

A Yellow-Slip Solution to Unravel the Errant Cumber: A Critical Role of the Superintendent of Police in Registration of Crimes (Case Study)

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Abstract

First Information Report, as the name suggests, is to set the Criminal Law in motion. It is the first information of any crime received by the Police. Subsequently, the Police ought to register the information and investigate in accordance with the procedure prescribed by law. However, not surprisingly, a negative notion has been engendered, regarding the registration of FIR, as there have been though unreported, yet, many cases of unregistered information by the Police due to various reasons ranging from the credibility of the source of the information to the involvement of the bigshot parties. The political influence over the criminal justice system has plagued the mechanism, therefore, causing social chaos and disorder. Further, even after the cases like Lalita Kumari v. State of UP and Youth Bar Association of India v. Union of India and several guidelines being issued by the Apex Court, and Parliamentary Panels being constituted, the notion does not seem to change much. Through this comment, the authors have tried to propose a solution, related with law enforcement agencies, which would ensure a mandatory and expedite registration of FIR alongwith, the commitment of the Police towards its generic motto- 'to serve and protect the hoi polloi'.

Keywords: First information report, criminal justice administration, hoi polloi, yellow slip, superintendent of police

INTRODUCTION

“Non-registration of FIR Leads to Lawlessness in the Society” [1]

A crucial aspect of better policing has always been the treatment of citizenry by the Police personnel. The manner in which the Police interact with the public determines the extent and effectiveness of law enforcement in society. The authors contend this on the premise, that a society is made up of different individuals who are governed by laws and the Police enforce the laws to check and regulate the conduct of the individuals. Such a nexus between public and police makes it more essential for the Police to act diligently while dealing with the issues of society and due to the nature of their duty, every act of the Police, by and large, affects the Public.

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As observed in the *Handbook on Justice for victims*, (1999), UNODC [2] that victim, apart from going through physical and financial victimization, psychological injury and the payment of social cost, also have to go through *secondary victimization* [3] which is not exactly the direct result of the crime, but through the insolent and irresponsible response he or she receives from the government's law enforcement agencies like Police and other related institutions [4]. Therefore, it is imperative for the Police to discharge the duties bestowed upon them in an assiduous manner so that the victims do not have to go through such secondary victimization.

The primary duty of the Police is to guard the denizens against any apparent danger posed either by an individual or by a group of individuals and while doing this, maintain law and order in the society. In other words, the Police are the crime control and prevention agency of any state. They are implicitly, the first actors to react to any mishap or immediate public disorder or any type of breach of the laws. Hence, to enable them to react to any such situation, the laws have enlisted their powers, which are to be exercised judiciously, to curb the crime and recompense the order of the society along with busting those individuals or elements, who create such sort of nuisance and disturb the peace and harmony of the society.

In view of the aforementioned statement, this comment will briefly discuss the power of the Police to act and investigate on any information of a cognizable offence, received at their end and how the Police seem to have not used it properly.

Following this, the authors would propose a solution to put a bridle on this delinquency by the Police. The parlous act of the Police of not registering the FIR and thereby, burking the crime, in order to place themselves into the good-books of the system, without considering the suffering of the people, incentivised the authors to provide a brief background of the issue and propose a feasible solution.

FIR: A PRIMER

First Information Report, or FIR as it is popularly known, is the report prepared by the police upon receiving an information that a cognizable crime has been committed. Although the word FIR has not been mentioned anywhere in Criminal Procedure Code, and instead, the legislature has put the word *information* in Section 154 (information to police).

Under the said section, information can be conveyed either verbally or through a written application (now, it can be lodged through Online means also, as discussed in detail later). Generally, the informant is either the victim or family member or relative of the victim that is someone representing the victim. However, there is, as such, no limitation placed under the law as to who can register the complaint with the police. Anyone, who has information about a crime being committed can report the same to police. In fact, the Supreme Court in *Superintendent of Police, CBI v. Tapan Kumar Singh* [5], also stated that anyone who has information about a cognizable offence could report to the police, though he may not even know the name of the victim or the accused. That is to say, a complete stranger can also lodge the complaint.

It is a very important document as it sets the criminal law in motion, followed by the investigation in relation to the alleged crime. As it starts of the criminal proceedings, emphasis is given on the point that it should be registered as soon as possible [6].

Although it is a settled law that the FIR in itself does not contain much evidentiary value, i.e., it is not a substantive piece of evidence [7]. However, it is a very important instrument to corroborate the statements given by the person who made the complaint, at the stage of trial [8]. Although, it cannot be used to discredit the testimony given by other witnesses.

THE QUANDARY OF THE CITIZENS

As talked earlier, any action by the Police either directly or indirectly affects the Public at large, whether it is a positive action or a negative one. Here, the authors, specifically, is trying to highlight the problem faced by the citizens, while getting their complaints registered.

A question arises here is that when the law and procedure mandates a police officer to register any information that exposes a commission of a cognizable offence and to act upon it [9], then why there have been such complaints of non-registration by the people who've had this horrid experience with Police.

The stats regarding this quandary of non-registration are bizarre. It was found out by a research by the Bureau of Police Research and Development [10] that some of the major consequences of non-registration of FIR on complainants include *inter alia*- “helplessness, financial loss, living in fear, feeling of violation of fundamental right, leaving the usual dwelling place and migrating to some other place, experiencing threat towards family and getting physical injuries [11].”

Moreover, it has left a very adverse impact on the minds of the common people. One of such negative impacts is “the reluctance by the people to come up and register their complaints with the Police unless their problem is extremely serious or intolerable [12].” This averseness finds its origin in “the behaviour of the Police towards the complainants and especially women and the marginalised section of the society [13].” This reluctance on the part of the public, encouraged by the Police, leads to an upsurge in the petty crimes and sometimes, even felonies.

An FIR can be regarded as one of the most important components of a criminal justice system, as it is a medium through which the government may know the crime rate of any particular area. However, “contrary to the bounteous intentions of the Government, the Police started using this as a tool to burke the crimes [14].” To prevent themselves from the media, public and political attention; the officers started to not register the complaints, to show a lesser crime rate than other areas, on paper. ‘Burking of Crimes’ perhaps is the most serious grievance of Public from Police and it is, in fact, done with the consonance of the Political Executive in order to show a lower rate of crime [15]. The problem that lies at the root is the denial of the basic human right of the citizens of being heard and redressed. Since most people are unaware of the redressal mechanisms available to them, they choose to be silent under the fear of the Police and sometimes, even politicians and this is where the problem finds its amplification. This situation causes such laxity.

The authors believe that another problem associated with the non-registration of FIR is the increase of unregistered crimes and thus, the criminals freely do whatever they want to, without any apprehension of being arrested. This encourages the criminals to remain indulged in such activities and never creates the deterrence effect required to prevent the occurrence of crimes.

“The process of criminal justice system starts with the registration of crime, but the non-registration puts an end on the process at the outset only [16].” This has a two-fold impact-firstly, it ignores the plight of helpless victims and puts a barricade on their path to seek justice and secondly, it results in augmentation of criminal activities and criminals. The reason behind this, as the authors assertively feel, could be the fact that, when one is not getting any punishment for committing any wrong, it instils a confidence in that individual to continue with the acts, which would have criminal tendency or character.

There have been instances where the involvement of big-shot parties in the information received by the Police, prevent them from registering any complaint and the force of influence of these parties happens to be much more than the force of law, upon the Police personnel [17]. These instances are never reported and sometimes the complainants are even disappeared. This creates an atmosphere of fear not only in the public but also in the marginalised communities, due to their entrenched inhibitions and discrimination faced by them. Subsequently, they refrain from getting their complaints registered and the quandary continues.

Another impediment in the registration of FIR, *inter alia*, is the grey domain of law over the discretion of Police to hold a preliminary inquiry over the matter before registering any complaint. Though, in *Lalita Kumari Case* [18], it was held that under Section 154 (1) it is mandatory for the officer to register the FIR, however, the little discretion given to the officer to hold an inquiry, in case any cognizable offence is not disclosed by the information received, results in the ambiguity over the issue. Further, “there have been many cases, where some negatively motivated individuals or groups file false complaints with the Police to justify their rivalries and these tend to create confusion in the officers regarding the credibility and authenticity of any complaint [19].”

These are some of the elements, which aid in the growth of this menace and prevent the Police to perform their duty. The association of influential parties in the information prevents the Police to register a complaint and even if some officers do that, they are either transferred or made powerless and in worst cases, suspended on some false charges. This political dominance and pressure restrict the officers to carry out their responsibility and obligations in an unprejudiced manner [20].

As stated earlier, the Police officers, to decorate their reputation in front of senior officers and politicians, do not register the complaints to fake the crime rate in their area. This practice of determining the competence of a Police officer based on the crime rate in his area builds a fear in him of his image being tarnished in front of the seniors [21]. Therefore, the officer refuses to register petty or sometimes even major complaints to avoid a blot on his image and to show a low crime rate [22].

The authors strongly believe that undoing this practice and encouraging the officers to cut the crime rate in actual instead of just using these false tactics, would improve the situation or at least will not get worse. Moreover, the basic training of the officers concerned shall have a course on sensitisation and they must be made aware of the plight of the vulnerable groups and downtrodden, so, to proselytize the motive of serving people. Furthermore, “performance appraisal of police should not solely be linked with number of cases registered, but with cases detected and prosecuted [23].”

These occasions give rise to an inevitable situation, wherein a police officer, with or without consent, misuses his power to either dissuade the complainant from registering the FIR or make a fake entry in the general diary and pretends it to be the registration of FIR. There is a popular notion that conveys the idea that any state of perplexity is never inherent and is always a result of the actions preceding such a state and in this scenario also, the problem of non-registration of FIR ensues from the aforementioned practices and policies adopted by the system. Thus, the need of the hour is to revisit these criteria and to revisit the obsolete methods of policing and inculcating the sense of empathy in the Police officers, as their nature and scope of work call for them to be a public and service-spirited human being.

JUDICIAL PERSPECTIVE

The word FIR has not been used anywhere in the CrPC, however, Section 154 deals with the information in cognizable offences and the term ‘FIR’ is construed from the language of the Section [24]. Now, the point of debate in the Section is the use of the word ‘shall’. The judicial frame of reference regarding the obligatory force of the word ‘shall’ has been quite unambiguous. The central notion regarding the use of this word is that the nature of obligation must be adjudged considering the legislative intent behind its inclusion and whether it will be preemptory or not, depends upon the object of the statute.

“To ascertain the legislative intent of any law, the consequences of construing it the one way or the other must be taken into account [25].”

To elaborate upon the issue, the Apex Court held “when a statute uses the word ‘shall’ prima-facie, it is mandatory, but the court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute. For ascertaining the real intention of the legislature the court may consider, inter alia, the nature and the design of the statute, and the consequences which would follow from construing it the one way or the other, the impact of other provisions whereby the necessity of complying with the provisions in question is avoided, the circumstance, namely, that the statute provides for a contingency of the non-compliance with the provisions, the fact that the non-compliance with the provisions is or is not visited by some penalty, the serious or trivial consequences that flow therefrom, and, above all, whether the object of the legislation will be defeated or furthered [26].” Taking the substance of the ratio of the aforementioned ruling, the Apex Court in *Ramesh Kumari v. State (N.C.T. of Delhi)* [27], held the provisions of Section 154 to be mandatory.

The landmark case in this regard was the *Lalita Kumari Case* [28], which cast an obligation on the Police Officer to register the complaint mandatorily and the only sine qua non of the registration should be the disclosure of a cognizable offence. Simply put, reliability, genuineness, and credibility of the information are not the conditions precedent for registering a case under section 154 of the code. “It is therefore, clear that if any information disclosing a cognizable offence is laid before an officer-in-charge of a police station satisfying the requirements of Section 154(1) of the Code, the said police officer has no other option but to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information [29].”

The concern of the judiciary towards the dilemma was clear when the Apex court issued some guidelines in this regard [30]. Moreover, a parliamentary committee [31] has also been constituted to check and control this problem and it recommended making the non-registration of FIR by the Police personnel as a criminal offence [32]. However, we believe that there needs to be a solution that would foster the sense of duty among the Police department, along with having an incentive to comply with that duty.

THE YELLOW-SLIP SOLUTION (ROLE OF AN SP)

The yellow slip solution, proposed by the authors, found its manifestation in the Betul District of Madhya Pradesh, which was implemented by the then Superintendent of Police of Betul, Mr. Sudhir V. Laad (IPS) [33]. It worked as follows:

The complainants, on being refused by the officer-in-charge of the police station to register the FIR u/s 154 (1) of CrPC, used to approach the SP Office u/s 154(3). Subsequently, their complaint was provisionally registered in the SP office and thereafter, a yellow slip would be attached to their complaint and they were asked to return to the concerned police station, where now, due to the attachment of yellow slip, it became mandatory for the Officer-in-charge of the Station to register the FIR of the complainant and act upon it. The aim behind this was to ensure transparency and speedy redressal on the part of the police and that the Police entertain each complaint seriously. At the end of each month, all the Station in-charges were called in for a meeting at the SP Office and the station having lowest yellow slips would get a reward. Now, lowest yellow slips mean that the complainant was entertained by the Station In-Charge and that the complainant did not have to suffer and approach SP u/s 154 (3). This mechanism was effectively implemented across the district and was lauded in the media as well [34]. This method ensured a speedy investigation and a commitment to the public by the Police. The reward theory encouraged the officers to not let the complainants use the procedure u/s 154(3) and to register their complaints without fail.

Table 1. Results of *Yellow Slip* method [37].

Crime	1 st September 2012 to 31 st August 2013	1 st September 2013 to 31 st August 2014
Murder (S. 302 IPC)	63	69
Attempt to murder(S. 307 IPC)	26	43
Rape (S. 376 IPC)	111	157
Kidnapping/Abduction (Ss. 361/362 IPC)	10	194
Robbery (S. 392 IPC)	16	14
House Trespass (S. 448 IPC)	128	205
Theft (S. 379 IPC)	170	285
Dowry (S. 498-A IPC)	60	291
Dowry Death (S. 304-B IPC)	05	09
Criminal Intimidation (S. 506 IPC)	730	2277
Sexual Harassment (S. 354 IPC)	187	373
Cheating (S. 417 IPC)	22	37
Others	318	556
Total	3004	5815

The practice yielded some positive results, as the number of reported crimes increased significantly and had also garnered praise from the local media [35]. Table 1 below, indicates how the number of reported complaints increased in different kinds of crimes. There are two sets of data presented one is before the system was put in place, i.e., 1st September 2012 to 31st August 2013 and the second period is between 1st September 2013 to 31st August 2014, wherein the system was introduced [36].

Below is an image of a local newspaper report that contains the appraisal of local Police due to the efficient working of the Police under the erstwhile Superintendent of Police, Mr. Sudhir V Laad (Figure 1) [38].

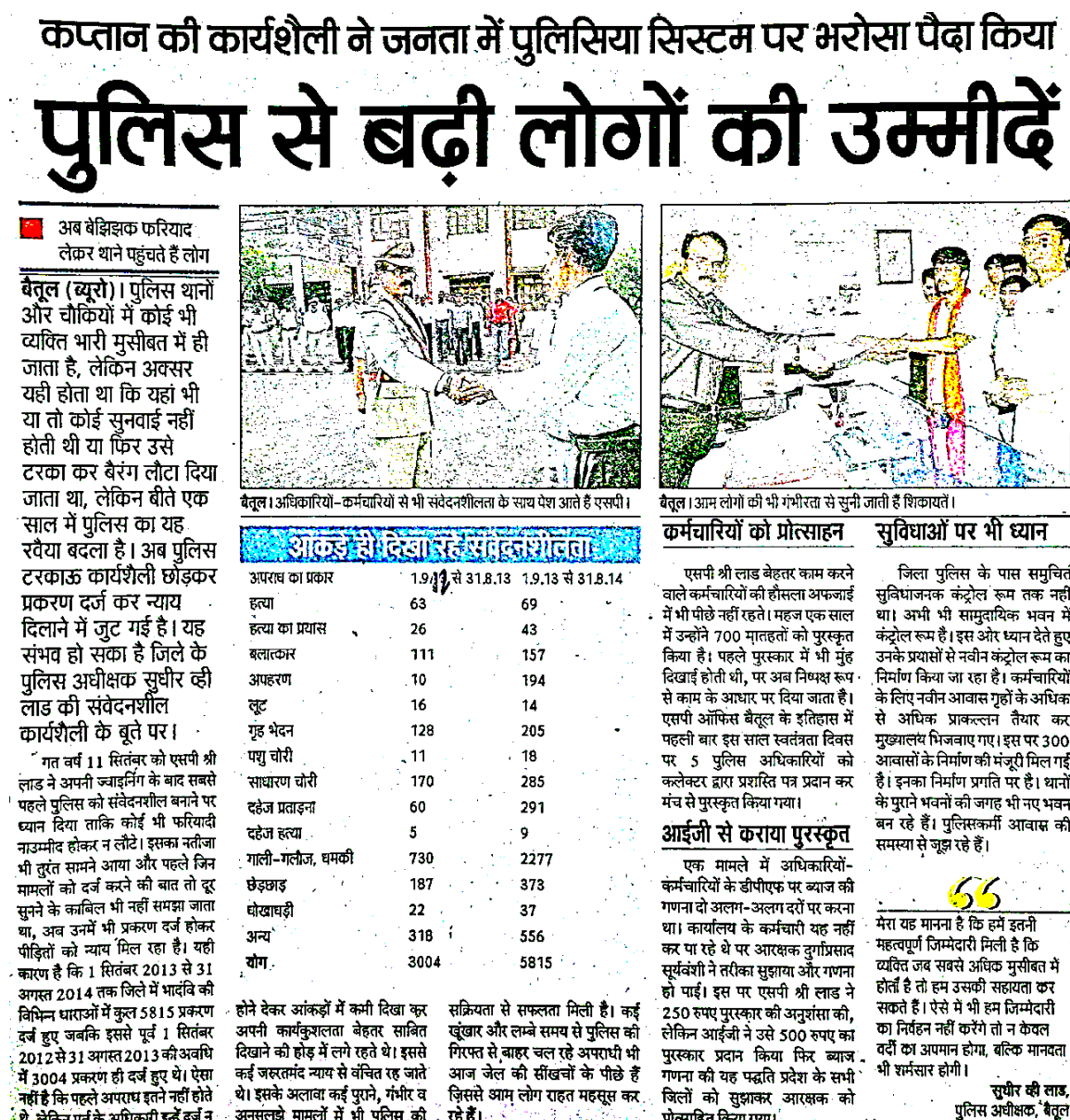


Figure 1. News report of the local newspaper 'khabarvani' dated 02.09.2014.

It is evident from the above data, with an exception of cases of robbery, the reporting of crimes considerably amplified after the introduction of this new system.

Now such a practice not only increases the morale of the Police personnel but also instils a sense of fear among the potential criminals and eventually results in the fall of the crime rate. This practice was

also helpful in building an amicable relationship between Police and the Public. This practice may ensure an actual fall in the crime rate rather than showing low rate by not registering the complaints, i.e., ‘burking the crimes’.

The only prerequisite of this practice is an efficient and a considerate officer, who can lead the police administration from the front, as the Superintendent of Police of the district. This can be done by having an officer with a clean image and an incident-free history, to be posted as the Superintendent of Police. Further, a range Deputy or Zonal Inspector General can supervise the mechanism to ensure its effective implementation. Therefore, the authors feels that this yellow slip practice would definitely make the “*errant cops fall in line*”, provided, that the implementation and execution must be strict and scrupulous.

This solution has not been expressively adopted in any jurisdiction yet. Moreover, applying this mechanism in practice would ensure that India is obliging by its International Obligations to preserve and prevent Human Rights obligations under ICCPR, ICESCR, and various other International Human Rights Conventions. This could also ensure that the complainant is not discouraged from raising voice against any wrongdoing and may go to the police without any kind of hesitation whatsoever to register their complaints. The solution of a yellow slip may be helpful in checking the unscrupulousness of the officers at Station level and can also reduce the instances of corruption that often take place at that level to frame or de-frame a particular party to the FIR.

It is a possibility that certain amendments would be made to ensure better redressal at the hands of the Police; however, it is to be kept in mind that even Police personnel are human beings and that if they would get a chance to earn some extra reward and commendation apart from their deserved salary, they would not hesitate in doing a just act. Therefore, the introduction of reward theory for speedy investigation and mandatory registration like proposed above and even implemented in a district would definitely ensure better administration of justice, provided that, the proposed theory is implemented in consonance with the letter and spirit of the Constitution and with no room for alternative interpretations whatsoever. Though there have been many cases and committees to fix the issue, yet the juggernaut does not seem to stop. There can be amendments in the Police regulations or there can be a clearer law, but if the notion of reward is included in this, the desired results may be achieved.

CONCLUSION

As mentioned earlier, through the FIR, criminal law is set in motion, and the non-registration of FIR just nips the whole process in the bud. Generally, the most affected by such inaction and dereliction of duty by the police are those belonging to the lower strata of the community- the poor and the illiterates, those who are unaware of their rights.

Hence, the problem is twofold-*firstly*, the police are not doing their assigned task profoundly, and *secondly*, the general masses of the country are very less informed about their rights and also the procedures involved in the registration of police and complaints and procedures following it. Sensitization of both entities involved is very necessary.

The police shall be trained and sensitized to be more citizen-friendly and strict measures, as suggested by the authors above, should be adopted to create a deterrent effect. At the same time, the citizens shall also be apprised of their rights and sensitized about the general police procedures, so that the police officers cannot fool them.

As we have seen in the *case study of the Yellow Slip Method*, the number of crime registration increased significantly after it was introduced. In turn, when the registration rate of crime will go up, the actual rate of crime will automatically cut down because there will be a psychological deterrent among the prospective criminals that the police is taking action upon each and every complaint, and therefore, it'll create a sense of fear in them, thereby, resulting in the decrease of actual rate of crime. It may be said that to an extent the rate of crime is inversely proportional to the rate of registration of crime.

There is a lot of discussion going on in the country about various police reforms. Although, the reforms in the policing system are very much welcome but they are far-fetched, time-consuming and complex. Until some good reforms take place ingenious solutions like the *yellow slip* introduced by the local police officers at local levels can really go a long way in strengthening the police-public relations and at the same time act as deterrent amongst the criminals. Furthermore, the authors strongly believe that the Police personnel at the level of non-gazetted officers and the constabulary should be given incentives at par with their defence service counterparts, so as to encourage them for an efficient work ethos, sense of patriotism and service towards the people.

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