supreme Court.

When the FIR has been received by the Magistrate with inordinate delay, then the entire prosecution case must be viewed with suspicion<sup>41</sup>. Mere delay in holding inquest proceedings and in delivery of FIR to local Magistrate cannot be said to have rendered FIR ante-timed or ante-dated.<sup>42</sup>

In **Sarwan Singh V State of Punjab**<sup>43</sup> their Lordships of Supreme Court has observed that delay in dispatch of the FIR is not a circumstance which can throw out the prosecution case in its entirety. Hence, if, prosecution had given a very cogent and reasonable explanation for the delay in dispatch of FIR and the trial court was not justified in rejecting prosecution case on the ground of delay in the peculiar circumstances of the case. Further when it was found that the FIR was actually recorded without delay and the investigation started on the basis of that FIR and there is no other infirmity brought to the notice of the court, then however improper or objectionable, the

<sup>35</sup> Ram Kumar Panday Vs. State of M.P., A.I.R., 1975 S.C. 1026:1975 Cri. LJ 870; Ashokan Vs State, 1982 Cri.L.J 173 Bata Munda V State, (1985) 59 C.L.R 370.

<sup>36</sup> Bisnu Dhar Roulra Vs. Raula 1991 Cri. LJ 220 (221-222) Orissa

<sup>37</sup> George Vs. State of Kerala, AIR 1998SC 1376; 1998 SCC (Cri.) 1232; 1998 Cri. L.J. 2034; 1998(2)Crimes 27.

<sup>38</sup> Mohinder Singh Vs. State of Punjab, 2006 (4) RCR (Criminal) 273 (SC).

<sup>39</sup> Ishwar Singh Vs. State of U.P., 1976 Cri. LJ. 1883 : AIR 1976 SC 2423

<sup>40</sup> Balaka Singh Vs. State of Punjab, 1975 Cri. LJ 1734: A.I.R. 1975 S.C 1962.

<sup>41</sup> Hardhan Char Vs. State of W.B., 1981 Cri. L.J N.O.C. 158 (Cal.) D.B.

<sup>42</sup> Ishwar Singh Vs. State, 1985 Cri. L.J/ 1625:1984(2) Crimes 127.

<sup>43</sup> 1976 Cri. L.J 1757 : A.I.R 1976 S.C 2304: 1976 Cri. L.R. S.C. 362:(1976) 4 S.C.C.309

delayed receipt of the report by the Magistrate concerned it cannot by itself justify the conclusion that the investigation was tainted and the prosecution insupportable.<sup>44</sup>

It is not that as if every delay in sending a delayed special report to the District Magistrate under Section 157, Criminal Procedure Code would necessarily lead to the inference that the FIR has not been lodged at the times stated, or has been ante-timed or ante-dated that the investigation is not fair and forthright. Hence, where the steps in investigation by way of drawing inquest report and other panchamas started soon which could not follow the handing over of FIR the delayed receipt of special report by District Magistrate would not enable the court to dub the investigation as tainted one not could FIR be regarded as ante-timed or anti-dated.<sup>45</sup>

Where the FIR was lodged without delay, late receipt of the report by the Magistrate in the absence of any other vitiating circumstances will not make the lapse fatal. This is particularly, so where there is satisfactory explanation for the delay and there is no inconsistency in the basic aspects of the case as reported by the informant and spoken to by the witnesses<sup>46</sup>.

It may be relevant to mention here that Section 157(1) of the Code of Criminal Procedure lays down that the FIR in respect of cognizable offence shall be sent forthwith to a Magistrate competent to take cognizance of an offence. When there is extraordinary delay in receipt of FIR in the concerned court of Magistrate without any satisfactory explanation, then it provides a legitimate basis for suspecting that FIR was recorded much later than the stated date and hour affording sufficient time to the prosecution. Delay in filing to FIR creates suspicion particularly when the FIR is filed after consultation with the police. Other circumstances also being insufficient to prove guilty accused was acquitted.<sup>47</sup>

Where the investigating office had gone to the village of occurrence where there was no electricity on the basis of some vague information of violence having broken out there has categorically denied having questioned the witnesses or recorded their statement, the FIR recorded in police station after reaching there is not hit by S.162 Cr.P.C. Receipt of FIR by the Magistrate by two hours cannot be said to be inordinate delay or giving room for suspicion<sup>48</sup>.

The delay in FIR reach the Magistrate may put the Court on guard and the Court may have to be cautious in making its approach to the evidence, but there are no laws that on this score alone otherwise reliable and truthful evidence should be discarded<sup>49</sup>

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<sup>44</sup> Pale Singh Vs. State of Punjab. A.I.R 1972 S.C 2679.

<sup>45</sup> State of Y.P. Vs Gokaran, A.I.R. 1985 S.C. 131

<sup>46</sup> State of Kerala Vs. Dasan, 1986 Cri. L.J. 345.

<sup>47</sup> Bresham Singh Vs. State of U.P., (2000) Cri. L.J 2250 (All).

<sup>48</sup> Pattad Amarappa V State of Kerala, AIR 1989 SC 2004.

<sup>49</sup> Siddalingappa V State, 1993 Cri. L.J 397 (Kant) DB.



## **FIR CAN BE USED FOR THE FOLLOWING PURPOSES**

- a. It can be used to corroborate the maker under S. 157 of Evidence Act, but not to corroborate the other witnesses.<sup>50</sup> Apex Court has gone so far to say that the prosecution case cannot be thrown out on the mere ground that if the First Information Report an altogether different version was given by its maker. The position has not, however been maintained in toto in subsequent cases of the apex court.
- b. F.I.R can be used to contradict only the maker of it under Section 145 and Section 155 of Evidence Act and no other witnesses.<sup>51</sup>
- c. F.I.R can be used by the defence to impeach the credit of the maker under Section 155(3) of the Evidence Act<sup>52</sup>
- d. A non-confessional First Information Report lodged by the accused can be used against him to prove his admissions in regard to certain facts under Section 21 of the Evidence Act<sup>53</sup>
- e. Certain portion of confessional First Information Report logged by the accused can be used against him if they lead to the discovery of a fact within the meaning of Section 27 of the Evidence Act<sup>54</sup>
- f. FIR can be used as a substantive evidence on the death of the informant if it relates to the cause of informant's death or circumstances of the transaction resulting in informant's death within the meaning of Section 32(1) of Evidence Act. In other case, it cannot be used as substantive evidence<sup>55</sup>

Where the accused himself gives the First Information the fact of his giving the information is admissible against him as evidence of his conduct under Section 8 of the Evidence Act<sup>56</sup>

## **F.I.R IS A PUBLIC DOCUMENT**

Whenever there is bonafide requirement, the Court to which F.I.R is forwarded by the Police, can grant certified copy of F.I.R or payment of legal fee by the accused as it is a certified copy of a public document<sup>57</sup>

FIR is a public document prepared under Section 154 Cr.P.C. A certified copy of the FIR can be given in evidence (getting of FIR can be by the accused - accused is entitled to get a copy of the FIR only under the orders of the Court after the Court has taken cognizance of the case and not before but the accused can get a copy of FIR on payment from the Court). The officer-in-charge

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<sup>50</sup> Ibid.

<sup>51</sup> Shanker V State of U.P., 1975 Cr. L.J. 634 SC; AIR 1975 SC 757.

<sup>52</sup> Nisar Ali V State of U.P., 1957 Cr. L.J. 550 SC.

<sup>53</sup> Aghnoo Nagaesia V State of Bihar , 1966 Cr. L.J. 100 SC .

<sup>54</sup> Damodar Prasad V State of U.P., 1975 Cr. L.J 634SC; AIR 1975SC 757.

<sup>55</sup> Nisar Ali V State of U.P., 1957 Cr. L.J 550 SC.

<sup>56</sup> Ibid.

<sup>57</sup> Jayanti Bhai Lalu Bhai Patel V State of Gujarat, 1992(2) Crimes 253(Gujarat).

of a Police Station is not authorized to give copy of FIR to the accused. IF he gives copy of the FIR to the accused he will be liable under Section 29 of the Police Act, 1961.

Section 74 of the Indian Evidence Act reads:-

**“74 Public documents”**:- The following documents are public documents.

1. Documents forming the acts or records of the acts.
  - i) of the sovereign authority,
  - ii) of official bodies and Tribunals, and
  - iii) of public officers, legislative, judicial and executive, of any part of India or of the Common Wealth, or of a foreign country.

Public records kept in any State of private documents

### **Evidentiary value of First Information Report**

The Supreme Court has observed on the said subject matter, stating that “the first information report gives information of the commission of a cognizable crime. It may be made by the complainant or by any other person knowing about the commission of such offence. It is intended to set the criminal law in motion. Any information relating to the commission of a cognizable offence is required to be reduced to writing by the officer in charge of the police station which has to be signed by the person giving it and the substance thereof is required to be entered into a book kept by such officer in such form as the State Government may prescribe. It cannot be used as evidence against the person making it, if in case, he himself is accused in the matter, neither to corroborate or contradict other witnesses. It is not the requirement of law that the minutest details be recorded in the FIR lodged immediately after the occurrence. The fact of the state of mental agony of the person making who generally is the victim himself. If not dead, or the relations or associates of the deceased victim apparent under the shock of the occurrence reported has always to be kept in mind”<sup>58</sup>

The FIR is the first version of the incident as received by the police. The statements in the FIR must naturally get their due weight. An FIR is not a substantive piece of evidence. The Court has to consider other evidence for deciding whether a case should stand or fall. An FIR being not a substantive evidence, it can be used as a previous statement for the purposes of either its makers or for contradicting him. The statement of a victim corroborating examination which was not there in the FIR could not be used for contradicting her<sup>59</sup>

FIR is not an encyclopedia. It is only to set the law in motion. It need not elaborate but should contain necessary allegations to constitute cognizable offences. As per Section 154 of the

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<sup>58</sup> Evidentiary value of First Information Report (FIR) ResearchGate

<https://www.researchgate.net/publication/228226560> Evidentiary Value of First Information Report FIR. Accessed 3 Jun 2016

<sup>59</sup> “First Information Report” What is its evidentiary value? (Cr. PC, 1973,...) <http://www.shareyouressays.com/knowledge/what-do-you-understand-by-first-information-report-what-is-its-evidentiary-value-crpc-1973-india/112880>. Accessed 3 Jun 2016

Criminal Procedure Code, stating the use of FIR, “a FIR is not a substantial piece of evidence. It can only be used for corroborating or contradicting its maker. It cannot be used to corroborate or contradict other witnesses...” Further, “corroboration of its make is permissible, but the First Information Report cannot be used as substantive evidence or corroborating a statement of third party...” “The fact that the minute details are not mentioned should not be taken to mean the non-existence of the fact stated”. An FIR was made by close relatives of the deceased. Its reliability was not allowed to be doubted on the ground that it was highly improbable that a close relative would leave the victim in a hospital and would himself go to the police station, particularly so when other relatives had also arrived at the hospital. There was no delay in recording the FIR and sending the challan to the court. Absence of the names of the accused in the inquest report was of no value because the investigating officer and the offices conducting inquest were not questioned on that point<sup>60</sup>

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

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

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

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<sup>60</sup> “Evidentiary value of the first information report- Galgotias University. 22 Nov 1974. <http://law.galgotiasuniversity.edu.in/pdf/3-Evidentiary-Value-First-Information-Report-Introspection-Dr-Raj-Kumar-27218.pdf>. Accessed 3 Jun. 2016.

## **PROVING OF FIR**

The FIR is a document and had to be proved like any other document. The informant must be produced in the court during the trial and must be examined by the prosecution and cross-examined by the defence and FIR should be marked as exhibit. When the maker of the FIR was examined in the court, but the FIR is not tendered by the prosecution in accordance with the provisions of Indian Evidence Act. A court is debarred from relying on it.

## **CONCLUSION**

Thus, FIR has no evidentiary value and it is used for corroboratory and contradictory purpose as has been envisaged in Indian Evidence Act. In some situations, it is taken as evidence as in case of dying declaration.

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