

No. 15011/91/2013-SC/ST-W
Government of India/Bharat sarkar
Ministry of Home Affairs

NDCC.II Building, Jai Singh road
New Delhi

Dated the 12th October, 2015

To
The Chief Secretaries
All State Governments/UT Administrations

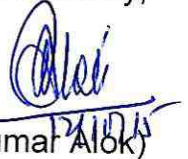
**Subject: Advisory on no discrimination in compulsory registration of FIRs-
Regarding**

Sir/Madam,

Reference is invited to this Ministry's Advisories dated 10th May 2013 and 5th February 2014 regarding compulsory registration of FIR u/s 154 Cr P.C (copies enclosed).

2. In these advisories it was made clear that as per section 154(1) of the Cr. P.C. a police officer is duty bound to register a case on the basis of such information disclosing a cognizable offence and FIR has to be registered irrespective of territorial jurisdiction.
3. National Commission for Minorities in its Annual Report 2011-12 has recommended prompt action in registration of FIRs, timely filing of charge sheet and speedy trial to restore the faith of minorities. In this regard, it is pertinent to note that registration of FIR is the first step in the whole process. Therefore all States/UTs must ensure that utmost promptness in registering FIRs is extended to all those who approach the police for registration of FIRs without any discrimination of whatever kind. Once again it is requested to ensure that FIRs get registered in strict compliance to above stated advisories.
4. It is requested to kindly ensure that these instructions are circulated amongst all concerned Departments/ Organizations and others under your jurisdiction for strict compliance.

Yours faithfully,



(Kumar Alok)

Joint Secretary to the Govt. of India
Tel No. 23438100

Encl. As above

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No. 15011/91/2013 – SC/ST-W
Government of India
Ministry of Home Affairs
Centre State Division



5th Floor, NDCC-II Building
Jai Singh Road, New Delhi
dated the 5th February, 2014

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To

(35)

The Additional Chief Secretary/Principal Secretary (Home Department)

Sub:- Compulsory Registration of FIR u/s 154 Cr.P.C when the information makes out a cognizable offence

Sir/Ma'am,

This is in continuation to the earlier advisory of the Ministry of Home Affairs dated 10-05-2013¹ regarding the registration of FIR irrespective of territorial jurisdiction and zero FIR. We had made it clear that as per section 154(1) of the Cr. P.C. a police officer is duty bound to register a case on the basis of such information disclosing a cognizable offence. We had also made it clear that when it becomes apparent that even if the offence has been committed outside the jurisdiction of the police station, zero FIR would still be registered and the FIR would be then transferred to the appropriate police station as per Section 170 of the Cr. P.C.

2. A Constitution Bench of the Supreme Court in W.P. (Cri.) No.68 of 2008 in Lalita Kumar Vs Government of U.P.² and others on 12-11-2013 had addressed the issue of mandatory registration of FIRs and had held that registration of FIR either on the basis of the information furnished by the informant when it makes out a cognizable offence u/s 154(I) of the Cr. P.C. or otherwise u/s 157 (I) of the Cr. P.C. is obligatory. It also held that reliability, genuineness and credibility of the information are not conditions precedent for registering a case u/s 154 of the Cr. P.C. Since the legislative intent is to ensure that every cognizable offence is promptly investigated in accordance with law, hence there is no discretion or option left with the police to register or not to register an FIR once information of a cognizable offence has been provided. The court was quite perturbed about the burking of crime registration and has concluded that non-registration of crime leads to dilution of rule of law and thus leads to

¹ http://mha.nic.in/sites/upload_files/mha/files/AdvisoryFIR-290513.pdf

² <http://judis.nic.in/supremecourt/imgs1.aspx?filename=40960>

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definite lawlessness in the society, which is detrimental to the society as a whole. It has hence called for action against erring officers who do not register an FIR if information received by him/her discloses the commission of a cognizable offence. It may be mentioned that Section 166 A of Cr. P.C. prescribes a penalty of imprisonment up to two years and also a fine for non-registration of a FIR for an offence described u/s 166 A. It may be also mentioned that if after investigation the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR under Chapter XI of the I.P.C.

3. The Supreme Court has provided for some exceptions to the mandatory registration of FIR and for the conduct of preliminary inquiry which are as follows:

(a) If the information received does not disclose the commission of cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether a cognizable offence is disclosed or not. 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 within one week and it must also disclose the reasons in brief for closing the complaint and not proceeding further.

(b) The other categories of cases in which preliminary inquiry may be made are:

- (i) Matrimonial disputes/family disputes
- (ii) Commercial offences
- (iii) Medical negligence cases
- (iv) Corruption cases
- (v) Cases where there is an abnormal delay in initiating criminal prosecution. Example: over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay
- (vi) The Supreme Court has also insisted that all preliminary inquiries should be completed within 7 days and any delay with the causes should be reflected in the General Diary/Station House Diary/Daily Diary.

4. The Supreme Court has, inter-alia, deprecated the practice of first recording the information in the General Diary and then conducting a preliminary inquiry and thereafter registering the FIR. It has clarified that registration of the FIR is to be done in the FIR Register/Book (in the standard format prescribed) and in addition, the gist or substance of the FIR is to be recorded in the General Diary as mandated in the Police Act or Police Regulations.

5. In addition, to ensure accountability in the functioning of police, the Supreme Court emphasized that all actions of the police should be reduced to writing and documented through entries made in the General Diary of the Police Station.

6. Home Departments of the States/UTs may direct the DGPs/IGPs to issue necessary instructions in the light of the above advisory so that all police officers are made aware of them and the contents are also incorporated in the training curriculum of the police personnel.

7. The receipt of the same may kindly be acknowledged.



(S. Suresh Kumar)
Joint Secretary (CS)

No. 15011/35/2013 – SC/ST–W

Government of India
Ministry of Home Affairs
Centre State Division

5th Floor, NDCC-II Building
Jai Singh road, New Delhi
the 10th May, 2013

To

The Additional Chief Secretary/ Principal Secretary (Home)

Sub: Registration of FIR irrespective of territorial jurisdiction and Zero FIR

Sir/Ma'am,

This relates to the registration of FIR by the police when they receive a call/complaint related to a crime committed and suspected to be outside the jurisdiction of the police station concerned.

2. Instructions are envisaged on account of the delays occurring when there are issues relating to the area jurisdiction regarding the investigation of the case. The hesitation to take up investigation of cases falling in uncertain territorial areas needs to be dispelled to allay the fears that it may be liable to be quashed u/s 482 of the Cr.P.C. There are two rulings of the Supreme Court in *Satvinder Kaur vs Govt. of NCT of Delhi* on 5/10/1999 (AIR 1999, Delhi 1031) and in *Ramesh Kumari vs Govt. of NCT Delhi* on 21/2/2006. In the former case, the Court held that at the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion that the police station officer of particular police station would not have territorial jurisdiction. That apart, section 156(2) of the Cr.P.C contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate the case. In the latter case, the Court held that a police officer is duty bound to register the case on the basis of such information disclosing a cognizable offence u/s 154(1) of the Cr.P.C.

3. The legal position stated above expects that the police shall register an FIR upon receipt of information of the commission of a cognizable offence. Further, if after registration of FIR, upon investigation, it is found that the subject matter relates to the jurisdiction of some other police station, the FIR may be appropriately transferred to the police station in which the case falls. Moreover, if at the time of registration of FIR, it becomes apparent that the crime was committed outside the jurisdiction of the police station, the police should be appropriately instructed to register a 'Zero' FIR, ensure that the FIR is transferred to the concerned police station u/s 170 of the Cr.P.C. It should be clearly stated that the delay over the determination of the jurisdiction leads to avoidable wastage of time which impacts on the victim and also leads to offenders getting an opportunity to slip from the clutches of the law. It should be clearly instructed that failure to comply with the instruction of registering an FIR on receipt of information about the cognizable offence will invite prosecution of the police officer u/s166A of the IPC for an offence specified u/s166A or departmental action or both.

4. It may also be emphasized that police services should be sensitized to respond to complaints with alacrity whether is from a man or a woman. Apprehending the accused must take place immediately after the complaint as there is a tendency of the person committing the crime slipping away should there be a delay on extraneous grounds like jurisdiction. The police may also put in place a system of rewarding the personnel for timely response and punishment for wanton lethargy.

5. Home Departments of the States/UTs may direct the DGPs/IGPs to issue above instruction so as to reach all police stations at the shortest possible time.

The receipt of the same may kindly be acknowledged.



(S Suresh KUMAR)
JS (CS)