

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

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

To

The Additional Chief Secretary/Principal Secretary (Home Department)

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

Sir/Ma'am,

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

2. A Constitution Bench of the Supreme Court in W.P. (Cri.) No.68 of 2008 in Lalita Kumar Vs Government of U.P². and others on 12-11-2013 had addressed the issue of mandatory registration of FIRs and had held that registration of FIR either on the basis of the information furnished by the informant when it makes out a cognizable offence u/s 154(I) of the Cr. P.C. or otherwise u/s 157 (I) of the Cr. P.C. is obligatory. It also held that reliability, genuineness and credibility of the information are not conditions precedent for registering a case u/s 154 of the Cr. P.C. Since the legislative intent is to ensure that every cognizable offence is promptly investigated in accordance with law, hence there is no discretion or option left with the police to register or not to register an FIR once information of a cognizable offence has been provided. The court was quite perturbed about the burking of crime registration and has concluded that non-registration of crime leads to dilution of rule of law and thus leads to definite lawlessness in the society, which is detrimental to the society as a whole. It has hence called for action against erring officers who do not register an FIR if information

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

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

received by him/her discloses the commission of a cognizable offence. It may be mentioned that Section 166 A of Cr. P.C. prescribes a penalty of imprisonment up to two years and also a fine for non-registration of a FIR for an offence described u/s 166 A. It may be also mentioned that if after investigation the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR under Chapter XI of the I.P.C.

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

- (a) If the information received does not disclose the commission of cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether a cognizable offence is disclosed or not. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant within one week and it must also disclose the reasons in brief for closing the complaint and not proceeding further.
- (b) The other categories of cases in which preliminary inquiry may be made are:
 - (i) Matrimonial disputes/family disputes
 - (ii) Commercial offences
 - (iii) Medical negligence cases
 - (iv) Corruption cases
 - (v) Cases where there is an abnormal delay in initiating criminal prosecution. Example: over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay
 - (vi) The Supreme Court has also insisted that all preliminary inquiries should be completed within 7 days and any delay with the causes should be reflected in the General Diary/Station House Diary/Daily Diary.

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

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

6. Home Departments of the States/UTs may direct the DGPs/IGPs to issue necessary instructions in the light of the above advisory so that all police officers are made aware of

them and the contents are also incorporated in the training curriculum of the police personnel.

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

(S. Suresh Kumar)
Joint Secretary (CS)