



If a Former Prime Minister cannot: How can I? A Bird Eye view of Sec. 154 CRPC and Right to Register a FIR (First information Report)

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Abstract

Since inception, the innocent public of the beloved homeland are purposefully kept away from understanding the Law of the Land, that was the main reason they are deprived of their basic Legal Rights. Two recent incidents invoked us to write this Research paper to provide guideline on a very important topic that is "FIR" and to lay down humble suggestions to the "learned" public and custodians of peace and the "men with the swords on shoulders" the pillars of the state, the executives of the country, the law enforcement agencies about the above said topic; One was the Assassination attempt on the former Prime Minister of Pakistan Mr. Imran Khan and Second the Brutal Murder of Renowned Journalist of the Country Mr. Arshad Sharif. One thing was common among both the cases and that was the Complainant was kept deprived of his Right and that was registration of FIR according to his own will. Imran khan Chairman of Pakistan Tareek-e-Insaaf, several times revealed his will on the National TV that he wanted to nominate certain accuseds in the FIR and this is his right being victim in the above said case. And for this reason, the Supreme Court intervened and played a "too little too late" role. Secondly, Arshad's mother is still striving hard to get register her FIR according to her own version. This Research Paper is designed after interviewing renowned researchers, and practicing lawyers; after reading and perusing the Law u/s 154CrPC⁴, Sec 200 CrPC⁵, Sec 22A/22B CrPC⁶ and a number of case laws by the apex Courts of Pakistan. This research paper will provide guideline to the readers about the subject of FIR, the importance of FIR, the rights in case of registering FIR, the rights and the duties of the police officer in subject of FIR, and alternatives of FIR, which means if FIR has not been registered as per the demand of Complainant; what other remedies are available with the said complainant.

Keywords: Logging of FIR, Alternative of FIR, Importance of FIR, Significance of private complaint, Powers of SHO in case of FIR, right to report the Occurrence, will of the complainant, justice of peace: powers and duties

1. Research Objective

Even in presence of a number of case Laws, and a bulk of books on the given topic, still people are confused that if the FIR has not been lodged what would they do? In recent times, it has been learned through the two significant individuals, the former prime minister of Pakistan and one of the most loved persons in the country had faced this issue. Secondly, the journalist community was shunt when they had no remedy available to get the FIR lodged of Arshad Sharif Murder case. This paper will solve this problem and confusions immediately and easily.

1.1. Main Objective of this Research Paper

In this paper we will elaborate Section 154 CrPC that is " Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction and then be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Provincial Government may prescribe in this behalf"; Section 200 CrPC that is "A Magistrate taking, cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate : Provided as follows: (a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under Section 192 [or sending it to the Court of Session]; (aa) when the complaint Is made in writing nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or -purporting to act in the discharge of his official duties; (c) when the case has been transferred under Section 192-and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant"; and guide in the light of the case laws that if FIR has not been lodged then private complaint would have the same significance. We would consult Sections 22A of CrPC,

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⁴ Mahmood, S., & Shaukat, N. (n.d.-c). *The Code Of Criminal Procedure* (Twelfth, Vol. 1, p. 750). Legal Research Centre.

⁵ Mahmood, S., & Shaukat, N. (n.d.). *The Code Of Criminal Procedure* (Twelfth, Vol. 2, p. 1354). Legal Research Centre.

⁶ Mahmood, S., & Shaukat, N. (n.d.-b). *The Code Of Criminal Procedure* (Twelfth, Vol. 1, pp. 78–79). Legal Research Centre.

⁷ Mahmood, S., & Shaukat, N. (n.d.-c). *The Code Of Criminal Procedure* (Twelfth, Vol. 1, p. 750). Legal Research Centre.

⁸ Mahmood, S., & Shaukat, N. (n.d.). *The Code Of Criminal Procedure* (Twelfth, Vol. 2, p. 1354). Legal Research Centre.

that is “Powers of Justices of the Peace: (1) A Justice of the Peace for any local area shall, for the purpose of making an arrest have within such area all the powers of a police officer referred to in section 54 and an officer-in-charge of a police station referred to in section 55; (2) A Justice of the Peace making an arrest in exercise of any powers under subsection (1) shall, forthwith, take or cause to be taken the person arrested before the officer in charge of the nearest police station and furnish such officer with a report as to the circumstances of the arrest and such officer shall thereupon re-arrest the person; (3) A Justice of the Peace for any local area shall have powers, within such area, to call upon any member of the police force on duty to aid him. a) in taking or preventing the escape of any person who has participated in the commission of any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having so participated; and b) in the prevention of crime in general and, in particular, in the prevention of a breach of the peace or a disturbance of the public tranquility; (4) Where a member of the police force on duty has been called upon to render and aid under sub-section (3), such call shall be deemed to have been made by a competent authority; (5) A Justice of the Peace for any local area may, in accordance with such rules as may be made by the Provincial Government,-- a) issue a certificate as to the identity of any person residing within such area, or b) verify any document brought before him by any such person, or c) attest any such document required by or under any law for the time being in force to be attested by a Magistrate, and until the contrary is proved, any certificate so issued shall be presumed to be correct and any document so verified shall be deemed to be duly verified, and any document so attested shall be deemed to have been as fully attested as if he had been a Magistrate; (6) An *ex officio* Justice of the Peace may issue appropriate directions to the police authorities concerned on a complaint regarding: (1) non-registration of FIR, (2) Transfer of investigation from one police officer to another, (3) Neglect, failure or excess committed by a police authority in relation to its functions and duties”¹, and Section 22-B of CrPC, that is “Duties of Justices of the Peace: Subject to such rules as may be made by the Provincial Government, every Justice of the Peace for any local area shall:-- a) on receipt of information of the occurrence of any incident involving a breach of the peace, or of the commission of any offence within such local area, forthwith make inquiries into the matter and report in writing the result of his inquiries to the nearest Magistrate and to officer in charge of the nearest Police Station; b) if the offence referred to in clause (a) is a cognizable offence, also prevent the removal of anything from, or the interference in any way with, the place of occurrence of the offence; c) when so required in writing by a police officer making an investigation under Chapter XIV in respect of any offence committed within such local area,-- i) render all assistance to the police officer in making such an investigation; ii) record any statement made under expectation of death by a person in respect of whom a crime is believed to have been committed”², and in the light of the case laws will explain that if the SHO, officer in charge of a police station denies to lodge FIR; in that case we have Justice of Peace who would have the same authority as a police officer to lodge that FIR.

The following case laws shall leave no stone unturned to resolve the issue that if the police officer do not register the complaint of the complainant, what remedy would he has.

2. Introduction

A Criminal Case is initiated after the complainant get register a complaint, that complaint when get registered is called FIR according to Sec 154 CrPC, “Every information relating to commission of a cognizable offense if given orally to an in charge of the police station shall be reduced to writing by him or under his direction and be read over to the informant”³. It has been observed, rather taken into record, Sometimes the officer in charge of the police station does not entertain the complainant u/s 154 CrPC, hence do not abide by the above said Law.

Same was observed under two very highlighted and talk of the town cases.

I. The Assassination attempt on Imran Khan Niazi at Wazirabad.

II. The Arshad Sharif Murder Case.

This Research Paper will provide the guide line to the reader about the established right on the subject of FIR as well as guide them for remedies available in the Law if they do not get their FIR registered u/s 154 CrPC.

On 3rd November 2022, when the Former Prime Minister of Pakistan and chairman of Pakistan Tehreek-e-Insaf Mr. Imran Khan was making a speech to his supporters at Wazirabad, Punjab a shooter Shots some fires at him, he accompanied by many were seriously injured, but with Blessings and with luck he survives in the above said assassination attempt while one of his supporters was killed. He luckily narrowly escaped but two of the bullets kissed him.⁴ Despite the fact that he was a Former Prime Minister and he had the Government in that specific province

¹ Mahmood, S., & Shaukat, N. (n.d.-b). *The Code Of Criminal Procedure* (Twelfth, Vol. 1, pp. 78). Legal Research Centre.

² Mahmood, S., & Shaukat, N. (n.d.-b). *The Code Of Criminal Procedure* (Twelfth, Vol. 1, pp. 79). Legal Research Centre.

³ Mahmood, S., & Shaukat, N. (n.d.). *The Code Of Criminal Procedure* (Twelfth, Vol. 1, p. 750). Legal Research Centre.

⁴ Pakistan's ex-PM Imran Khan was shot: What, where and why? (2022, November 3). *AL JAZEERA*.

<https://www.aljazeera.com/news/2022/11/3/pakistan-ex-pm-imran-khan-was-shot-what-where-and-why>

(Punjab) even then, he was unable to register an FIR according to his given version. He claimed several times that the police were not doing its lawful duty and his version is still unrecorded the local police registered an FIR of the above said occurrence but the victim and the complainant suggested it to be false. They needed to loge an FIR according to their own version and the same was their right according to law laid down under section 154 CrPC.

3. Significance of FIR

No one can deny that in Criminal Justice System the case always takes off from the FIR; But more over it is a myth that every Criminal Case in the Criminal Justice System of Pakistan is initiated after the registration of FIR, somehow if it is true, then What if the police officers concerned do not loge an FIR? Do we have any other Remedy?

I would say yes! At the end of this document, we would leave no stone unturned in this aspect and will guide the readers that if the police officer or the officer-in charge of the police station “do not” work in accordance with Sec 154 CrPC¹ then the complainant may knock directly the doors of court to invoke and start the case and that is through Sec 200 CrPC², he/she may loge a “private complaint” which would have some significance and importance as an FIR logged u/s 154 CrPC or he/she may directly Approach the Justice of peace (JOP) U/S 22A/22B CrPC³ and JOP would have some powers in this case as a police officer, or police in charge of a police station. But yet we have to keep in mind one very important aspect of Law and that is “Law always helps the vigilantes not indolent”.

4. Establishing Right to loge FIR

According to the version of the family of the victim or when victim is alive, his version is the most important fact which should be reduced to the register of the police station as an FIR. Although registration of FIR is the right of the victim and SHO or any police officer empowered for the same cannot resist in the due process of Law same was laid down in the Land mark judgment.

“Before recording the FIR, SHO was not supposed to hold inquiry as to the correctness or; otherwise of the information received by him for the purpose of being reduced in writing as FIR. SHO had no authority under the law to refuse to record the FIR when information conveyed, disclosed the commission of a cognizable offence.” The case Laws above speaks clearly with spacing voice “The SHO had no authority under any Law to refuse to record the version of the complainant party in other words he had to, and he shall by all means record the version of the complaint party, in other words FIR is only based about what is the version revealed by the complaint or simple FIR had to be the version of the complaint party. The same was again cleared in a Land mark judgment by the worthy full bench of Supreme Court of Pakistan in Abdul Rehman Malik versus Synthia D. Ritchie, Americans National and others.⁴

“Rule 24.4 does not tyrannically foreclose doors to a complainant to voice his grievances nor it dogmatically empower on officer in charge to terminate a prosecution before its inception on his subject belief of its being false its application is subservient to the scheme laid down in the part V of this code ibid and this has to be essentially read in conjunction work Sec. 169 thereof. Therefore, an officer can possibly invoke the rule that too, for reasons strong and manifest after registration of FIR (First information report).”

That does not mean that with the complaint of complainant the police officer is bound to arrest anyone who appears innocent! But that too do not” deprive a complaint for the right to register an FIR according to his story.” Arresting is the bird in hand given to a police officer it is only he who will decide about the arrest of an accused person but it should be according to the “book” that whoever he would bring in hand cuffs and to whoever he would bring behind the bars to meet the end of justice. Investigation of a case not to be restricted to the version narrated in the FIR or the allegations leveled therein” Investigation should not be driven by any duty to establish that the story of the incident contained in the FIR was correct. Investigation officer was not to be guided or controlled by the contents of FIR” “If the information received by the police about commission of a cognizable offence also contained a version as to how the relevant offence was committed and in which background was committed then the version of the incident was only a version of information and nothing more.⁵”

“No person was to be arrested straight away only because he had been nominated as an accused person in FIR or in any other versions of the incident brought to the notice of the investigation officer.” One hand the former Prime Minister of Pakistan striving hard to get his Lawful right and the “Gods of justice” held put a blind fold on his pretty eyes adding more to it. The “son of soil” has laid down his life to establish Article 19⁶ of the sacred constitution of Islamic Republic of Pakistan and washed the expression ‘Freedom of Expression’ with his blood and the mother

¹ Mahmood, S., & Shaukat, N. (n.d.). *The Code Of Criminal Procedure* (Twelfth, Vol. 1, p. 750). Legal Research Centre.

² Mahmood, S., & Shaukat, N. (n.d.). *The Code Of Criminal Procedure* (Twelfth, Vol. 2, p. 1354). Legal Research Centre.

³ Mahmood, S., & Shaukat, N. (n.d.). *The Code Of Criminal Procedure* (Twelfth, Vol. 1, p. 78-79). Legal Research Centre.

⁴ Abdul Rehman Malik versus Synthia D. Ritchie, Americans National and others, (Supreme Court of Pakistan September 30, 2020).

⁵ Mst. Sughran Bibi versus The State, (Supreme Court of Pakistan May 23, 2018).

⁶ Azeem, S. (n.d.). *The Constitution Of The Islamic Republic Of Pakistan, 1973* (2022 edition, p. 134). Lords Law Book House.

Land has put on spikes to hurt his corpus, his 70 years old mother is still fighting for her right to loge FIR in the case of his beloved sons brutal murder and after passage of 43 days the honorable supreme court of Pakistan took notice, after she wrote a painful latter to the chief justice of Pakistan Dated 6th December 2022 nominating the accused person according to her version who were the cause of death of his beloved young courageous son but still today she is empty handed with wet blue eyes.

5. Suggestions

Respected custodians of peace! FIR U/S 154 CrPC is a piece of information provided by the complainant under the light of PLD 2018 SC 595 and registering the same is your sacred duty u/s CrPC and you have no authority to deny as per 2013 PCrLJ 749 which says that;

“It Is the right of the complaint to give his version as per his best knowledge! And his right to have an FIR registered as per his stance and the SHO is duty bound to register the same.”

Guide line for the innocent people of Pakistan.

Intent of Law maker is only to protect the Rights of the General Public. if you need to register a complaint, and the SHO denies to act u/s 154 CrPC. Don’t get worried Law is protecting you U/S 22A/22B CrPC; Be confident straight away knock the door of the justice of peace he is sitting on the chair to help you, the state pays him just to protect you; you have one more remedy, seek justice from the court of law U/S 200 CrPC and Lodge private Complaint. This document would have the same power as an FIR.

6. Literature Review

Already; the worthy Courts had given a lot of decisions on the said point, we the students of Law has just to find out those, the same has done in this paper to help public at large.

- i. “Police not to go into truth or otherwise of information. Police has no power to first investigate the matter than registered the Criminal Case.”¹
- ii. “If complaint is received by officer in charge of police station, he is obliged to register FIR upon such complaint and is not required to determine truthfulness or falsehood of allegations made against persons against whom complaint was made.”²³
- iii. “When information brought forth an information disclosing commission of a cognizable offense to the SHO; he had to record the same in relevant register. No authority won vested with the SHO to indulge him into examination of the veracity or falsity of such information by conducting an enquiry before actually exercising the mandate provided to him U/S 154 CrPC.”⁴
- iv. “U/S 154 CrPC Sole responsibility of the S.H.O is to record the complaint of the complainant if the said strong is about the commission of a cognizable offence, irrespective of the fact, whether severe information is true or not.”⁵
- v. “SHO had no authority to refuse to record FIR only because in his opinion the information conveyed to him lacked credibility.”⁶
- vi. “Registration of second FIR in respect of different versions given by agreed party of the same occurrence is not barred.”⁷
- vii. “Second FIR can be registered for same transaction.”⁸
- viii. “Hundreds of case laws, CrPC Sec. 154 speaks in louder and clear voice, that every person has right to loge an FIR; it is his right to have its stance registered, his version registered in accordance with Sec 154 CrPC; SHO, or any police officer is nobody to deprive him from this legal right.”⁹

7. Conclusion

FIR, about The Commission of a cognizable offense, had to Be registered u/s 154 CrPC & the complainant has reserved all the rights to reveal his story about the Commission of offense; Police officer or Station in charge of a Police Station is duly Bound to register the same without any ifs or Buts, Complainant is the sole authority to tell his

¹ Ali Asghar versus Syed Zafar Hussain Shah and 2 others, (Islamabad High Court September 28, 2012).

² Faisal Farooq and 3 others versus S.H.O. and another, (Lahore High Court (Lahore) May 26, 2016).

³ Muhammad Bashir versus Station House Officer, Okara Cantt. and others, (Supreme Court of Pakistan April 20, 2006).

⁴ 2017 YLR 2152

⁵ Mst. Sahib Khatoon Versus S.H.O. Police Station, Garhi Khairo and 2 others, (Karachi High Court sindh July 30, 2012).

⁶ Nisar Ahmed and another versus Additional Sessions Judge, Khanewal and 3 others, (Lahore High Court October 1, 2009).

⁷ Anees-ur-Rehman and another versus The State, (Lahore High Court October 2, 2001).

⁸ Additional Prosecutor General, Balochistan, Quetta versus Abdul Qadeer and another, (Quetta High Court Balochistan October 27, 2016).

⁹ Muhammad Khalid versus Station House Officer and others, (Lahore High Court June 8, 2011).

story and his story must be registered police officer in this regard, only can check that whether any cognizable offense is made out or not, if yes then FIR is a must. On the other hand, an innocent person not rests behind the bars so, the investigating officer has all the rights concerning arrest- of the accused. Police offer is not Controlled by the Story of the FIR rather he has the authority to investigate and then arrest the accused, if he has reason to believe that the story is false and it has nothing to do with the accused person, he can delay the arrestation, FIR does not guide or control the investigating Officer, "Arrestation is made in result of investigation and investigation is belongs to the investigating Officer."

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