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Registration of First Information Report (FIR) and Its Burking: Legal Framework, Causes and Consequences in India

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ABSTRACT

The registration of a First Information Report (FIR) constitutes the foundational step in the criminal justice process, as it sets the law in motion upon receipt of information relating to the commission of a cognisable offence. An FIR may be lodged by the victim, the accused, or any other person having knowledge of the offence, upon which the police are legally bound to record the information and initiate investigation. The primary objective of this process is to facilitate an impartial investigation, culminating in the submission of a report before the competent court and enabling the prosecution to proceed against the accused. Under the prevailing legal framework, the police are mandated to register an FIR forthwith when information discloses the commission of a cognisable offence. The law does not permit the institution of a preliminary enquiry in the absence of FIR registration, except in limited circumstances recognised by judicial precedents and in special cases as provided by BNSS, 2023. Failure to register an FIR or deliberate delay in doing so undermines the administration of criminal justice and may result in denial of legal remedies to victims. In the absence of a duly registered FIR, investigative and prosecutorial mechanisms are rendered ineffective, often leading to impunity for offenders. Despite clear statutory and judicial mandates, instances of non-registration, delayed registration, and manipulation of FIRs such as recording offences under incorrect or diluted provisions remain widespread. Such practices adversely affect victims' fundamental right to access justice and weaken the rule of law. Most of the available literature either analyze law as formulated by legislature or interpreted by judiciary but fails to acknowledge ground realities and ongoing practices. Jurisprudence behind the FIR is rarely dealt. This study critically examines the legal provisions governing FIR registration, the scope of preliminary enquiry, remedies available in cases of non-registration, and the causes and consequences of burking and misclassification of FIRs. The research seeks to highlight systemic challenges and underscore the need for stricter compliance and accountability within the policing system.The paper adopts doctrinal and analytical research methodology, drawing on primary sources including constitutional provisions, statutory texts, and judicial pronouncements, as well as secondary sources such as Law Commission reports, police commission reports, parliamentary debates, and peer-reviewed scholarly literature to know the legal status of preliminary enquiry before registration of complaint, cases of denial of registration of FIR and the reason behind it. It is found that the number of unregistered cases for 2012 was around 60 lakhs which is equivalent to the number of registered cases. Other key findings include – (a) mandatory FIR registration is the cornerstone for initiating process of justice for victims; (ii) Section 173(3) of the BNSS introduces a provision for discretionary preliminary enquiry that is ambiguous and inconsistent with the Lalita Kumari; and (iii) existing remedies available to aggrieved complainants remain inadequate for the poor and marginalized sections of society. The study further recommends an independent review boards, stricter judicial oversight of the preliminary enquiry process and enhanced police accountability mechanisms.

INTRODUCTION

The Indian Constitution highly stresses the right to equality, but the system in practice has been under the influence of colonialism (Kumar & Kumar, 2024) and caste as well as class hierarchy, which has often obstructed the democratic institution from growing fairly and freely. The delayed justice and often even denial of justice makes it seems that crime control mechanism in India is about to collapse. "At the entry point of the justice system stands a huge force of police personnel who believe more in serving the rich and influential than in allowing the people to access justice according to the constitutional mandate" (Joshi, 2003). A global survey found that police "actively harass, oppress and brutalize" (World Bank, 1999).

The police in India have multi-facet duty which include "maintaining law and order" and protecting people from crime and its detection in case of crime has happened. Police Act of 1861, in its preamble termed police as an "instrument for prevention and detection of crime" inter alia maintenance of order, peace and tranquillity" (Kalyani). The first step for initiating the process in criminal justice system is registration of a crime.

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Bhartiya Nagrik Suraksha Sanhita (BNSS) provides two methods for registration of complaint. The first one is directly registering an offence to the police by lodging an FIR and the other is filing a private complaint to the magistrate. FIR is lodged with police when information discloses occurrence of a cognizable offence where as a complaint to magistrate may disclose cognizable as well as incognizable offence. Further, F.I.R attracts investigation of police whereas complaint is subject to judicial Scrutiny. First Information report is prepared by police and this term is not mentioned anywhere in BNSS. The term 'first information report' is also not used universally. Since, it is one of the first information in respect of time, taken up by the police related to the occurrence of cognizable offence, it is called First Information Report and this nomenclature is used in India as well as few of the neighbouring countries like Bangladesh and Pakistan for registering crime by Police. The information about the occurrence of crime may be given verbally or in written format to the police by victim or any person and police registers it as report. "An informant may lodge a report about the commission of an offence though he may not know the name of the victim or his assailant. He may not even know how the occurrence took place. A first informant need not necessarily be an eye witness so as to be able to disclose in great details all aspects of the offence committed" (Superintendent of Police, CBI v Tapan Kumar Singh, 2003). In Dharma Rama Bhagare v The State of Maharashtra (1973), the Apex Court directed "FIR is only a complaint to set the procedure prescribed by law in motion."

Supreme Court, in para 32 of the State of Haryana & Ors. V. Bhajan Lal & Others (1992), noted "the provision to register FIR under Section 154 of Code of Criminal Procedure, 1973, the legislature in its collective wisdom has carefully and cautiously used the expression 'information' without qualifying the same as in Section 41(1)(a) and (g) of the code wherein the expressions, 'reasonable complaint' and 'credible information' are used" and further qualified it as a reason to not refuse the reporting of FIR where the information discloses commission of cognizable offence."

The reporting of crime is crucial as it serves as a gateway to investigation and all the legal proceedings including judicial outcome is attached with it. Though texts of law are smooth, one has to overcome several barriers for reporting a crime to the police, like social stigma attached with crime, fear of reprisal, fear of police and their partisan attitude etc. "Accurate and comprehensive crime reporting is essential for effective law enforcement and public policy" (Goudriaan, 2006). Further "the timing of the FIR and information provided in it can affect the speed and quality of the investigation including the identification of the accused and suspect. In a legal context, the initial crime report can also play a crucial role in the judicial process, serving as a key piece of evidence in court" (Goudriaan, 2006). It can be said that "to feel safe from crime is as important to a person as access to food, shelter, education and health" (UN Commission on Crime Prevention and Criminal Justice, 1995)

The advancement of technology has led to the evolution of E-FIR where a person in enabled to register some of the complaint through online mode and he gets a receipt of it via online. It has strengthened the system of F.I.R registration and facilitated the quick registration of complaints.

The term 'burking' traces its origin from William Burke, a Scottish criminal, where he murdered a person by strangulating. In Indian legal system, the term burking of crime means willingly suppressing, concealing or non-registration of criminal cases, specially by denying to register an FIR. This practice of burking stifles the crime investigation and reporting by suffocating the chances at its inception. Sen (2000) remarks that "The reported crime in Indian context is barely one-fourth of the actual incidence."

Delivering Lectures at the Sardar Vallabhbhai Patel Memorial Lectures in 1985, Dr. Shankar Dayal Sharma, Indian Vice-President, as the then Governor of Andhra Pradesh, observed, "There are several disabilities that plague the Indian police at present. First and foremost, evil rampant in our country is concealment and minimization of crime. It is common knowledge that there is a large scale 'burking of crime' that is, failure to record crimes or not recording clear picture of the crime" (Sharma, 1985). This problem has also been brought into light by Gorey Committee on police training (Ministry of Home Affairs [MHA], 1974).

Significance of the Research

The registration of the First Information Report (FIR) is the foundational step in the criminal justice process in India, as it sets the law in motion and enables investigation into cognisable offences. Despite clear legal mandates, the practice of non-registration or deliberate burking of FIRs by police authorities continues to undermine access to justice, particularly for vulnerable and marginalized sections of society. This research is significant as it critically examines the legal framework governing FIR registration and highlights the gap between statutory provisions and their practical implementation.

The study contributes to a deeper understanding of the jurisprudence evolved by the Supreme Court of India concerning the mandatory registration of FIRs and the limited scope of preliminary enquiry. By analyzing landmark judicial pronouncements, the research clarifies the legal obligations of the police and reinforces the principle that refusal to register an FIR violates fundamental rights guaranteed under Articles 14 and 21 of the Constitution. This makes the study valuable for legal practitioners, law enforcement agencies, and judicial officers in ensuring compliance with constitutional and statutory duties.

Further, the research gains contemporary relevance by examining changes introduced under the Bharatiya Nagarik Suraksha Sanhita, 2023. By comparing the new

law with earlier provisions under the Code of Criminal Procedure, 1973, the study assesses whether legislative reforms strengthen accountability mechanisms and improve transparency in FIR registration. This analysis is important for policymakers and legal scholars evaluating the effectiveness of recent criminal justice reforms.

Overall, the research holds academic, legal, and social significance. Academically, it enriches existing legal literature on criminal procedure. Legally, it promotes awareness of rights and remedies available against illegal refusal to register FIRs. Socially, it emphasizes the role of FIR registration in safeguarding justice, reinforcing public trust in law enforcement, and upholding the rule of law in India.

Objectives of the Research

These are following research objectives:

1. To examine the legal framework governing the registration of First Information Reports (FIRs) in India.
2. To analyse the jurisprudential basis of FIR registration, including the legal requirements and judicial reasoning concerning the conduct of a preliminary enquiry prior to the registration of an FIR.
3. To study the interpretation of mandatory registration of FIRs by the police in cases where information discloses the commission of a cognisable offence, with specific reference to landmark judgments of the Hon'ble Supreme Court of India.
4. To assess the changes introduced in the law relating to FIR registration following the enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023, and their implications for the practice of FIR registration and prevention of burking.

MATERIALS AND METHODS

The present study adopts a **doctrinal and analytical research methodology** to examine the legal framework governing the registration of First Information Reports (FIRs) and the issue of their burking in India. The research primarily relies on **primary and secondary sources of data**, as the focus of the study is on the analysis of statutory provisions, judicial interpretations, and legal principles related to criminal procedure.

The doctrinal method involves a detailed examination of relevant **statutes**, including the Code of Criminal Procedure, 1973, and the Bharatiya Nagarik Suraksha Sanhita, 2023. The study analyses legislative intent, statutory language, and procedural requirements relating to FIR registration and preliminary enquiry. Special emphasis is placed on understanding the changes introduced under the new criminal law regime and their implications for police accountability and victims' rights.

In addition, the research undertakes an in-depth analysis of **judicial pronouncements of the Supreme Court of India and High Courts**, particularly landmark cases such as Lalita Kumari v. Government of Uttar Pradesh, to understand the jurisprudence on mandatory registration of FIRs and the permissible scope of preliminary enquiry. Case law analysis is used to interpret evolving legal standards and to assess how courts have addressed instances of non-registration and burking of FIRs.

Secondary materials such as **law commission reports, parliamentary debates, scholarly articles, textbooks, and legal commentaries** are also consulted to provide a comprehensive understanding of the subject. These sources help contextualize the legal provisions within broader criminal justice reforms and administrative practices.

The research employs an **analytical and comparative approach** to identify gaps between law and practice and to evaluate the effectiveness of existing and newly enacted legal provisions. The findings are systematically analysed to draw conclusions and suggest measures for strengthening the enforcement of FIR registration laws in India.

Primary legal sources such as constitutional provisions, laws, and reported judgments of the Supreme Court of India and High Courts were included for their direct relevance related to jurisprudence of FIR registration, provision for preliminary enquiry and burking of cognisable offences. Statutory texts comprise the Code of Criminal Procedure, 1973 (CrPC) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). Secondary sources such as Law Commission of India reports, police commission reports (National Police Commission, Uttar Pradesh Police Commission 1960–61 and 1970–71, Punjab Police Commission 1961–62), parliamentary debates and peer-reviewed journal articles, legal textbooks, and institutional publications were selected because of their substantive contribution to the discourse on FIR registration, police accountability, and criminal procedure reform in India. Sources that were unverifiable, not peer-reviewed or tangential to the core research objectives were excluded from analysis.

Judicial pronouncements were identified through a systematic review of the reported judgements of Supreme Court of India on FIR registration, burking, and preliminary enquiry. The landmark judgement in Lalita Kumari v. Government of Uttar Pradesh (2013) by constitutional bench served as the primary anchor case, given its authoritative value in settling the law on mandatory FIR registration and the permissible scope of preliminary enquiry. Additional cases were selected based on their citation frequency in subsequent judicial decisions and scholarly literature; their direct bearing on the interpretation of Section 154 of the CrPC and Section 173 of the BNSS; and their relevance to the remedies available to aggrieved complainants and the consequences of non-registration. A total of eighteen reported judgments spanning from 1968 to 2014 were examined, sourced from the Supreme Court Reports (SCR), the All-India Reporter (AIR) and the Supreme Court Cases (SCC) series.

A comparative approach was employed to systematically

analyse the changes introduced by the BNSS, with particular focus on the discretionary power to conduct preliminary under Section 173(3). Doctrinal findings were validated through cross-referencing of the legislative intent as reflected in parliamentary debates and Law Commission of India recommendations; judicial reasoning across cases to identify evolving interpretive trends; and empirical data drawn from police commission reports and NCRB crime statistics to assess the practical impact of registration norms. This triangulation of doctrinal analysis, comparative law, and empirical evidence ensures the internal consistency and scholarly rigour of the study's conclusions

RESULTS AND DISCUSSIONS

Significance of FIR

Reporting any offence/crime is the first step in the direction leading to the process of "criminal adjudication" (Dwivedi & Nayak, 2024). In most of the cases an informant or a victim/complainant reaches police station to bring to attention of a police officer about a cognizable offence which initiates the system of crime detection in process through a thorough investigation which further leads to catching the offender and determining his guilt/innocence as per the law through the process of trial. Early reporting of crime deters the criminal from tampering the evidences or further commission of offence as well as increases the chances of offender being caught.

The honorable Supreme Court of India via its judgement in Lalita Kumari vs State of Uttar Pradesh & Ors. (2013) has said following in relation to registration of First Information Report–

- First information report is first step in the way of accessing justice
- FIR helps in upholding the 'rule of law' where information about the cognizable offence is brought in-front of the state by an ordinary person.
- F.I.R builds the stepping stone for the investigation and in some cases also prevent the occurrence of further offences. In all the cases, it lays rule of law.
- It reduces the changes of manipulation in the criminal cases as well as reduces the cases of antedated F.I.R or willingly delayed F.I.R. (Lalita Kumari vs State of Uttar Pradesh & Ors., 2013)

Jurisprudence behind FIR

The registration of FIR seems to be starting "point of contact " between the system that asserts its existence for ordinary ones and the values attached to the system upon which system thumps its chest for ameliorating the position of the people must be guarded at all cost. There are many concrete theories and applied ways which indicate that denial of the registration of FIR would fetch nothing but negation of values such as impartiality, objectivity, rationality and reasoning which are bed rock for criminal justice system to avail justice. Justice must prevail though world may perish, may be roman concept for justice but to lessen the adversity of the ordinary one's world must prevail in fair condition and position.

Amartya Sen develops his theory of justice around the values that system must be having for availing the Niti and Nyaya both, here the Niti stands for organizational propriety and the Nyaya stands for realized justice on the ground i.e. how the lives of ordinary are intended to be in better position and placed to be in real-time. His theory augments on the values of public reasoning, which is meant to be "how people brain-storm their peculiar conditions and contentions to arrive at a common minimum programme or a fair ground "if the registration of FIR is negated, the sophistication attached with the public reasoning bleeds through thousand cuts, as it may exclude the victims from the brain storming their peculiar problems to the system which holds the placard of being the democratic one and reasoned based one. The systematic default crusades into chaos and quagmire as it denies the first chance of agitation against the injustice, when system is featured to be fragile one and non-inclusive one the public reasoning gets a grinding halt. The public reasoning is supposed to be impartial and objective only and only if it wishes to give birth to righteous precedents and to strike the root cause of injury that hurts the ordinary. The moment the denial of FIR is concretized the "fallacious bugs " hacks the system as it then breeds the nepotism, biases, prejudices, and stereotypes and impartiality suicides itself. The right to access a formal justice mechanism is recognised as a fundamental human right under international law. As Kumar *et al.* (2025) note, the denial of institutional channels for seeking redress either through the suppression of political expression or the refusal to register complaints constitutes a grave violation of the dignity and autonomy of the affected population. Applying this framework to the Indian context, the refusal to register an FIR is not merely a procedural irregularity but a violation of the victim's constitutionally guaranteed rights under Articles 14 and 21.

For the system to be sufficient and efficient of delivering justice, must be objective and rationale also. The Lalita Kumari case (2013) vehemently strides to establish that by all means whatsoever the registration of FIR is the sine qua non that system can't afford to disregard. Such precedents command the only option that there is no other rationale to deny the first solemn assurance to the victim who is tortured, maimed and extorted by the people who detested rule of law.

By all possible theories, adhere with rationale objectives only, which aligns with registration of FIR such as sociological jurisprudence which propagates that social engineering is the cause for the law to do and to serve the welfare of ordinary ; or ;natural school which mandates that morality of the system must reflect that how it works for human rights and dignity, or; legal realism which watches how the system responses when it is given the task to handle the pains, problems and peculiar plight of ordinary. The principles of rationality oblige the system to be efficient to at least illustrate the capability to be first

responder whenever the violation of bodily autonomy, privacy and integrity is in jeopardy.

By other means whatsoever the Niti and Nyaya can be only gained to optimal level if and if the system is well informed and well suited to inform its citizenry to get them acquaint what it takes to be supportive and rationale in their arguments, and this only happens when the press is active and responsive of all perpetrations that ordinary faces. A free press is backbone of well-oiled public reasoning. The omission to register the FIR may dismantle the dominance of press as the bridge between system in one hand and oppressors and oppressed on other hand as the bridge gets bamboozled with only reports that system recognizes as official while the non-registered cases may be weeded out from the official recognition, that only serves the purpose of those who again defy the democratic intents but glorify system to be as full proof and non-penetrable by alien biases. Evidently, the capabilities and capacities of the system and ordinary ones both gets limited if it evades the respective responsibilities to get the FIR registered and register the FIR.

Law regarding Registration of FIR

"The law regarding the registration of complaint in case, information discloses occurrence/commission of any cognizable offence", is dealt under Section 173 of BNSS, in chapter XIII, under the heading "Information to the police and their power to investigate".

"173. (1) Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed may be given orally or by electronic communication and if given to an officer in charge of a police station, -

i.Orally, it shall be reduced to writing by him or under his direction, and 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;

ii by electronic communication, it shall be taken on record by him on being signed within three days 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 State Government may prescribe in this behalf:

Provided that if the information is given by the woman against whom an offence under section 64, section 66, section 67, section 68, section 70, section 73, section 74, section 75, section 76, section 77, section 78 or section 122 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

(a) in the event that the person against whom an offence under section 354, section 67, section 68, sub-section (2) of section 69, sub-section (1) of section 70, section 71, section 74, section 75, section 76, section 77 or section 79 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (6) of section 183 as soon as possible." (Bharatiya Nagarik Suraksha Sanhita, 2023, s. 173(1))

Sub–section (2) of S. 173 provides for the provision of a free copy of FIR to the informant or to the victim.

The provision of zero FIR as suggested by Justice Verma Committee in 2013 has got a legal mandate after BNSS come into effect.

Preliminary Enquiry: Issues and ambiguities

Legal Position before BNSS

There has been lot of debates and confusion regarding the power of police to conduct a preliminary inquiry if he gets any information regarding the occurrence of cognizable offence to verify its truthfulness. But, prior to BNSS, these debates have been put to rest by Honorable Apex Court in Lalita Kumari (2013). In Sevi Kumar Vs. State of Tamil Nadu (1981), the Honorable Supreme Court had expressly stated that before registering an F.I.R, a Station House Officer (SHO) is free to conduct preliminary enquiry to ascertain the fact of occurrence of cognizable offence. Similarly in Binay Kumar Singh Vs. State of Bihar (1997), the apex court held that "SHO is not bound to register FIR based on any vague information provided by anybody which doesn't even disclose commission or occurrence of cognizable offence. "Officer-in charge" has the discretion of conducting preliminary inquiry to confirm the occurrence of cognizable offence which warrants the investigation." In the case of State of Maharashtra v. Shiv das Singh Chauhan (2011), the CM of Maharashtra government issues an order directing all the collector of the state that they are not required to register an F.I.R unless and investigating committee approves it. The supreme court told that it shocks its conscience that this type of an instruction/order can come from office of the CM of any state, which is governed by the constitution and is bound to uphold social, secular and democratic institution.

Most of the cases of medical negligence filed under S. 304-A of Indian Penal Code (Dr. Suresh Gupta v State of NCT of Delhi, 2004) and complaint filed under 498-A alleging cruelty against in-laws (Preeti Gupta v State of Jharkhand, 2010) are filed malafide and with oblique motive. Supreme court, on many occasions has said the such allegation must be scrutinized with utmost care and circumspection. In the cases, where there are chances of law, being malafide used, the police should conduct preliminary enquiry before arresting the accused. In

such cases there is huge risk of loss of reputation and preliminary enquiry is required to prevent defamation where a person is falsely accused.

In Superintendent of Police, CBI and others V. Tapan Kumar Singh (2004), at paragraph 20, the apex court held that "FIR is not expected to be encyclopaedia disclosing all the details and facts relating to the crime reported. It is significant that the information provided disclose occurrence of cognizable offence and such information should provide a base for police officer to suspect occurrence of any cognizable offence. It is not necessary to ascertain the truthfulness of information provided and he is bound to record the given information if it discloses occurrence of any cognizable offence." Similarly in Ramesh Kumari v. State (NCT of Delhi) & Ors (2006) Supreme Court has affirmed that Genuineness and credibility of the provided information is not a precedent for lodging an FIR. In the State of Haryana & Ors. v. Bhajan Lal (1992) in para 31 & 32, Supreme Court held that any police officer cannot ask upon a preliminary enquiry about the credibility or genuineness of the information provided and cannot refuse/deny to write a case solely on the basis that such information is neither credible nor reliable if the said information discloses the occurrence of cognizable offence as per the mandate of Section 154 of the Code (Code of Criminal Procedure, 1973, s. 154). In fact, he is by statute, under compulsion to register a case and then proceed to investigate in such case.

In Lalita Kumari (2013), the Honorable Supreme court after discussing the matter to its length has held that there are various safeguards in Cr. P. C which works as safeguard to liberty of any individual in matter of falsely registering FIR. Further, it says that Section 154 was drafted while keeping the interest of the victim and society in the mind and so it held that the provision of mandatory registration does not contravene the mandate of Article 2 of the Indian Constitution. It further held following –

- "Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.
- If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether 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 forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.
- The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.
- 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.
- As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

a. Matrimonial disputes/family disputes
b. Commercial offences.
c. Medical negligence cases
d. Corruption cases
e. Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive ofall conditions which may warrant preliminary inquiry.

- While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made 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.
- Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that 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, as mentioned above."
- Further in Lalita Kumari v. Govt. of Uttar Pradesh (2008) , Supreme court modified the clause (vii) of Paragraph 111 of previous judgement, in the below said manner:
- "While ensuring and protecting the rights of the accused and the

complainant, a preliminary inquiry should be made time bound and in any case it

should not exceed fifteen days generally and in exceptional cases, by giving

adequate reasons, six-week time is provided. The fact of such delay and the causes of it must be reflected in the General Diary entry."

Changes After BNSS

After Bhartiya Nagrik Suraksha Sanhita, 2023 came into effect, an exception to Section 173 (1) has been added in Section 173 (3) where it is stated that if an information of the commission/occurrence of cognisable offence is received, and such offence is made punishable for imprisonment in the range of 3 years to 7 years, then "officer in-charge of the police station" after having the earlier permission of any officer of the rank of or above

DSP, may, after considering the gravity and the nature of the offence so committed –

(i) Proceed for preliminary enquiry to confirm the fact whether there is chance of proceeding in the matter but that must be done within the period of 2 weeks or,

(ii) Can directly conduct investigation where there exists a prima facie case.

In effect, this provision gives police a discretionary and supervisory power to screen out the cases at its will within a stipulated time frame without laying any specific test, to weed out the inappropriate or frivolous cases so that time, effort and money of the criminal justice are properly allocated.

Md. Imran Wahab, in "Flaws in the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS): A Critical Study" (Wahab, 2024), shows concern about the discretion provided to the police in carrying its function which may cause inconsistency in the application of the provision and recognizes the need of additional safeguards and also the chances of misusing or over using of power of police for summoning the accused/ suspect or arresting him prior to the registration of case in the name of preliminary enquiry and raises concern over the liberty as well as victim rights to have timely justice.

Similarly in the article by Team SACJ titled "Balancing Act: The Discrepancy Between Section 173(3) BNSS and the Supreme Court Ruling in Lalita Kumari vs. Government of Uttar Pradesh" (Team SACJ, 2024) casts doubt on the police discretionary power which may subject the complainant to vulnerability and their right to access justice may be delayed or denied. This article further criticizes the inconsistent provision regarding the requirement of preliminary enquiry depending on the punishment for offences which may cause vagueness and inequitable treatment of different people under the same provision of law. It calls for the reconciliation of law with the judicial decision in Lalita Kumari (2013). It cites, "that the discipline of the adversarial process ought to provide a stronger key divide than the discretionary cloak of the police investigatory process."

It may be said that the provision for preliminary enquiry is added for providing some relief in the case of frivolous complaint. The time of 14 days, provided to police for conducting preliminary enquiry may be used to weed out some frivolous complaint as well as help police to find out if the case registered is susceptible to further investigation. Further, if the frivolous complaint is weeded out through preliminary enquiry, it may also reduce the burden of police as well as judiciary allowing resources like time and money as well as attention to the substantially important cases. Also, the risk of using discretionary power in malafide manner has been mitigated by providing requirement for pre- approval by an officer who at least at the rank of DSP. Further, weeding out frivolous cases means reduced mental stress and economic hardship for those who are falsely implicated in a case. Preliminary enquiry may save a person from loss of reputation, financial hardship as well as emotional suffering and will restore their faith in law and justice.

Opponents of provision of preliminary enquiry alleges that it is inconsistent with the ruling of constitutional bench in the Lalita Kumari (2014). Provision of S. 173 (3) of the BNSS allow the police to go for preliminary enquiry in the offences with punishment ranging from 3 to 7 years even when a cognizable crime is confirmed from the information provided which gives police the power to dismiss even the genuine complaints according to its whims and fancies and thus preventing the right of victim to access justice. As discussed by top-most court in Lalita Kumari case (2014) that the provision for preliminary enquiry in the hands of police may jeopardize the valid complainants as well as unnecessarily cause delay or even deny the right of justice to the victim of crime. Further, it is suspectable to potential abuse as well as corruption. The course of action will depend on individual principle of the concerned police officer and may influence the preliminary enquiry according to his bias. Further, the law itself is inconsistent. as it disallows the preliminary enquiry in serious offences having punishment of more than seven years as well as non-serious offences where mandated punishment is less than three years. This provision causes ambiguity and confusion as to how the provision balances between non-serious and serious offences. The law provides for discretionary power for preliminary enquiry within 14 days, which may deter the informant to file complaint if they suffer victimization, as he may think the process to be unnecessarily delayed or elongated or even think of unfairness in the conduct of preliminary enquiry. Further, this is enough time for accuse to influence the victim to not register complaint by coercing him or even manipulating evidences. It also gives extra time to accuse to save himself from the hands of law by running or hiding or for committing few more offences. Though, there are provision for complaint to go to senior officer in case of refusal of registration of FIR, many of the people are discouraged when they are denied their right to have registered FIR by police and avoid taking extra trouble. Further Section, 173(3) of the BNSS which provides for the preliminary enquiry presents a dilemma to balance the efficiency of a police officer to respond to the complaints and the significance of right of an individual complainant for the entitlement of the timely processing of his complaint.

After coming of section 173(3) of the BNSS, 2023, Supreme Court should step in and clarify the guidelines regarding the preliminary enquiry. The court should come in and clearly define what is meant by "nature and gravity of the offence" so that police get some guidance to their unfettered discretion. Initially, in Lalita Kumari (2014) Court gave some of the specific cases, where police can conduct preliminary enquiry. Here so, after BNSS coming into effect, Supreme Court should provide an inclusive list of cases, which seeks for preliminary enquiry. That will clear the air over the confusion, when to conduct and when not to conduct preliminary enquiry. Further, the timeline of 14 days, as provided by law, for concluding

the preliminary enquiry should be strictly adhered to and there must be some supervisory body to oversee it. Where, the preliminary enquiry takes more than 14 days, there shall be justified reason for it and that should be judicially approved. There shall be an independent body to oversee the function, where police prefer to conduct preliminary enquiry instead of registering FIR. This could be done by a review board or by providing written explanation of the reason why police conducted preliminary enquiry to the court. This function of reviewing by independent body or routine performance review is also expected to increase accountability of police in registering first information report. The entitlement of the any complainant/ informant/victim as well the right of the suspect/ accused shall be protected while the preliminary enquiry is being conducted. The accused shall be informed about his right to have a legal aid as well as right to remain silent during preliminary enquiry. The coercion and forced confession shall be avoided. Further, independent review boards of retired judges, senior and respected community members, and lawyers shall be constituted to oversee the preliminary enquiry. This will provide an added insight to the preliminary enquiry as well as ensure accountability in the police institute. Further, there shall be drive to increase the awareness among accuse and complainant about their right and what course to be followed in case of misapplication of provision of section 173(3) or denial of F.I.R. A police complaint authority can be set up in every state at the district level as per the mandate of the Prakash Singh v. Union of India (2006) which can oversee the cases of police misconduct or their denial to register an FIR.

While the need of the provision is to prevent unnecessary delay in the law enforcement system by giving police the power to exercise their discretion in conducting preliminary inquiry where there is commission of cognizable offenses with a given punishment of imprisonment for a range of three to seven years, it is significant to re-evaluate the fact that how preliminary inquiry by the police stands in complete contradiction to the legally settled regime that has been established by the apex court of the country.

Remedy in Case of Denial to Register FIR

Section 173 (4) of BNSS offers remedies for those persons who's right to register an FIR is denied by a police station. If a person feels aggrieved by the refusal or denial of FIR registration after occurrence of cognizable offence, he may take up the matter of such refusal of registration with or send a written complaint about the refusal to the superintendent of police concerned who, on being satisfied that the provided information discloses the occurrence of a cognizable offence, could himself investigate such occurrence or direct any police officer subordinate to him to investigate the matter in such manner as provided by BNSS, and the officer investigating the case would then..."shall have all the powers of an officer in-charge of the concerned police station" in regard to that offence, and failing which, the officer have choice to "make an application under sub-section (3) of section 175 to the magistrate" (Bharatiya Nagarik Suraksha Sanhita, 2023, s. 173(4)).

Further a person may initiate a criminal proceeding by filing a written complaint to magistrate under Section 210 read with section 223 of the Bhartiya Nagrik Suraksha Sanhita, 2023. Complaint is explained under S. 2(h) of the code and means "any allegation made orally or in writing to a Magistrate, with a view to his taking action under the Sanhita, that some person, whether known or unknown, has committed an offense but does not include a police report." (Bharatiya Nagarik Suraksha Sanhita, 2023, s. 2(h))

Further the explanation provides that "A report made by a police officer in a case it discloses, after investigation the commission of a non-cognizable offense shall begin to be a compliant and the police officer by whom such report is made shall be deemed to be the complainant" (Bharatiya Nagarik Suraksha Sanhita, 2023, s. 2(h) Explanation)

Under Section 210 of BNSS, (Bharatiya Nagarik Suraksha Sanhita, 2023, s. 210) "power of a magistrate of the Ist Class or any magistrate of the 2nd class who is statutorily empowered in this behalf under sub-sect. (2), have the power to take cognizance under the following circumstances" –

a) Upon getting complainant of facts, which includes any complaint that is filed by an authorized person by any special law, which constitute such crime;

b) Upon getting police report of any such given facts which may be submitted via any mode and includes electronic mode;

c) Upon getting information from any other person who is not police officer, or upon knowledge of the magistrate of such offence being committed.

The supreme court in Abhinandan Jha & ors. V Dinesh Mishra (1968) held that "the power of a magistrate under section 190 of Cr. P. C, of taking cognizance of any offence is independent of the duty casted on any police officer to registered an FIR under Section 154 of the code. Therefore, any person who feels aggrieved can directly approach an Illaqa magistrate and can lodge a complaint under section 200 read with section 190 of the Cr. P. C".

When a complaint under section 210 of BNSS is filed to magistrate, he has two courses opened. These are

i) He may direct a police officer to investigate the said case as per the statutory provisions of Section 175(3)

ii) He is free to take cognizance of crime under Section 210(1)(a).

Conversion of a complaint to FIR

If a magistrate wants, he has the authority to order an investigation by police under section 175(3) of the BNSS. According to this, the magistrate is required to record his reasons as to why he decided to direct a police officer to investigate the case. Often, where a cognizable offence takes place, the magistrate orders the police under section 175(3) of the BNSS to conduct a thorough investigation.

After completion of investigation, police submit a report under Section 193(3) of the BNSS. After receiving the report by the police magistrate may confer to any of the following procedures –

(i) A magistrate has the power to take the cognizance of the occurred offence by section 210(1)(b) and direct process. If the magistrates deem it fit to take cognizance, it is said to be taken on the report furnished by the police in accordance with Section 210(1)(b) of the BNSS, rather than based on the original complaint

(ii) If after the completion of investigation, police submit any negative finding pursuant to section 193(3), the magistrate has option of taking any of the following steps: -

a) If the magistrate accepts the police report and deems fit that no further investigation is required, he can stop the proceeding and have power of dismissing the complaint.

b) If the magistrate doesn't agree with the report provided by police, he may take cognizance, based on the original complaint, and proceed further under section 210(1)(a) of the Sanhita and proceed to examine the said complaint under section 223.

c) The magistrate has option of rejecting the police report and if, he wishes, then he can give orders of an enquiry under S. 225 of the Sanhita (Bharatiya Nagarik Suraksha Sanhita, 2023, s. 225) and proceed to take action after such enquiry under section 226 (Bharatiya Nagarik Suraksha Sanhita, 2023, s. 226).

Therefore, in Vasanti Dubey v. State of M. P (2012), it was held that the "power of magistrate to take cognizance of any offence under section 210(1)(b) is independent and it is regardless the view propounded by the police in the police report whether they find if any offence has been made out or not."

In Dilawar Singh v. State of Delhi (2007), The Honorable Supreme Court upheld that the concerned "officer in-charge of the said police station, is required to lodge an FIR when the information discloses occurrence of any cognizable offence even when a magistrate does not direct them to lodge an FIR under section 156(3) of the Cr. P. C."

In Sakiri Vasu v. State of Uttar Pradesh (2008), the Supreme Court embarked that if an application is filed in-front of a magistrate within section 156(3) (Code of Criminal Procedure, 1973, s. 156(3)), the magistrate can give orders to the police to lodge an FIR, and in the event where proper enquiry was not conducted, the concerned court might ask to conduct one.

Cognizance upon complaint

In the case of Tula Ram v. Kishore Singh (1977), the Supreme Court cited that if the magistrate decided to take cognizance of the offence alleged to be committed as under Section 210(1)(a) of the Sanhita, the following options are available to him: -

i) "The magistrate shall examine the complainant and present witness on the oath and also record the evidence of the witness as well as complainant as per section 223 of Sanhita.

ii) If magistrate is satisfied of the sufficiency of grounds for proceeding, then in that, he can issue the process straightaway to the named accused under section 227.

iii) Conversely, if a magistrate finds on the evidence led/ given by the witness or the complainant, that there lacks any sufficient ground to proceed further, he shall, under section 226, dismiss the complaint.

iv) The magistrate, if wants, can postpone, the whole issue of process and if wants, an enquiry can be directed by him or by any other person he wished or he can direct an investigation by the police under section 225 to confirm whether or not, there exist prima facie evidence which can justify the issue of process".

In Rameshbhai Pandurao v. State of Gujrat (2010), the Supreme Court upheld that the power available to the magistrate to direct "an investigation by the police officer under section 156(3) and Section 202 Cr. P. C after a complaint is lodged under section 200 of the Cr. P. C."

Section 199(c) of the Bharatiya Nyaya Sanhita (2023) provides for the punishment in case an officer in-charge of police station in certain condition. It provides that if a public servant "fails to record any information given to him under sub-section (1) of section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in relation to cognizable offence punishable under section 64, section 65, section 66, section 67, section 68, section 70, section 71, section 74, section 76, section 77, section 79, section 124, section 143 or section 144,

shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine."

Non-registration of Complaints and it's burking Finding of different Studies

One of the surveys of National police commission (NPC) illustrated that policemen were ""partial towards the rich, the influential, politicians and henchmen of politicians. Policemen were said to be rude and even brutal in their behaviour. ... Most respondents believed policemen to be corrupt" (National Police Commission [NPC], 1980, p. 48). Further NPC in its report summoned that there might be several other factors responsible for creating the negative image of the police, "police partiality, corruption, brutality and failure to register cognizable offences are the most important factors which contribute to this sad state of affairs" (National Police Commission [NPC], 1980, p. 48). One of the study of CHRI confirms the findings of National Police Commission in its study during 2000 where it has said that the three most significant characteristic of ugly face of Indian police man are their brutality, partiality and corruption (Joshi, 2000).

It is often found that denial of registration of F.I.R is a common, frequent, widespread and serious problem and often relates to the disadvantaged section of the society. The whole process of justice for a victim of crime starts after the registration of first information report but its denial kills the hope of justice for the victim, then and

therein. It disturbs the canon of justice majorly in two common ways. First, it shuts the door of justice for the victim, then and there in and secondly, it helps the perpetrators in escaping the wheel of justice. It causes mistrust and lack of sense of security in common people hampering rule of law and encourages and emboldens the perpetrators to commit further crime. When such incidents take place in bulk, it erodes the "faith and confidence of public from the police system".

A recent case that was highlighted by national media took place in Haryana where the Director General of Police wrote letter (sent legal notice) to all the concerned senior Superintendent of police and Station House Officer for non-registration of FIR against the Director General of Police. It is nowhere barred by the law that prohibit registering FIR against the super most police officer of the state. In the said case, one senior IPS officer wrote to another senior IPS officer complaining against DGP of state under provisions of Prevention of Atrocities against SC/ST Act (Tribune News Service, n.d.).

The Uttar Pradesh police commission that was constituted in "1960-61 reported few of the following malpractices by the police in registering complaints (FIR)

i. Non-recording of First Information Report i.e. concealment,

ii. distorting facts with a view to lessening the gravity of the offence i.e. minimization,

iii. introduction of new facts and distortion of facts in order to create evidence against the accused or for implicating innocent persons, and

iv. demand of money or consideration for recording or prompt recording of report." (Uttar Pradesh Police Commission [UPPC], 1972, p. 10).

After a decade another police commission was constituted in Uttar Pradesh in 1970-71, where it was unanimously accepted by all the SHOs and circle inspectors who were interviewed that minimization of the offence was generally committed by their hands and constituted Police Commission found "no reason whatsoever to doubt the truth of their admission" (Uttar Pradesh Police Commission [UPPC], 1972, p. 13). One of the most renowned and eminent officer of Indian Police who happens to be the member of the NPC had observed following "Now we come to the extremely widespread evil of non-registration of cognizable offences..... The poor and weaker sections of the society who live in villages are ... the main victims of this evil" (Saxena, 1994) In another study with the name "Image of Police in India", more than fifty percent of the participants mentioned that non-registration of the complaint/FIR is common malpractices in the police station of India (National Police Commission [NPC], 1980, p. 1).

Similarly, Punjab Police Commission (1961-1962) refers to a senior IPS officer and writes on his behalf that the number of crime that goes unreported extends to 50 percent of the crime that gets reported every year and the enquiry made for this statement is fully justified (Punjab Police Commission [PPC], 1962, p. 49). "The most formidable difficulty in analysing crime trends across a vast country like India is the gap between the incidence and reporting of crime, on the one hand, and the reporting and recording of crime, on the other." (Chakraborty, 2003). Misra (1981) in his articles says that even though the public stance of a police manager and politician is contrary, they both accept in private that burking of crime is a real phenomenon.

The supreme court, in its verdict, has observed the practice as "It means that the number of FIRs not registered is approximately equivalent to the number of FIRs actually registered." (Lalita Kumari vs State of Uttar Pradesh & Ors., 2013). In Lalita Kumari (2013), it was observed that "NCRB figures shows that about 60 lakh cognizable offences were registered in India during the year 2012, the burking of crime may itself be in the range of about 60 lakh every year." The Malimath Committee (Committee on Reforms of Criminal Justice System, 2003) mentions the irregularity in the mandated FIR registration of cognizable offence. It also says "minimization of offences by the police by way of not invoking appropriate sections of law." Further it says "The second issue is relating to the registration of written complaints. There is an increasing tendency amongst the police station officers to advise the informants, who come to give oral complaints, to bring written complaints."

Common Police Tactics to Avoid FIR Registration

There are many ways by which police dissuade their duty of registering FIR where there is occurrence of cognizable offence. In most cases, the poor and disadvantaged section of society are victimized by police because of their unawareness of the right to lodge an F.I.R and also, they are unable to prevent it from happening. Police more often than not, threatens or dissuade the complainant from registering first information report. They are often said to be fabricating the facts of the case or police tells them that their case is weak and it will erode in the court. One another way to misguide people are by pretending that police are registering their complaint, where as in reality they do not do so. Police write the substance of the information provided to them in general diary and a copy of the same is given to complainant making them believe that their complaint has been registered. Sometimes, complainant is asked to go to another police station stating the fact that crime didn't took place under the jurisdiction of the said police station even after the provision of zero FIR for the same.

If police find it impossible to dodge their duty of registering crime, then they minimize or falsely apply weaker section of the law, like in the case of robbery, it is often reduced to theft or burglary and attempt to murder is converted to grievous hurt. Sometimes police deliberately add or delete name of the accused/suspect or witness to misguide the investigation in the favor of the rich and influential people. They also deliberately add some details to the first information report or omit some important information for the same.

Systemic Causes and Consequences

The performance of the police is often calculated or measured based on the crime statistics and number of FIR filed in a given year. The image of the police department or government is based on the crime statistics so they deliberately try to record less FIR so they can show "that crime is well under control. They way to do same is by conveying the intention of the state government to the police". It is done very discreetly but sometimes some instances have been found where it was done brazenly. In the state of Uttar Pradesh, we get an example of brazen attempt to do the same, where an instruction was passed down to the police officer of Uttar Pradesh to bring down the crime figure. "The Chief Minister, to drive home the message, suspended quite a few officers of the rank of SP and DIG. What followed was suppression and minimization of crime on a scale never before witnessed in the history of independent India" (Singh, 2003). Later it was very advertently advertised by the government of Uttar Pradesh by giving advertisements in Newspaper that it was the achievement of the Chief Minister, who succeeded in "bringing down the crime figures in the state by 69%."

To evaluate the performance and ACR of an individual police officer/staff of a police station, the incidence of crime and the conviction figures are taken into account. Due to implication of this technique, they employ questionable method to bring crime statistics down and use fair or foul method for brining conviction to the accused.

Corruption is another major reason for non-registration of crime. Accuse often bribe the police for not recording the crime or twisting the facts of the FIR in such a way that leads to acquittal of the accused. They are also bribed to dilute the course of investigation to favor accuse. In such cases poor complainant suffers as they don't have enough money to bribe the police officer.

Inadequate number of police force and heavy workload on them is another reason why police encourage the practices of non-registration of crime. The number of the crime is increasing day by day but the strength of the police force remains same. So, the one way to avoid the workload is to not register the crime.

Political Interference is another reason to register or not to register FIR or to manipulate the facts of the case. Refusal to resister FIR due to political motivation, perpetrated by Police officer on the behest of politicians of state and national level has caused huge distrust and loss of image of police system in India. In the tradition where shifarish or favor prevails, one may expect the assistance of police if he is powerful and have strong connection. Politician often give shelter to criminals for their own benefit and tell the police officer either not to register case against them or to drop the investigation against them and they also provoke police officer to file wrong complaints against their opponents.

Sometimes, seriousness of offence also affects the probability of registration of F.I.R. Like, police often so reluctancy in lodging FIR of a mobile theft. Also, cases which falls in the socio-legal category like marital dispute, harassment of old age people, domestic violence stands a lesser chance of being registered and depends on the factor like priority by police officer in crime control, time and workload, personal bias, training and overall sensitivity of the police officer. Sometimes, police also show reluctancy in registering complaint of missing person belonging to senior citizen group as they expect that they might come after few days. Police sometimes instead of registering FIR for trivial matter, takes step to affect a compromise between the complainant and accused.

Measures to Counter Burking of Crime

Police department of different states, then and now, have led drives several times, to increase the rate of crime registration. Often such drives lead to a huge rise in the figure of crime registered each year. This bump further cause outcry by opposition and media, causing significant trouble to the government leading the state. The government in such cases issues direction to police to revert back to old method of concealment of crime by denial of its registration. This method of controlling the crime by denying its registration cause huge distress among people especially poor and disadvantaged, denying them their right to access justice.

Government introduced three important provision to counter the malady of burking of crime. First, they added for the provision of "supplying free copy of FIR to the complainant" (Bharatiya Nagarik Suraksha Sanhita, 2023, s. 173(2)). The other method introduced to counter evading FIR registration is by giving a complaint in written format or orally to the SP of the concerned district, who has the power to take necessary action regarding the investigation of the complaint. The third provision made denial of registration of certain offences by police officer a cognizable and bailable offence with punishment ranging from 6 months to 2 years and making them also liable to fine (Bharatiya Nyaya Sanhita, 2023, s. 199(c)).

The Law Commission of India (LCI, 1980, p. 20) had also examined the provision of law and made a proposal to make the refusal to register an FIR a specific offense punishable by imprisonment (jail) for a term up to one year and fine. Other recommendations of the Law Commission in an attempt to put an end to crime burking were the following:

(i)"Increased number of investigation officer in every police station

(ii)The evaluation of performance of police officer shall be based on other criteria rather than crime statistics.

(iii)The quality of supervision over the working of officer in-charge of a police station shall be improved

(iv)Making provision for punishment in case of non-registration of crime either in IPC or in Police Act."

This recommendation can be really effective if implemented freely and in pressure free environment from political executive to show lower crime statistics to make them look good.

CONCLUSIONS

An effective police system is the substratum on which the whole edifice of constitutional will, maintenance of law and order, detection of crime and enforcement process of social legislation rest (Arora, 1999). It is valid to say that a complaint disclosing cognizable offence howsoever absurd and frivolous it is, shall be registered as an FIR is an extreme position but so is the stance that police has power to conduct a preliminary enquiry in every case where there is doubt about the credibility of the information. A delicate balance should be maintained in between this extreme position to protect the interest of the society, the rights of the complainant/victim and right of the accused.

After the enactment of BNSS, and section 173(3) creates an exception where it explicitly authorized police to conduct preliminary enquiry with prior approval of Dy. S. P in the cases where prescribed punishment is imprisonment for a term not less than three years and not more than seven years. It somehow creates ambiguity in the well-established law and give police an unfettered discretion to conduct preliminary enquiry according to its whims and fancies. It also creates a fear in the mind people that police may favor powerful and rich. It should be kept in mind that most of the victim of crime in this country are poor and disadvantaged and they are not aware of the prevalent law and neither the remedy in case of mishap. So, before making any such law, legislature must keep in mind to provide proper safeguard for them. A layman is neither aware of the distinction between cognizable and non- cognizable offence nor the different process adopted to file complaint. Whenever a crime happens, he runs to police station to lodge a complaint and that is his only recourse. Henceforth, to gain confidence of general public FIR considered absolute mandatory. However, after conducting preliminary inquiry frivolous and nebulous complaints should be weeded out before proceeding further investigation.

REFERENCES

Abhinandan Jha & Ors v. Dinesh Mishra, (1968) AIR 117.

Arora, N. (1999). Custodial torture in police stations in India: A radical assessment. *Journal of the Indian Law Institute, 41*(3/4), 513–529. https://www.jstor.org/stable/43953348

Bharatiya Nagrik Suraksha Sanhita, No. 46 of 2023 (India).

Bharatiya Nyaya Sanhita, No. 45 of 2023 (India).

Binay Kumar Singh v. State of Bihar, 1997 (1) SCC 283.

Chakraborty, T. (2003). An alternative to crime trend analysis in India. *Faultlines*, 14, 81–98.

Choudhary, D. (2014). Lawful legal preliminary enquiry under section 173 of the Bharatiya Nagarik Suraksha Sanhita. *Drishti Judiciary*. https://www.drishtijudiciary.com/current-affairs/section-173-of-bharatiya-nagarik-suraksha-sanhita-2023

Code of Criminal Procedure, No. 2 of 1974 (India).

Committee on Reforms of Criminal Justice System. (2003). *Report of the Malimath Committee. Government of India.*

Deb, R. (n.d.). Need to eschew malpractices in law enforcement. *Journal of the Indian Law Institute, 34*(3).

Deswal, V. (n.d.). Burking of crimes by refusal to register FIR in cognizable offences. *Journal of the Indian Law Institute, 55*(3).

Dharma Rama Bhagare v. State of Maharashtra, AIR 476 (SC) [1973].

Dilawar Singh v. State of Delhi, 12 SCC 641 [2007].

Dr. Suresh Gupta v. Government of NCT of Delhi, (2004) 6 SCC 422.

Dwivedi, A. N., & Nayak, S. (2024). Exploring the process of "complaint mode of crime reporting" under the Indian criminal procedure code. *International Journal of Law Management & Humanities, 7*(3). https://doi.org/10.10000/IJLMH.117792

Eterno, J. A., Verma, A., & Silverman, E. B. (2016). Police manipulations of crime reporting: Insiders' revelations. *Justice Quarterly, 33*(5), 811–835. https://doi.org/10.1080/07418825.2014.980838

Gupta, A. K., & Sharma, G. (n.d.). Indian police: Crisis of credibility. *Indian Journal of Political Science, 73*(2).

Indian Penal Code, No. 45 of 1860 (India).

Joshi, G. P. (2000). *Police–public interface.* Commonwealth Human Rights Initiative.

Joshi, G. P. (2003). *Police practices: Obstructions to poor people's access to justice.* Commonwealth Human Rights Initiative.

Kalyani, R. (2003). *Police, crime and human rights*. New Delhi.

Kumar, P., Kumar, S., & Kumar, S. (2025). Human Rights in Occupied Tibet: A Succinct Study of Consistent Atrocities and Genocide. *Journal of Political Science and International Relationship, 2*(1), 22-34. https://doi.org/10.54536/jpsir.v2i1.3923

Kumar, S., & Kumar, S. (2024). Reimagining the legislative framework: A historical analysis of decolonization and public voice in India's law-making. *American Journal of Society and Law, 3*(2), 16–30. https://doi.org/10.54536/ajsl.v3i2.3165

Lalita Kumari v. Government of Uttar Pradesh & Ors., (2013) 14 S.C.R. 713.

Lalita Kumari v. Government of Uttar Pradesh, CRL.M.P. No. 5029 of 2014 in Writ Petition (Crl.) No. 68 of 2008.

Law Commission of India. (1980). *Eighty-fourth report.* Government of India.

Misra, S. C. (1981). Police performance: Some parameters of appraisal. *Indian Journal of Public Administration, 27*(2), 444–452.

National Police Commission. (1980a). *Fourth report.* Government of India.

National Police Commission. (1980b). *Fifth report.* Government of India.

Prakash Singh v. Union of India, 8 SCC 1 [2006].

Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667.

Punjab Police Commission. (1962). *Report of the Punjab Police Commission* (1961–62). Government of Punjab.

Raghavan, R. K. (2003). The Indian police: Problems and prospects. *Economic and Political Weekly, 33*(4).

Raghvan, V. (2010). Registration of first information reports by police: An agenda for change. *Indian Police Journal, 57*(1).

Ramesh Kumari v. State (NCT of Delhi) & Ors., (2006) 2 SCC 677.

Rameshbhai Pandurao v. State of Gujarat, (2010) 4 SCC 185.

Sakiri Vasu v. State of Uttar Pradesh, (2008) 2 SCC 409.

Sen, S. (2000). *Police in democratic societies. Gyan Publishing House.*

Sevi Kumar v. State of Tamil Nadu, 1981 Supp. SCC 43.

Sharma, S. D. (1985). Rule of law and role of police (Sardar Vallabhbhai Patel Memorial Lecture–II).

State of Haryana & Ors. v. Bhajan Lal & Others, 1992 Suppl. (1) SCC 335.

State of Maharashtra v. Shiv Das Singh Chavan, (2011) 1 SCC 577.

Superintendent of Police, CBI v. Tapan Kumar Singh, AIR 2003 SC 4140.

Tiwana, M. (n.d.). *Human rights and policing: Landmark Supreme Court directives & NHRC guidelines.* Commonwealth Human Rights Initiative. https://www.humanrightsinitiative.org

Tribune News Service. (n.d.). Haryana IGP sends legal notice to Ambala SSP over non-registration of FIR against DGP. *The Tribune.*

Tula Ram v. Kishore Singh, (1977) AIR 2401.

United Nations Commission on Crime Prevention and Criminal Justice. (1995). *Report of the Commission.* United Nations.

Uttar Pradesh Police Commission. (1972). *Report of the Uttar Pradesh Police Commission* (1970–71). Superintendent, Printing & Stationery, Uttar Pradesh.

Vasanti Dubey v. State of Madhya Pradesh, (2012) *AIR SCW 962.*

Verma, A. (1997). Maintaining law and order in India: An exercise in police discretion. *International Criminal Justice Review, 7.*

Verma, A. (1998). *National Police Commission in India: An analysis of policy failures.* Police Journal.

Verma, A. (1999). *Cultural roots of police corruption in India. Policing, 22*(3), 264–279. https://doi.org/10.1108/13639519910285044

World Bank. (1999). *Can anyone hear us? Voices from 47 countries.* World Bank.