

# Lalita Kumari v. Govt. of U.P., (2014) 2 SCC 1

Criminal Law

Criminal Procedure Code, 1973

Ss. 154, 155, 156 and 157 - FIR in cognizable case - Registration of - Whether is mandatory or police officer has option, discretion or latitude of conducting preliminary inquiry before registering FIR - Mandatory registration of FIR on receipt of information disclosing a cognizable offence as the general rule - Situations/cases in which preliminary inquiry is permissible - Scope of, and safeguards to be followed in cases where such preliminary inquiry (time-bound) is permissible - Held, the registration of FIR is mandatory under S. 154, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation - This is the general rule and must be strictly complied with - However, where information received does not disclose a cognizable offence a preliminary inquiry may be conducted to ascertain whether cognizable offence is disclosed or not - Also, matrimonial disputes/family disputes, commercial offences, medical negligence cases, corruption cases, or cases where there is abnormal delay/laches in initiating criminal prosecution are illustrations and not exhaustive of all cases which may warrant preliminary inquiry - Emphasised however, that scope of preliminary inquiry even when permissible in such limited classes of cases, is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence - Proper stage for such verification of the veracity of the information received is after registration of FIR, and not before registration of FIR - A preliminary inquiry should be time-bound and in any case it should not exceed 7 days - The fact of such delay and the causes of it must be reflected in the General Diary entry - If preliminary inquiry ends in closing the complaint, a copy of entry of such closure must be supplied to first informant forthwith disclosing reasons therefor - If inquiry discloses commission of a cognizable offence, FIR must be registered - All information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, (2014) 2 SCC 1-A

Criminal Law

Criminal Procedure Code, 1973

S. 154 - FIR - Nature and requirements of - There must be information and it must disclose a cognizable offence, (2014) 2 SCC 1-B

Criminal Law

Criminal Procedure Code, 1973

Ss. 154, 155 and 172 - FIR - Promptness in filing FIR - Compulsory registration of earliest information as FIR - Twofold objective - Criminal process is set in motion and is well documented from very start preventing embellishments later - Ensures transparency in the criminal justice delivery system and functioning of police, providing for an efficient means to check powers of police as also for judicial oversight of the same, (2014) 2 SCC 1-C

Criminal Law

Criminal Procedure Code, 1973

Ss. 154(1) and 157(1) - FIR - Generally - Kinds of FIR - Two kinds of FIRs: duly signed FIR under S. 154(1) is by the informant to police officer and second kind of FIR is one registered by police itself on any information received other than by way of an informant - Registration of both kinds of FIR, obligatory - Inherent advantages of registration of FIRs, outlined - Non-registration of FIR, consequences - Burking of crime and negative impact on the rule of law, discussed, (2014) 2 SCC 1-D

Criminal Law

Criminal Procedure Code, 1973

Ss. 154, 156 and 157 - FIR - Powers, Role and Duty of Police in respect of FIR - Police officer cannot avoid his duty of registering a FIR if cognizable offence is disclosed - Action to be taken against erring officers who do not register FIR on receipt of such information, (2014) 2 SCC 1-E

Criminal Law

Criminal Procedure Code, 1973

S. 154 - FIR - Generally - Object - Main object from informant's point of view is to set criminal law in motion; and from point of view of investigating authorities to obtain information about alleged criminal activity to be able to take suitable steps to trace and to bring to book the guilty, (2014) 2 SCC 1-F

Criminal Law

Criminal Procedure Code, 1973

S. 154 - FIR - Compulsory registration of FIR - Historical background of the provision and corresponding provisions existing in previous enactments of the Criminal Procedure Code, examined - Legislative intent in both old and the new Code is for compulsory registration of FIR in a case of cognizable offence without conducting any preliminary inquiry, (2014) 2 SCC 1-G

Criminal Law

Criminal Procedure Code, 1973

Ch. XII (Ss. 154 to 176) - Procedure to be followed during investigation - Object - To set the criminal law in motion and to provide for all procedural safeguards so as to ensure that the investigation is fair, is not mala fide and there is no scope of tampering with the evidence collected during the investigation, (2014) 2 SCC 1-H

Criminal Law

Penal Code, 1860

S. 166-A [ins. vide Criminal Law (Amendment) Act, 2013] and S. 154 CrPC - Punishment of non-registration of FIR for cognizable offences specified under S. 166-A IPC held, does not imply that registration of FIR is not compulsory for offences other than those specified in S. 166-A IPC and police has discretion to hold a preliminary inquiry if there is doubt about correctness of the information given - S. 166-A IPC is to be read in consonance with S. 154(1) CrPC and not contrary to it - Object of S. 166-A IPC and intention of the legislature in putting forth this amendment was to tighten the already existing provisions to provide enhanced safeguards to women - It is expressly to punish police officers for their failure to register FIRs in cases of crimes against women, (2014) 2 SCC 1-I

Criminal Law

Criminal Procedure Code, 1973

S. 154 - Duty of police officer to register FIR on information disclosing a cognizable offence - Word shall occurring in S. 154(1) - Nature of - Literal construction - Held, for cognizable offences a duty has been cast upon the police to mandatorily register a FIR - Shall given its ordinary meaning of being mandatory in character - Regard to context in and object with which word is used and consequences following infringement of the direction to register FIRs, ascertained - Mandate of S. 154(1), held, does not confer any discretion on officer in charge of the police station for embarking upon a preliminary inquiry prior to registration of FIR, (2014) 2 SCC 1-J

Criminal Law

Criminal Procedure Code, 1973

Ss. 39 and 154(1) - Shall occurring in both provisions - Relevance - It would be incongruous to suggest that though it is the duty of every citizen to inform about commission of an offence under S. 39, but it is not obligatory for the officer in charge of a police station to register the report under S. 154 - The word shall occurring in S. 39 has to be given the same meaning as the word shall occurring in S. 154(1), (2014) 2 SCC 1-K

## Criminal Law

## Criminal Procedure Code, 1973

Ss. 154 and 172 - FIR - Recording of, in FIR book and General Diary - Distinction between - FIR to be registered first in FIR book - In addition, gist of FIR may also be mentioned simultaneously in General Diary as mandated in respective Police Act or Rules of State concerned - In case of inconsistency between provisions of S. 154 CrPC and S. 44 of the Police Act, 1861, with regard to whether FIR is to be registered in FIR book or General Diary, provisions of S. 154 shall prevail and S. 44 of Police Act, 1861 shall be void to the extent of the repugnancy, as Police Act, 1861 being an existing law must give way to CrPC, 1973, a law enacted by India's Sovereign Parliament - Hence, contention that information will first be recorded in the General Diary and only after preliminary inquiry, if required, shall the information be registered as FIR, rejected, (2014) 2 SCC 1-L

## Criminal Law

## Criminal Procedure Code, 1973

S. 154 - FIR - General Diary - Held, all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the General Diary and the decision to conduct a preliminary inquiry must also be reflected therein, (2014) 2 SCC 1-M

## Criminal Law

## Criminal Procedure Code, 1973

Ss. 154 and 41 [before and after its amendment vide Act 5 of 2009] - FIR - Form and language of FIR - Information relating to commission of a cognizable offence - Mandatory duty of police under S. 154 to register FIR upon receipt of - Expression information in S. 154 is not qualified by prefix reasonable or credible - Distinguished from use of such expressions in Ss. 41(1)(a) and (g) [as they stood before Act 5 of 2009] and Ss. 41(1)(b), (ba) and (g) [as they stand after Act 5 of 2009 w.e.f. 1-1-2010] - Held, reasonableness or credibility of the information is not a condition precedent for the registration of a case under S. 154, (2014) 2 SCC 1-N

## Criminal Law

## Criminal Procedure Code, 1973

S. 154 - FIR - Duty of police to file FIR on receipt of information disclosing cognizable offence - Mandatory nature of - Maxim expressio unius est exclusio alterius - Information provided about commission of a cognizable offence must be registered as an FIR and every cognizable offence must be investigated promptly in accordance with law - Held, there is no discretion or option left with the police to register or not to register an FIR when information is given about the commission of a cognizable offence, (2014) 2 SCC 1-O

## Constitution of India

Art. 21 - Procedure established by law - Registration of FIR before investigation - Right of the accused under Art. 21 is protected if the FIR is registered first and then the investigation is conducted in accordance with the provisions of law, (2014) 2 SCC 1-P

## Criminal Law

## Criminal Procedure Code, 1973

S. 154 and Ss. 2(g), 159, 202 & 340 - Inquiry and preliminary inquiry under Ss. 2(g), 159, 202 & 340 - Distinguished from such acts envisaged under S. 154 - Held, inquiry in Ss. 2(g), 159, 202 and 340 is relatable to a judicial act, and not to the steps taken by the police which are either investigation after the stage of S. 154 or termed as preliminary inquiry prior to the registration of FIR, even though no entry in the General Diary/Station Diary/Daily Diary has been made, (2014) 2 SCC 1-Q

Criminal Law

Criminal Procedure Code, 1973

Ss. 154, 4(2) and 5 - FIR in cognizable case - Preliminary inquiry before lodging FIR - Rules in CBI Crime Manual - Applicability of, to S. 154 CrPC - Contention as to, rejected - Held, CBI Crime Manual cannot be relied upon to import the concept of holding of preliminary inquiry into the scheme of CrPC - CBI Crime Manual is not a statute and has not been enacted by the legislature and is a set of administrative orders issued for internal guidance of CBI officers - It cannot supersede CrPC - Powers of CBI under Delhi Special Police Establishment Act, 1946 cannot be equated with the powers of the regular State Police under CrPC, (2014) 2 SCC 1-R

Criminal Law

Criminal Procedure Code, 1973

Ss. 154, 41, 151, 157, 173 and 438 - Mandatory registration of FIR before conducting preliminary inquiry - Apprehension of misuse by indiscriminate arrest in violation of rights of accused under Art. 21 of Constitution, held, is misplaced - Sufficient safeguards exist against misuse, abuse and arbitrary exercise of power - Held, arrest of a person and registration of FIR are not directly and/or irreversibly linked and they are entirely different concepts operating under entirely different parameters - There are several safeguards available against arrest - Besides, CrPC gives power to the police officer to close a matter both before and after investigation if it appears to him that there are insufficient ground(s) to investigate the same - Sufficient safeguards are provided in CrPC which duly protect the liberty of an individual in case of registration of false FIR, (2014) 2 SCC 1-S