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Research Paper

Analytical Study of Information to the Police and their Powers to Investigation

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Abstract
The term F.I.R. (First Information Report) is thus a technical description of the report made out under Ss. 154, giving the first information of a cognizable crime to the Police. This report is usually made by the complainant or some other persons on his behalf.
The object of the provision is to obtain early information of alleged criminal activity and to record the circumstances, before there is time for them to be forgotten or embellished. As observed by the Supreme Court, the principal object of the FIR, from the stand-point of the informant, is to set the criminal law in motion, and from the viewpoint of the investigation authorities, is to obtain information about the alleged criminal activity, so as to be able to take the appropriate steps for tracing and bringing the guilty person behind the bars.

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Objective-
Information to police with respect to nature of offence is categorized into two aspects-
1) Where information is received as to the commission of a cognizable offence **[Ss.154],**
2) Where information is received as to the commission of a non-cognizable offence **[Ss.155]**

Scope-
The term **'investigation'** is defined in **Ss.2(h).** It includes all proceedings under the Code for **collection of evidence**. Investigation is conducted by police officer or any other person authorized by Magistrate but not by the Magistrate. Supreme Court in **H.N. Rishbud vs. State of Delhi[1],** has held that the of offence generally consists of-

i) proceeding on the spot;
ii) ascertainment of facts and circumstances of the case;
iii) discovery and arrest of offence;
iv) collection of evidence relating to the commission of the offence. It may consist of examination of various persons and search and seizure of various things;
v) formation of opinion whether on the basis of materials collected the accused has committed the offence or not.

Information in cognizable cases-Ss.154 (First Information Report)-
Ss.154 deals with information relating to the commission of cognizable cases. It is popularly called **First Information Report (FIR)** though the term has not been defined in the Code. FIR is not defined in the Code but it means information relating to commission of a cognizable offence given to the police first in point of time.

Essentials of Ss.154-
a) It is an information relating to the commission of a cognizable offence;
b) It is given by the informant to the officer-in-charge of a police station;
c) It may be given either orally or in writing;
d) If given oral, it should be reduced to writing by the officer in charge of a police station or under his direction;
e) It should be read over to informant;
f) If given in writing or reduced to writing shall be signed by the person giving it;

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[1] **AIR 1955 SC 196**

g) Substance of the information shall be entered in a book in such form as the State Government may prescribe in this behalf. This book is called **"General Diary"** [Ss.44 Police Act].

h) Copy of the information recorded should be given to informant free of cost.

It is not necessary that it should come from an eye witness only. It can be hearsay also. Even a telephonic message if it discloses a cognizable offence may constitute FIR **[Soma Bhai vs. State of Gujarat[2]]**. In order for the information to be qualified as an FIR there must be something in the nature of complaint or accusation regarding commission of a cognizable offence. A cryptic message recording an occurrence cannot be termed as an FIR **[Patai alias Krishna Kumar vs. State of Uttar Pradesh[3]].**

Object of FIR-

i) to set the criminal law in motion **[Habib vs. State of Bibar[4]].**

ii) to obtain early information of the alleged offence from the informant and put into writing before his memory fades.

Proviso to **Ss.154** [It was added vide Amendment Act of **2013** and further arrested by Amendment Act of **2018**]-

→ Amendment Act of 2013 inserted the proviso to **Ss.154** which provides that if the information is given by a **women against** whom the offences under **Sections 326A, 326B, 354, 354A, 354B, 354C, 354D, 376,376A,376AB, 376B, 376C, 376D 376DA, 376DB, 376E & 509 of Indian Penal Code** is alleged to have been committed or attempted then the information will be recorded by women police officer or any women officer,

→ It further provides that if the person against whom offences under **Section 354, 354A, 354B, 354C, 354D, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, 376E or 509 of Indian Penal Code** is alleged to have been committed or attempted is temporarily or permanently, mentally or physically disabled then such information shall be recorded by police officer at the residence of the person seeking to report or at convenient place of such person's choice. Interpreter or special educator shall also be present. Such recording of information shall be videographed.

Refusal to record information [under Ss.154(1)]-

- Where officer-in-charge refused to record the information any person aggrieved by such refusal may send the substance of such information in writing and by post to the Superintendent of Police concerned, who is satisfied, that such information discloses the commission of a cognizable offence shall-

→ either investigate the case himself.

→ direct an investigation to be made by any police officer subordinate him.

- Such investigating officer shall have all the powers of an officer-in-charge of police station in relation to that offence **[Ss.154(3)].**

Mandatory registration of FIR-

The question whether it is obligatory for the police to register FIR on information given by the informant has been answered in affirmative by Supreme Court in **Lalita Kumari vs. Govt. of U.P[5].** The court has held that the police officer is duty bound to register FIR if the information discloses commission of a cognizable offence. The police does not have an option to conduct a preliminary inquiry and then proceed to register FIR.

The legislative intent behind **Ss.154** is to ensure compulsory registration of FIR. The mandatory nature of the provision can be noticed by use of the word **'shall'** in **Ss.154**.

Supreme Court in **State of Haryana vs. Bhajan Lal[6]** as well as in **Lalita Kumari's case** has held that the word **'information'** in **Ss.154** is not qualified by the term **'reasonable'**. By omitting the word **'reasonable and credible'** the intent of legislature is clear that no discretion is given to the police to lodge the FIR.

- The court has clarified that the registration of FIR is compulsory but the arrest of the accused immediately after registration of FIR is not mandatory.
- **Cases in which preliminary inquiry should be made-**

The court in **Lalita Kumari's case** has however, reserved few category of cases for preliminary inquiry before the registration of FIR. The court has held that in the following types of cases the police is at liberty to conduct the preliminary inquiry before registration of FIR-

a) Matrimonial/family disputes,

b) Commercial disputes,

[2] (1973) 3 SCC 114
[3] AIR 2010 SC 2254
[4] (1972)4 SCC 73
[5] **(2014) 2 SCC1**
[6] **1992 Supp (1) SCC 335**

c) Medical negligence cases,
d) Corruption cases,
e) Cases where there is abnormal delay in registration of FIR.

Delay in lodging FIR-

The object of insisting upon prompt registration of FIR is to obtain early information not only regarding the accused but also about the part played by the accused, nature of incident and name of witnesses **[Gajanan Dashrath Kharate vs. State of Maharashtra**[7] and **Mukesh vs. State of NCT of Delhi**[8]**].**

A mere delay in registration of FIR cannot be a ground for throwing away the prosecution case. Long and unexplainable delay may create doubt or raise suspicion as to how the incident has happened.

Evidentiary value of FIR-

Although FIR is an important document and it sets the criminal law in motion. It is not a substantive piece of evidence L.e. evidence of the facts recorded in it **[Damodarprasad Chandrikaprasad vs. State of Maharashtra**[9]**].**

FIR can be used to **corroborate** the information under **Ss.157 of Indian Evidence Act** or to **contradict under Ss.145 of Evidence Act** if the informant is called as witness **at the time of trial [Aghnoo Nagesia vs. State of Bihar**[10]].

In view of **Ss.145 of Evidence Act** FIR can also be used for **cross-examination** of the informant and for contradicting him. Considering **Ss.157 and 145 of the Evidence Act** it can be deduced that the FIR cannot be used for the purpose of corroborating or contradicting any witness other than the one registering FIR.

FIR by accused-

If the FIR is given by the accused himself then it can be either-

a) Confessional FIR-

If the FIR is confessional in nature it cannot be proved against the accused informant as it would be **Ss.25 of the Indian Evidence Act.**

b) Non-confessional FIR-

If the FIR is non-confessional in nature it can be admissible in evidence under **Ss.21** of **Evidence Act** or showing his conduct under **Ss.8** of the **Evidence Act.**

FIR can also be used sometimes under **Ss.32(1) of Evidence Act** as to the cause of informant's death or under **Ss.8 of Evidence Act** as showing informant's conduct.

Information in non-cognizable cases-

Ss.155(1) provides for information as to non-cognizable cases and investigation of such cases Substance of any information regarding the commission of a non-cognizable case shall be recorded in a prescribed book.

Ss.155(2) further provides that police officer cannot investigate a non-cognizable case without the order of Magistrate having the power to try such case or commit for trial.

If the Magistrate permits the investigation under **Ss.155(2)** then the investigating officer shall have all the powers of investigation as an officer in-charge of police station exercises in case of cognizable cases. It means that as and when the Magistrate permits the investigation the power and procedure to be followed in case of investigation is same as that which is followed in cognizable cases **[Ss.155(3)].**

It must be noted here that even if the Magistrate permits the investigation still the police cannot arrest the accused in non-cognizable case without the warrant of arrest.

If the Magistrate who is not empowered, erroneously orders in good faith, investigation under **Ss.155** the proceedings shall not be vitiated merely on that ground **[Ss.460(b)].**

In case a situation arises where the case consists of both cognizable as well as non-cognizable offences then **Ss.154(4)** provides that the case shall be deemed to be a cognizable case notwithstanding that few of the offences therein are non-cognizable.

Police's power to investigate cognizable case-

Ss.156 provides police's power to investigate cognizable case. **Ss.156(1)** confers power on any officer in-charge of police station to investigate a cognizable case without the order of the Magistrate.

The later part of **Ss.156(1)** determines the local jurisdiction of police officer to investigate the case. Police officer has power to investigate all such offences as would be triable under **Ch- 13 [Ss.177-189]** of the Code by a court having jurisdiction over local area within the limits of police station.

[7] **(2016) 4 SCC 604**
[8] **(2017) 2 SCC (Ca) 673)**
[9] **(1972) 1 SCC 107**
[10] **AIR 1966 SC 119**

In simple terms it can be said that jurisdiction of police to investigate a case within the limits of police station is co-extensive with the territorial jurisdiction of court to try the case under Ch-13 of CrPC.

Ss.156(2) makes it clear that any irregularity in investigation will not vitiate the trial **[H.N. Rishbud vs. State of Delhi[11]].**

Ss.156(3) provides that any Magistrate empowered under **Ss.190** can order police officer in charge of a police station to investigate any cognizable offence. **Ss.190** deals with cognizance of offences.

Even if a complaint is filed then also Magistrate instead of taking cognizance on complaint can order investigation under **Ss.156(3) [Srinivas Gundluri vs. SEPCO Electric Power Construction Corp.[12]].** Magistrate can order investigation under **Ss.156(3)** only at a pre-cognizance stage.

Magistrate has no authority to order an investigation by an agency other than officer in-charge of a police station.

Powers of Magistrate under Ss.156(3)-

Supreme Court in **Sakiri Vasu vs. State of Uttar Pradesh, (2008)** held that the Magistrate also has the implied and incidental powers to make any express power effective. When the Magistrate orders investigation under **Ss156(3)** and police officer does not investigate or investigates improperly then there is no need to approach High Court under **Ss.482** of the Code or under **Art.226** of the Constitution. Magistrate himself has incidental power to pass another order of investigation or proper investigation under **Ss.156(3) [Sudhir Bhaskarrao Tambev. Hemant Yashwant Dhage, (2016)].**

This does not mean that the Magistrate will interfere in the investigation. Supreme Court in **A.R. Antulay vs. R.S. Nayak (1992)** and **P.Ramchandra Rao vs. State of Karnataka (2002)** has held that the court shall not interfere in the investigation proceedings as that is the prerogative of the executive.

In **Mohd Yusuf vs. Afaq Jaban[13]** held that the Magistrate can direct the police to register an FIR. Even where the Magistrate does not pass an order of FIR in explicit words the police should register FIR first and then investigate the case.

If the Magistrate directs the investigation or directs the registration of complaint upon an application under **Ss.156(3)** no revision shall lie. However, if the Magistrate rejects the application the revision will lie.

Distinction between Ss.156(3) and Ss.202(1)-

The power to order police investigation under **Ss.156(3),** is different from the power to direct investigation conferred by **Ss.202(1).** The two operate in distinct spheres at different stages.

Whether a Magistrate is bound to pass an order on each and every application under Ss.156(3) for investigation by police?

Magistrate is not bound to pass an order on each and every application under **Ss.156(3)** for investigation by police.

In **Ss.156(3)** word **'may'** is used in conodiction with **Ss.154** where the word **'shall'** is used.

Whether a Magistrate can treat application under Ss.156(3) as complaint?

In **Suresh Chandra Jain vs. State of Madhya Pradesh[14], the** Supreme Court held that the Magistrate has the authority to treat application under **Ss.156(3)** as a complaint.

Procedure for investigation of a cognizable case-

Ss.157(1) provides that if the officer in-charge of police station has reason to suspect the commission of an offence on the basis of an information received or otherwise, for which is empowered to investigate under Section 156 then he shall forthwith send a report of the same to the Magistrate empowered to take cognizance of such offence upon police report. Thereafter, he shall himself investigate or depute one of his subordinate officers. The report sent to the concerned Magistrate is commonly called **'occurrence report'.**

The objective of this provision is designed to keep the Magistrate informed of the investigation so that he may be able to give appropriate directions under **Ss.159** of the Code.

The purpose of **'forthwith'** communication of the information is to check the possibility of manipulation [State of Rajasthan vs. Daud Khan, (2016) SC].

The conjoint reading of **Ss.157 and 159** clearly postulates that the purpose of sending the occurrence report is avoid possibility in improvement of prosecution story **[Bathula Nagamalleswara Rao vs. State[15]].**

Circumstances in which the police need not investigate-

Proviso of **Ss.157(1)** lays down two circumstances where the police need not investigate. They are-

a) When the information against any person is given by name and the offence is not of serious nature.

b) It appears that there is no sufficient ground for entering an investigation.

In both the above situations the police needs to state the reasons for not entering into an investigation.

[11] **AIR 1955 SC 196**
[12] **(2010) 8 SCC 206**
[13] **(2006) 1 SCC 627**
[14] **2001(42) ACC 459**
[15] **(2008) 11 SCC).**

Power to require attendance of witnesses-

Ss.160 provides for the police's power to require attendance of witness. Following are the essentials of this section-

a) order requiring attendance must be in writing,

b) person whose attendance is required must appear to be acquainted with facts and circumstances of the case,

c) person resides within limits of the police station of investigating police or adjoining police station,

d) person below the age of **15-years or above the age of 65-years, women, mentally or physically disabled person** shall not be required to attend **[proviso of Ss.160(1) amended by Amendment Act of 2013].**

It is the legal duty of every person to attend if so required by the investigating officer. If such person intentionally omits to attend, he shall be liable under **Ss.174** of Indian Penal Code.

Magistrate has no authority to issue process to compel any person to attend before a police officer.

Examination of witnesses by police [Ss.161 and 162]-

Ss.161 provides that-

i) Any investigating officer or any police officer acting on the requisition of such officer may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

ii) Such person is bound to answer truly all questions relating to such case put to him by such officer **(except the questions the answer to which have a tendency to expose him to a criminal charge or to penalty or forfeiture).**

iii) Investigating officer may reduce into writing any statement made to him in the course of such examination and if he does so, he shall make a separate and true record of such statement.

iv) The object of **Ss.161** is to obtain evidence which may late be produced at trial. In case of Sessions trial or warrant trial charge may be made on the basis of the statements recorded under **Ss.161**.

v) The words **'any person'** in **Ss.161** includes any person who may be accused of the crime subsequently.

vi) If a person being legally bound to answer all questions truly refuses to answer he shall be liable to be punished under **Ss.179** of Indian Penal Code.

vii) If such person gives an answer which is false and which he whether knows to be false or believes to be false or does not believe to be true, then he is liable to be punished under **Ss.193** of Indian Penal Code.

viii) The accused person may remain silent or may refuse to answer when confronted incriminating questions, **Art.20(3)** of the Constitution clearly provides that no person accused of any offence shall be compelled to be witness against himself.

ix) Supreme Court in **Nandani Satpathy vs. P.L. Dani**[16] held that area covered by **Art.20(3)** and **Ss.161(2)** is substantially same and **Ss.161(2)** is a parliamentary gloss on the constitutional clause.

x) Proviso inserted by **CrPC (Amendment) Act, 2008,** provides that statement made under **Ss. 161(3)** may also be recorded by audio-video electronic means.

Evidentiary value of statements made to the police during investigation [Ss.162]-

Ss.162(1) provides that no statement made by any person to a police officer in the course of an investigation shall, if reduced to writing, be signed by the person making it.

It further says that no such statement or record or any part of such statement or record can be used for any purpose at any inquiry or trial in respect of any offence under investigation at the time when such statements are made.

Proviso to **Ss.162(1)** lays down certain circumstance whereby the statement be limited purpose. It provides that if the witness is called as prosecution witness and the statements have been reduced into writing and has been duly proved, it may be used by the accused and with the permission of the Court, by the prosecution to contradict such witness in the manner provided by **Ss.145 of Evidence Act**.

In order to attract the proviso following elements are necessary-

a) Witness must have been called by the prosecution;

b) Witness must have made a statement to police officer;

c) Such statement must have been reduced into writing,

d) Such statement must have been proved.

Ss.162 does not affect the provisions of **Ss.27 and Ss.32(1) of the Indian Evidence Act.** This section prohibits the use of the statements made to the police during the course of investigation for the purpose of corroboration.

The idea behind this prohibition is based on the assumption that the police cannot be trusted for recording the statements correctly and the statements cannot be relied on by the prosecution as they may be self-serving in nature.

[16] **(1978) 2 SCC 424**

Ss.162 is limited in its scope to the use of parties only. A court can ask any question whether in nature of corroboration or contradiction under **Ss.165 of Indian Evidence Act**. **Ss.162** does not control **Ss.165 of Indian Evidence Act [Raghunandan vs. State of UP[17]].**

No inducement to be offered [Ss.163]-

Ss.163 provides that no police officer or other authority shall offer or make inducement, threat of promise as mentioned in **Ss.24 of the Indian Evidence Act.**

Recording of confessions and statements [Ss.164]-

a) Confessions or statements can also be **recorded by audio-video electronic means**.

b) Confession **shall not be recorded by a police officer on whom the power of Magistrate has been conferred by any law.**

c) Confessions so recorded can be used as substantive evidence, whereas a non-confessional statement is not a substantive piece of evidence.

d) **Evidentiary value:** If the maker of non-confessional statement is called as a witness, then his statement under **Ss.164** can be used for corroboration or contradiction in accordance with **Ss.157 or 145** of Evidence Act.

e) **Ss.164(5)** provides that oath can be administered before recording a statement (other than a confession).

f) **Ss164** does not mention the place and time for recording the confession. However, the confession should be recorded in open court during court hours.

g) **Ss.164(5A) (inserted by Act 13 of 2013)** provides that in case of certain sexual offences the Judicial Magistrate shall record the statement of the person against whom such offence has been committed.

Precautions to be taken while recording confessions-

Ss.164 lays down certain precautions which are to be taken while recording confessions. However, these precautions are only illustrative and not exhaustive.

Following are certain precautions:

a) Magistrate should explain to the person making confession-

i. that he is not bound to make confession.

ii. that if he makes a confession, it may be used as evidence against him **[Ss.164(2)]**

b) Magistrate must be satisfied & should believe that the confession is being made voluntarily **[Ss.164(2)].**

c) If a person is not willing to make a confession, Magistrate shall not authorise the detention of such person in police custody **[Ss.164(3)].**

d) Confession shall be recorded in the manner provided in Ss.281 of the Code and shall be signed by the person making it. Magistrate shall also attach a memorandum at the foot of such confession **[Ss.164(4)].**

e) If person is coming from police custody, before recording confession, normally he should be sent to a judicial custody. The object of this exercise is that he should be completely free from influence of police.

f) Inquiry should be made from the accused regarding the treatment he has been receiving in the custody so as to ensure that no extraneous influence is exerted on him.

g) Accused should be asked the reason why he is going to make a statement which could go against him.

h) Magistrate must put questions to the accused to ascertain his voluntariness of the confession. Magistrate must also take note of existing mental condition of the accused.

Medical examination of victim of rape [Ss.164-A]-

Ss.164-A (inserted by CrPC (Amendment) Act, 2005) provides for medical examination of a victim of rape by a registered medical practitioner with the consent of such woman or of a person competent to give such consent on her behalf.

It also provides that such woman shall be sent to registered medical practitioner **within 24 hours** from the time of receiving information as the commission of offence.

Ss.165 relates to search by police officer in respect of thing only.

Ss.166 empowers officer-in-charge of police station or police officer making investigation to get search made outside the limit of his station.

Ss.166A relates to letter of request to competent authority for investigation in country or place outside India.

Ss.166B relates to letter of request from a country or place outside India to a court or an authority for investigation in India.

Procedure when investigation cannot be completed in twenty-four hours [Ss.167]-

Ss.57 clearly mentions that a police officer cannot detainan accused person arrested without a warrant for more than 24 hours. If the police considers such detention necessary then they have to obtain permission from the Magistrate.

[17] **(1974) 4 SCC 186**

Ss.167 lays down the procedure when investigation cannot be completed in 24 hours and person accused is in custody.

Condition required to invoke Ss.167-

a) Person is arrested and detained in custody;

b) It must appear that the investigation cannot be completed within a period of 24 hours of his arrest;

c) There are grounds for believing that the accusation or information against him is well-founded;

d) The officer-in-charge of police station of the investigation officer not below the rank of a Sub-Inspector must forward the accused before the nearest Magistrate along with case diary,

e) The Judicial Magistrate to whom the accused is forwarded, whether he has nor has not got jurisdiction to try the case may authorise detention of the accused either in police-custody or in judicial custody for a term not exceeding 15 days on the whole.

f) If further detention necessary, such Magistrate may order the accused to be forwarded to the Magistrate having jurisdiction to try the case.

g) Order for detention beyond 15 days by a Magistrate having no jurisdiction is illegal.

h) Supreme Court in **CBI vs. Anupam Kulkarni, (1992) 3 SSC 141,** held that police remand should not be resorted to after 15-days of arrest.

When Judicial Magistrate is not available?

Ss.167(2-A) provides that when Judicial Magistrate or Metropolitan Magistrate is not available the accused must be forwarded to nearest Executive Magistrate on whom the powers of Judicial Magistrate or Metropolitan Magistrate have been conferred.

Executive may authorize the detention of the accused for the period of 7-days in aggregate.

Maximum period of detention under Ss.167 and Default Bail-

Proviso to Ss.167(2) states that if the detention for a period exceeding 15-days is considered necessary by the Magistrate and adequate grounds exists for that, he may authorise only a judicial custody (custody beyond 15-days can only be a judicial custody)-

a) for a total period not exceeding 90 days [where the offence is punishable with death, life imprisonment or imprisonment for a term of hot less than 10 years]; or

b) for a total period not exceeding 60 days [where the offence is any other offence].

The prescribed statutory period of 90 days or 60 days is to be computed from the date the Magistrate authorizes detention of an accused person.

Ss.167(2) makes it mandatory that if the investigation is not completed within 90 days or 60 day the accused shall be released on bail, if he is prepared to and does furnish bail.

The bail under **Ss.167(2)** shall be deemed to be granted under Chapter-33 0f CrPC. The provisions of Chapter-33, shall apply to a person who has been released under **Ss.167(2).**

Supreme Court in **Hussainara Khatoon (5) vs. State of Bibar**[18] held that it is the duty of the Magistrate to inform the accused that he has a right to be released on bail under this proviso.

Bail granted under this proviso remains valid till it is cancelled and the receipt of charge-sheet in the court by itself is no ground for cancellation of bail **[Sanjay Dutt vs. State**[19] **and Aslam Babalal Desai vs. State of Maharashtra**[20]**].**

Explanation-I states that the accused shall be detained in the custody as long as he does not furnish bail.

Proviso (b) to Ss.167(2) provides that the Magistrate shall not authorise the detention of an accused in police custody **unless the accused is produced before him, personally**. But the Magistrate may extend detention in judicial custody on production of the accused either personally or through the medium of electronic-video linkage.

Proviso (c) to Ss.167 provides that a Magistrate of second class cannot authorise detention in the police custody unless he is specially empowered in this behalf by the High Court.

Explanation (2) provides that in case of a woman under 18 years of age, the detention shall be authorised to be in the custody of a remand-home or recognised social institution.

Ss.167(5) provides that where the case is a summons case and the investigation is not concluded within a period of 6 months from the date of arrest, the Magistrate shall make an order to stop further investigation into the offence. But, if the officer making the investigation satisfies the Magistrate that for special reasons and in the interest of justice the continuation of investigation beyond the period of 6 months is necessary, he shall not make such order of stopping further investigation,besides **Ss.167**, an accused person may be remanded to judicial custody under **Ss.209 and 309**.

Where the offence is exclusively triable by the Court of Session the Magistrate shall commit the case to the Court of Session and, subject to the provisions of bail-

[18] **(1980) 1 SCC 108**
[19] **(1994) 4 SCC 410**
[20] **(1992) 4 SCC 272**

a) shall remand the accused to custody until such commitment has been made [Ss.209(a)] or
b) shall remand the accused to custody during and until the conclusion of trial.

Similarly, under **Ss.309(2),** where after taking cognizance or after commencement of trial, the court postpones or adjourns any inquiry or trial, it may by a warrant remand the accused if he is already in custody. But such remand to custody under this section **cannot exceed 15 days at a time.**

Release of accused when evidence deficient [Ss.169]-

Ss.169 provides that if upon investigation it appears to the officer in charge of the police station that there is no sufficient evidence or reasonable ground of suspicion to justify forwarding the accused to the Magistrate, such officer shall release such person in custody on his executing a bond with or without sureties and direct him to appear as and when required before the Magistrate empowered to take cognizance of the offence.

Cases to be sent to Magistrate when evidence is sufficient [Ss.170]-

Ss.170 provides that if upon investigation, it appears to the officer in charge of police station that there is sufficient evidence or reasonable ground to justify the forwarding of accused to a Magistrate, such officer shall forward the accused to the Magistrate empowered to take cognizance of the offence.

Case diary or Police diary [Ss.172]-

Ss.172 provides for the maintenance of a diary of proceedings in investigation, the diary is known as **'case diary'** or **'police diary'**.

The case diary must be maintained in regular manner and day by day entries of proceedings in the investigation must be made in it.

The object of maintaining such diary is to enable the court to know what information was obtained from day to day by investigating officer and what lines of investigation were followed.

Sub-sections (1-A) & (1-B) were inserted by the **CrPC (Amendment) Act, 2008**. They provide that the statement of witnesses recorded during the course of investigation under **Ss.161** shall be inserted in the case diary and the **diary shall be a volume & duly paginated**.

Criminal court may send for the case diary & may use for help in inquiry or trial but not so evidence in the case.

Neither the accused nor his agent is entitled to call for a case diary. Even they are not entitled to see it merely because it is referred to by the court.

It may be used by the police officer who made them, to refresh his memory or by the court to contradict such police officer, the provisions of **Ss.145 or 161 of Evidence Act** shall apply and therefore when a police diary or case diary is used for refreshing memory of the police officer then according to **Ss.161**, the accused is entitled to use such part of diary.

A witness may be contradicted under **Ss.145 of the Evidence Act** by the previous statements recorded in the diary.

Report of police officer on completion of investigation [Ss.173]-

Ss.173 deals with the report of police officer on completion of investigation. Such police report if it discloses the commission of offence is known as **charge-sheet or challan** and if does not discloses the commission of offence then it is known as **final report or closure report**.

Ss.173(1) provides that every investigation must be completed without unnecessary delay.

Ss.173(1-A) (inserted by CrPC (Amendment) Act, 2008) provides that investigation in relation to rape of child may be completed within 2-months from the date on which First Information Report was recorded.

Ss.173(2) provides that police report is forwarded to the Magistrate who is empowered to take cognizance of the offence, by the officer-in-charge of a police station.

A police report must state the following particulars-

a) Name of the parties,
b) Nature of information,
c) Names of the persons acquainted with the circumstances of the case,
d) Whether any offence appears to have been committed and if so, by whom,
e) Whether the accused has been arrested,
f) Whether the accused has been released on his bond & if so whether with or without sureties,
g) Whether he has been forwarded in custody under **Ss.170**
h) In case of offence under **Ss.376, 376-A-D of IPC**, whether medical report of the woman has been attached.

The officer-in-charge of police station should also communicate the action taken by him to the person by whom the information was first given,

Where a superior police officer is appointed under **Ss.158** the report shall be submitted through that officer (if the State Government so directs) and pending the order of the Magistrate, such superior officer may direct the officer-in-charge of police station to make further investigation.

Ss.173 applies to investigation started on First Information Report under **Ss.154** about a cognizable case as well as to investigation made in a non-cognizable case by the order of a Magistrate under **Ss.155(2)**.

So long as the police report is not filed under **Ss.173(2)** the investigation remains pending. The submission of report under **Ss.173(2)** does not preclude further investigation under **Ss.173(8) [Dinesh Dalmia vs. CBI[21]].**
Magistrate cannot compel the police officer to submit the charge-sheet **[Abhinandan Jha vs. Dinesh Mishra[22]].**
Police report under **Ss.173** contains facts and conclusions drawn by investigating officer. Magistrate is not bound by the conclusions drawn by investigating officer.
In case final report is filed the court should scrutinize the final report and take a decision either to accept or reject it **[Sampat Singh vs. State of Haryana[23]].**
The Magistrate may decide to take cognizance and issue process even if police has recommended that there is no sufficient ground to proceed.
If the Magistrate decides to drop the proceedings on filing of final report then he sends a notice to the informant. Informant can file a **'Protest Petition'.**
In **Bhagwant Singh vs. Commissioner of Police[24]** the Supreme Court held that complainant should be heard before the Magistrate drops the case.
Ss.173(5) the police officer is under a duty to forward to Magistrate along with his report-
a) all documents and relevant extracts.
b) the statements recorded under **Ss.161.**
If police officer investigating the case finds in convenient so to do he may furnished to the accused copies of all any of the Documents.
Further investigation-
a) **Ss.173(8)** permits further investigation by the investigation officer. Even without the order of Magistrate, investigating officer is free to conduct further investigation. Such investigation can be conducted even if police report is submitted under **Ss.173(2).**
b) Neither the prosecution nor the informant can claim as a matter of right a direction for further investigation.
Inquest report [Sections 174, 175, 176]-
Ss.174 relates to the ascertainment of the **apparent cause of death** as to whether in a given case, the **death is accidental, suicidal or homicidal or caused by animal or instrument**.
Following authorities can inquire under **Ss.174-**
a) Any officer-in-charge of police station, or
b) Police officer specially empowered by the State Government in this behalf.
Police officer should immediately inform the matter to the nearest Executive Magistrate empowered to hold inquest before proceeding to the spot.
Inquest will be made when an officer-in-charge of police station or other police officer specially empowered in this behalf receives information that-
a) a person has committed suicide,
b) has been killed by another person, or
c) by animal or machinery or by an accident, or
d) died under circumstances raising a reasonable suspicion that some committed the offence.
An inquest report is a report of the apparent cause of death. It is prepared by the police officer after investigating into the apparent cause of death in presence of at least two respectable inhabitants of the neighborhood.
The inquest report must be immediately forwarded to the District Magistrate or Sub-Divisional Magistrate.
In the following circumstances, the examination of the dead body (Le. post-mortem) by a civil surgeon is necessary **[Ss.174(3)]-**
a) Suicide by a woman within 7-years of her marriage,
b) Death of a woman within 7-years of her marriage (where a reasonable suspicion arises that someone has committed an offence),
c) Death of a woman within 7 years of her marriage (where any relative of a woman makes a request in his behalf),
d) If there is any doubt regarding the cause of death,
e) If the police officer for any other reason considers it expedient to do so
Who are empowered to hold inquest? [Section 174(4)]-
Ss.174(4) empowers the following Magistrate for holding inquest-
a) District Magistrate,
b) Sub-Divisional Magistrate,

[21] **(2007) 8 SCC 413**
[22] AIR 1968 SC 117
[23] **(1993) 1 SCC 561**
[24] **(1985) 2SCC 537**

c) Any other Executive Magistrate specially empowered in this behalf by the State Government or District Magistrate.

Mentioning the name of the accused in the inquest report is not required by law.

Ss.175 provides that a police officer while proceeding under **Ss.174** may by order in writing, summon two or more person for the purpose of investigation.

Such persons are bound to attend and answer truly all questions (except those which would have a tendency to expose them to a criminal charge or to a penalty or forfeiture).

Inquiry by Magistrate into cause of death (Ss.176]-

Ss.176 enables a Magistrate to hold an independent inquiry in case of a suspicious death. In the following circumstances, the nearest Magistrate empowered to hold inquest shall hold an inquiry into the cause of death either instead of or in addition to the investigation held by the police officer-

a) in case of suicide by a woman within 7-years of her marriage.

b) in case of death of a woman within 7-years of her marriage (where a reasonable suspicion arises that someone has committed an offence).

Section 176 (1-A) provides that where-

a) any person dies or disappears, or

b) rape is alleged to have been committed on any woman,

while such person or woman is in the custody of the police or in any other custody authorized by the Magistrate or the court, an inquiry shall be held by the Judicial Magistrate or the Metropolitan Magistrate within whose local Jurisdiction the offences have been committed. Such inquiry shall be addition to the inquiry or investigation held by the Police.

The Magistrate holding such inquiry shall record the evidence. He may cause the dead body to be disinterred (if it has been already interred) and examined in order to discover the cause of death.

Any Magistrate or police officer holding an inquiry or investigation under **Ss.176(1-A)** shall forward the death body for the post mortem to the nearest civil surgeon or other qualified medical man appointed in this behalf within 24-hours of death.

Conclusion-

Punishment for giving false information to the Police is dealt with by Sections 182, 203 and 211 of the IPC,1860. Even if such information is not reduced to writing under Ss. 154, the person giving the false information may nevertheless be punished for preferring a false charge under Ss. 211 of the IPC.

A Police Officer refusing to enter in the Diary a report made to him about the commission of an offence, and instead making an entry which is totally different from the information given, would be guilty under Ss. 177 of the IPC.