**"FIRST INFORMATION REPORT (SECTION 154 CR.PC) VS. PROCEDURE OF INVESTIGATION (SECTION 157 CR.PC): AN ANALYSIS"**

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**Abstract –**

Human is a social animal. He conducts his activities in the society. The point of his actions is Society. Society makes its own rules and laws for how a person should behave in society. Its compliance is expected from all, but when it is violated, then the balance of society gets disturbed. This is due to the fact that rational intelligence in man influences him to strives for the fulfillment of his interests, desires and aspirations. In doing so, a situation of conflict arises. Thus, there is a fear of shattering the basic structure of the society. There is a need for judicial process to save the basic structure of the society from being shattered. No state can escape from its obligation that government or state is considered good, whose judicial process is systematic. It is well known that the police, the courts and the prisons are the three important agencies of the administration of criminal justice. Maintaining law and order and getting the criminals and anti-social elements booked by the court is actually the basic duty and responsibility of the police department and information in cognizable matters and due investigation are very important procedure under criminal justice system. The information in a cognizable case paves the way for investigation along with dynamiting the criminal law. Information in cognizable cases and the investigation after said recorded information, evidences are collected related to the alleged crime, the criminal is identified. The analysis of the meanings of the provisions of the process of information and investigation in cognizable cases appears to be contradictory. Contradictions lead to arbitrariness, thereby affecting the philosophy of the criminal justice system and the rule of law. The purpose of this paper is to analyze the provisions of the procedure of information and investigation in cognizable cases and suggest measures to remove the inconsistency/contradiction of the provisions so that the philosophy of criminal justice system and the rule of law can be strengthened.

**Keyword** - Offense, Cognizable case, Information, Investigation, Evidence

**Introduction**

Human is a social animal. He conducts his activities by staying in the society. Society is the focal point of his activities. How should a person behave while living in the society? For this the society makes its own rules and laws. Its compliance is expected from everyone, but when it is violated then the balance of the society gets disturbed. This is due to the fact that due to the rational intelligence in man, he keeps striving for the fulfillment of his interests, desires and aspirations. In doing so, a situation of mutual conflict and conflict arises. In this way the fear of disintegration of the basic structure of the society arises. To save the basic structure of the society from disintegration, judicial process is required. No state can escape from its responsibility, the same government or state is considered best, whose judicial process is well-organized.

It is well known that the police, courts and prisons are the three important agencies of the administration of criminal justice. Maintaining law and order and getting criminals and anti-social elements punished by the court is actually the fundamental duty and responsibility of the police department.

Investigation, also called investigation, is an important part and preliminary stage of judicial proceedings. The first function of the police in the investigation of a crime is to register a First Information Report (FIR) of a cognizable offense in which the information about the occurrence of the offense is recorded. To register an FIR in the police, the person does not need to personally write a report in the police station, he can get it recorded through e-mail, phone or any other medium.

The offenses are divided into two categories according to their severity.

1. Cognizable offense
2. Non-cognizable offense
3. **“Cognizable offense”** means an offense for which and cognizable case means a case in which a police officer may arrest without warrant in accordance with the First Schedule or any other law for the time being in force, section 2(c), Code of Criminal Procedure, 1973
4. **"Non-cognizable offense"** means an offense for which and "non-cognizable case" means a case in which the police officer does not have authority to make an arrest without warrant Section 2(l), Code of Criminal Procedure, 1973

**The provisions relating to information to the police and its power to investigate have been made in Chapter 12 of the Code of Criminal Procedure, 1973.**

**Information / first information report in cognizable cases**

**Section 154 Information in cognizable cases**

1. Every information relating to the commission of a cognizable offence, if given orally to the officer-in-charge of the police station, shall be recorded in writing by him or under his direction and shall be read out to the person giving the information, and on every such information, whether is given in writing or is recorded as aforesaid, shall be signed by the person who gives it and the substance thereof shall be entered in such book to be kept by such officer in such form as the State Government may prescribe in this behalf. .

[Provided that if by a woman against whom section 326A, section 326B, section 354, section 354A, section 354C, section 354D, section 376 section 376A, section 376B, section 376C, section 376S section 3765 of the Indian Penal Code (45 of 1860) or is alleged to have been committed or attempted to be committed, any offense under section 509, such information shall be recorded by a woman officer and such woman shall be provided with legal aid and any health Assistance of care worker or women's organization or both shall be provided by:

But further that-

1. If the person against whom any offense under section 354, section 354A, section 354B, section 364C, section 354, section 376, section 376A, section 376B, section 376S, section 376E or section 509 of the Indian Penal Code has been committed is alleged to have gone or is attempted to be committed, is temporarily or permanently mentally or physically disabled, such information is given by any police officer to the residence of the person who wishes to report such offence. shall be recorded in the presence of an interpreter or a special speaker, as the case may be, at the place or at an accessible place at the option of that person;
2. A video film of the recording of such information shall be produced;
3. Cause, as soon as may be, the statement of that person to be recorded by a police officer under clause (a) of sub-section (5A) of section 164 by a Judicial Magistrate.]
4. A copy of the information recorded under sub-section (1) shall be given forthwith free of cost to the person giving the information.
5. Any person who is aggrieved by the refusal of the 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 may, if his is satisfied that such information reveals the commission of any cognizable offence, he shall either investigate the matter himself or direct an investigation to be carried out by any police officer subordinate to him in the manner provided by this Code and shall direct that officer to The officer-in-charge of the police station shall have all the powers in relation to the offence.

**Comment**

The First Information Report is not a material type of evidence and should not contradict the testimony of the eyewitnesses. [**Asharam v State of Madhya Pradesh1]**

First information reports are very comprehensive material as it is first information about the incident and there is little opportunity to modify or rectify the statement. [**Sujay Sen v. State of West Bengal2; State of Maharashtra v. Mohammad Sajid Hussain3]**

**Objective of section 154**

The following are the objectives of this section

1. To inform the District Magistrate and the Superintendent of Police who are responsible for peace and security in the district, of the crimes registered in the police station.
2. Judicial officers who have to try the case, immediately after the incident, the facts and material of which to give information about the basis on which the investigation has been started.
3. To protect the accused from subsequent alteration or addition of any other thing in the case.

**First information report**

The definition of First Information Report has not been given in the Code of Criminal Procedure, 1973 be defined as may-

1. This is such information which is given to a police officer,
2. The information should relate to a cognizable offence,
3. This information is given first after the event,
4. Investigation is started only on the basis of this information.

In essence, it can be said that the information given to a police officer and to be recorded in writing under this section 154 after that it is called first information report.

**Objective of First Information Report**

The main object of the First Information Report is to report an offense to a police officer so that he

**Haseeb Vs State of Bihar4**  to give impetus to criminal law

**Importance of First Information Report**

The First Information Report is important in many respects. This is an assertion immediately after the incident, so it is necessary to inform the memory of the person is fresh and there is no possibility of saying concoctions. **Kachu Gogoi Vs State5**

**Filing of First Information Report**

In so far as the filing of a First Information Report is concerned, when any information disclosing a cognizable offense comes before the officer-in-charge of a police station, he is bound to file such report on the basis of that, besides any other **State of Haryana Vs. Choudhary Bhajan Lal & Othets6**

The provisions of section 154 are mandatory, whenever a report disclosing a cognizable offense is presented before the officer-in-charge of the police station, he is bound to record it**. Ramesh Kumari Vs State7**

When information about the commission of a cognizable offense is given to a police officer, it is the statutory duty and right of that police officer to immediately enter it in the relevant register **- Ramlal Narang v. Delhi Administration8**

The officer-in-charge of the police station is bound to file a First Information Report on the report presented disclosing a cognizable offense **Rajendra Singh Katich v. Chandigarh Administration and others9**

**First notice by telephone**

The cause of a cognizable offense can also be informed by telephone. On receipt of such information, it shall be recorded in writing. It is lawful to initiate tax investigation **Sunil Kumar Vs. State of Madhya Pradesh10**

**Where will the first information report be given?**

The general rule is that information about an offense ordinarily committed shall be given to the police station having local jurisdiction at the place where the offense is committed, but that does not mean that the information should not be given elsewhere. Can. **In the case of State of Andhra Pradesh Vs. P. Ramulu & Ors.11**, it was held that it is the duty of the officer-in-charge of the police station to record the report and send it to the concerned police station.

**First Information Report : Uttar Pradesh Police Regulation**

It is mentioned in Chapter 10 Para 97 of the Uttar Pradesh Police Regulation that whenever a cognizable offense is committed. If the information about the commission is given to the officer-in-charge of the police station, then the cognizable offense is reported in the check receipt book (Police Form No. 341) in triplicate immediately. This action will be taken expeditiously without delay in any way to ascertain the actual facts by preliminary investigation. Even if it appears to be untrue, the report should be recorded immediately. If the officer-in-charge of a police station, on receipt of information or otherwise, has reason to suspect that an offense to be investigated has been committed.

**Section 157 Procedure for investigation -**

If the officer-in-charge of a police station, on receipt of information or otherwise, has reason to suspect that an offense which he is empowered under section 156 to investigate has been committed, he shall forthwith report the offense to the Magistrate. Who is empowered to take cognizance of the police report of such offense and, if necessary, to investigate the fact and circumstances of the case, to find out the offender and to take measures for his arrest, shall either personally visit the place or shell send one of the officers subordinate to him not below such rank as the state Government may, by the general or special order, prescribe on the behalf:

But:

1. When any information of the commission of such offense has been made against any person by giving his name and the matter is not of a serious nature, it shall not be necessary for the officer in charge of the police station to personally visit the place for investigation, or send to subordinate officer
2. If it appears to the officer-in-charge of a police station that there are no sufficient grounds for making an investigation, he shall not investigate the matter.

[Provided further that the statement of the victim in relation to the offense of rape shall be recorded at the residence of the victim or at the place of her wish and as far as practicable by a woman police officer in the presence of her parents or guardian or close relative or social worker of the locality will go "]

(2) In each of the cases mentioned in clauses (A) and (B) of the proviso to sub-section (1), the officer-in-charge of the police station shall, in his report, state his reasons for not fully complying with the requirements of that sub-section. will do in the case mentioned in clause (b) of the said proviso, such officer shall inform the informant, if any, in such manner as may be prescribed by the State Government, shall forthwith give notice that it shall not investigate the matter and won't make it.

**Comment**

The object and purpose of sub-section (2) is that if the police maliciously or arbitrarily refuses to investigate the offense, the informant may challenge such refusal or inaction by recourse to the provisions of the Code or the Constitution of India, and He will then be able to obtain an order directing the police to discharge its duty in accordance with law. **[Satyapal Vs state of Uttar Pradesh and ors,12]**

Proviso (b) coverage

In case of preliminary inquiry without registration of First Information Report, it is not necessary to comply with proviso (b) and even if that proviso was applicable, it is not necessary to comply with the proviso of non-identification of the complainant**. [Shashikant Vs Central Bureau of Investigation13]**

**Analysis of section 157**

From the analysis of section 157, it is clear that this section allows the officer-in-charge of the police station to investigate the matter.

Along with conferring discretion on whether to do or not, it also empowers for preliminary investigation of the matter. In the case **of Queen Impress v Arumugan14,** it was held that he was not bound to act on receipt of information.

In the case of **Haryana Vs. Bhajan Lal15,** it was held that the initiation of investigation is subject to the following conditions:

1. The police officer must have reason to suspect that a cognizable offense has been committed,
2. There must be a factual resolution that there is sufficient ground for initiating an investigation.

**Investigation: Uttar Pradesh Police Regulation**

Para 104- Whenever a report of a cognizable offense is received, the officer-in-charge of the police station should decide whether an investigation is desirable. In exercise of the directions permitted by section 157 (1) (b) of the Code of Criminal Procedure, 1973, he should consider whether the matter is of a civil court than a criminal court / whether police action is necessary in the interest of the administration / whether Any minor controversy would seem to be described as an exaggeration.

Para 105- Whenever the officer-in-charge of the police station decides that no cognizable case shall be investigated, it is necessary for him to comply with the provisions of section 157(2) of the Code of Criminal Procedure, 1973 on the first report of the first information report. State his reasons for not investigating the matter in the third copy, he should also mention the reasons on the second copy to be given to the informant.

**Examination of the meaning of section 154 and section 157**

1. Presented before the officer-in-charge of the police station disclosing any cognizable offense under section 154

It is mandatory to file first information report on the report. Criminal Law as soon as the First Information Report is registered becomes dynamic

Whereas

Section 157 confers discretion on the officer-in-charge of the police station to investigate or not.

1. There is no option on the report presented before the officer-in-charge disclosing any cognizable offense under section 154

Whereas

Section 157 Report presented to the officer-in-charge of the police station disclosing the cognizable offense or otherwise but empowers with the right of preliminary inquiry into the matter.

1. Section 154 is the cornerstone of section 157

Whereas

Section 157 is an obstacle to section 154, which provides for the result of investigation without investigation, that is, not to make / not to conduct an investigation.

1. Section 154 denotes a mandatory provision

Whereas

Section 157 includes arbitrariness.

1. Under section 154, there is a provision to designate an investigator as soon as the first information report is entered in the register made in this behalf, which is the legal authority.

Whereas

Section 157 provides discretion to the officer-in-charge of the police station in relation to investigation.

**Should a preliminary inquiry be conducted before filing a first information report?**

Giving an answer to this question, the Supreme Court in the case of **Lalita Kumari vs State of Uttar Pradesh16** has just held that investigation under section 154 of the Code of Criminal Procedure is a procedure established by law after the first information report is filed. And it is in accordance with Article 21 of the Constitution. The Court rejected the contention that a preliminary inquiry must be conducted before the First Information Report is filed and the provisions must be read in the light of malicious prosecution and the rights enjoyed by every citizen under Articles 14, 19 and 21 of the Constitution. And it is the duty of every police officer under Section 154, Code of Criminal Procedure that an innocent person should not be wrongly implicated in any case. Notwithstanding that a police officer is not prima facie satisfied that a cognizable offense has been committed, proceeding to investigate the crime by filing a First Information Report endangers the liberty of a citizen.

**Whether after registering the first information report, not investigating but giving opinion?**

It is pertinent in the case of **G. Nageswara Rao Vs. D.G.P.17** that it was held that it would not be proper to give opinion by the Investigating Officer by not investigating.

**Conclusion:**

Section 154 and Section 157 of the Code of Criminal Procedure, 1973 read Uttar Pradesh Police Regulation Para 97, 104 of 105 Constitution of the Code of Criminal Procedure, 1973 and in the light of various judicial decisions on analysis, it is clear that:

1. The provisions of section 154 of the Code of Criminal Procedure 1973 and the interpretation of the provision of section 157 are mutually exclusive is contradictory,
2. It is not the discretion of the officer-in-charge of the station to investigate or not. once upon a time the result of the investigation can be obtained only after completing the investigation after the report is filed, otherwise not.
3. It is a procedure established by law to conduct an investigation after the filing of a First Information Report, if the police feel that there is lack of sufficient evidence to prove the charge, in that case may file a final report.
4. Preliminary inquiry is not permissible before first information report is filed on a report disclosing the commission of a cognizable offence.
5. First Information Report activates criminal law by registering as First Information Report.

**Suggestion**

In the administration of criminal justice, registration of First Information Report and subsequent investigation is a procedure established by law. The contradiction in the interpretation of the provisions of both the procedures established by law causes a setback to the intent of the administration of criminal justice and the rule of law. In the light of the above, the following measures can be taken for the authenticity, fairness and transparency of the rule of law and administration of criminal justice, namely:

1. The provisions of section 157 of the Code of Criminal Procedure, 1973, which are inconsistent with the provisions of section 154, shall be deemed to be void to the extent of contravention,
2. The provisions of Para 104 and 105 of the Uttar Pradesh Police Regulation which are inconsistent with the provisions of Para 97, shall be deemed to be void to the extent of contravention.
3. The provisions of section 157 of the Code of Criminal Procedure, 1973 should be rationalized in the light of the provisions of section 154.
4. The provisions of Para 104 and 105 of the Uttar Pradesh Police Regulation are justified in the light of the provisions of Para 97 Should be made.

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