



FIR Provisions in Cognizable Offences

For Prelims: [FIR](#) provisions, [Zero FIR](#), [Cognizable offence](#), [POCSO Act](#).

For Mains: FIR - Provisions, Supreme Court's view

Why in News?

Recently, the [Supreme Court](#) has issued a notice to Delhi Police on a petition filed by wrestlers seeking an [FIR](#) against the President of Wrestling Federation of India (WFI), on allegations of [sexual harassment](#).

- The [Solicitor General](#) submitted to the court that the Delhi Police feels there is a need to conduct a 'preliminary inquiry' before registering the FIR.
- **Sections pertaining to sexual harassment and sexual assault of the Indian Penal Code (IPC)** fall within the category of cognizable offences.
- Since the complainants include a minor, the **FIR provisions under [Protection of Children from Sexual Offences \(POCSO\) Act 2012](#)** are applicable.

What is a FIR?

- **About:**
 - [First Information Report \(FIR\)](#) is a written document prepared by the police when they receive information about the commission of a [cognizable offence](#).
 - The registration of an FIR is the first step towards the probe.
 - It sets into motion the investigation and the police may:
 - Seek custodial interrogation of the accused,
 - File a chargesheet based on the evidence, or
 - File a closure report if the probe reveals no merit in the allegations made in the FIR.
- **Registration of FIR in Cognizable Offences:**
 - **Section 154 (1), CrPC** enables the police to register an FIR after information is received about a [cognizable offence](#).
 - A **cognizable offence/case** is one in which a police officer may **make an arrest without a warrant**.
 - The law also has provision for the registration of a '[Zero FIR](#)'.
 - Where even if the alleged offence has not been committed within the jurisdiction of the police station approached, the police can file an FIR and transfer it to the police station concerned.
- **Failure to Register an FIR:**
 - Based on [Justice JS Verma committee's](#) (2013) recommendation, section 166A was inserted to **IPC**.
 - The section states that if a public servant knowingly disobeys any direction of law including **failing to record any information given to him in relation to a cognizable offence, he can be punished** with imprisonment for a term of up to two years and fined.

What are the FIR Provisions under POCSO Act 2012?

- **Section 19** of the Act states that any person who has an apprehension that an offence under POCSO Act has been committed shall provide such information to the Special Juvenile Police Unit or the local police.
 - The section also requires the registration of an FIR in writing.
- **Section 21** of the Act even states that not reporting or recording an offense can result in up to six months of imprisonment, a fine, or both.
 - **The Act, therefore, also makes it mandatory** for a report to be filed on receiving a complaint, including from a child.

Can a Preliminary Inquiry be Conducted Before Registration of an FIR?

- Supreme Court in **Lalita Kumari vs Govt of UP and ors (2013)** case said that registration of an **FIR under section 154 CrPC is mandatory** if information of a cognizable offence is received.
- Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible etc.
- It also said, “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.”
- It gave an illustrative list of categories of cases where such an inquiry can be made, including family disputes, commercial offences, medical negligence and corruption cases or cases where there is an abnormal delay in reporting the matter.
- The court said that the inquiry should not exceed seven days.

What are the Remedies if Police Refuse to File an FIR?

- **Section 154 (3), CrPC** says that a person who has been aggrieved after a police in-charge refused to file an FIR can send the information to the Superintendent of Police.
- **Section 156, CrPC** says if a person is aggrieved by the police’s refusal to file an FIR, a complaint can be made before a magistrate. The magistrate can then order registration of a case at the police station.
- **SC’s View:** The supreme court has said that the complaint before the magistrate would be treated as an FIR and the police can initiate its investigation.
 - This also permits the police to investigate a criminal offence **without any formal FIR.**

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