
FIR UNDER BNSS, 2023: TOWARDS TRANSPARENCY, TECHNOLOGY, AND TIMELINESS

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ABSTRACT

The First Information Report (FIR) is the cornerstone of the criminal justice process in India. With the advent of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, a reformed procedural code replacing the Code of Criminal Procedure (CrPC), 1973, the FIR has undergone a nuanced transformation. Interestingly, while the procedural requirements akin to FIR are mentioned in Section 173 of the BNSS, the term "First Information Report" itself finds specific reference only in Section 210(2). This paper examines the evolution, legal implications, and contemporary significance of FIR under the BNSS, emphasizing the democratic principle that any individual may initiate the criminal justice machinery by reporting a cognizable offence.

Keywords: First Information Report (FIR), Investigation, Police, Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), Inquiry.

➤ Introduction

Rule of law mandates that each criminal offense be properly investigated and prosecuted. At the core of this endeavor is the First Information Report (FIR), a notion which has been central to criminal procedure in India. With the recent passage of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the structure of criminal procedure has been overhauled, but the spirit of FIR continues to be an integral part.

The concept and procedure of FIR are detailed in Section 173 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which corresponds to Section 154 of the earlier Code of Criminal Procedure (CrPC), 1973. This section mandates the recording of information upon receipt of knowledge about the commission of a cognizable offence by the police.

However, the term “First Information Report” (FIR) was first explicitly used in Section 207(2) of the CrPC and has now been incorporated in Section 230(2) of the BNSS, 2023.

Criminal Justice system in BNSS, 2023 passes through four stages:

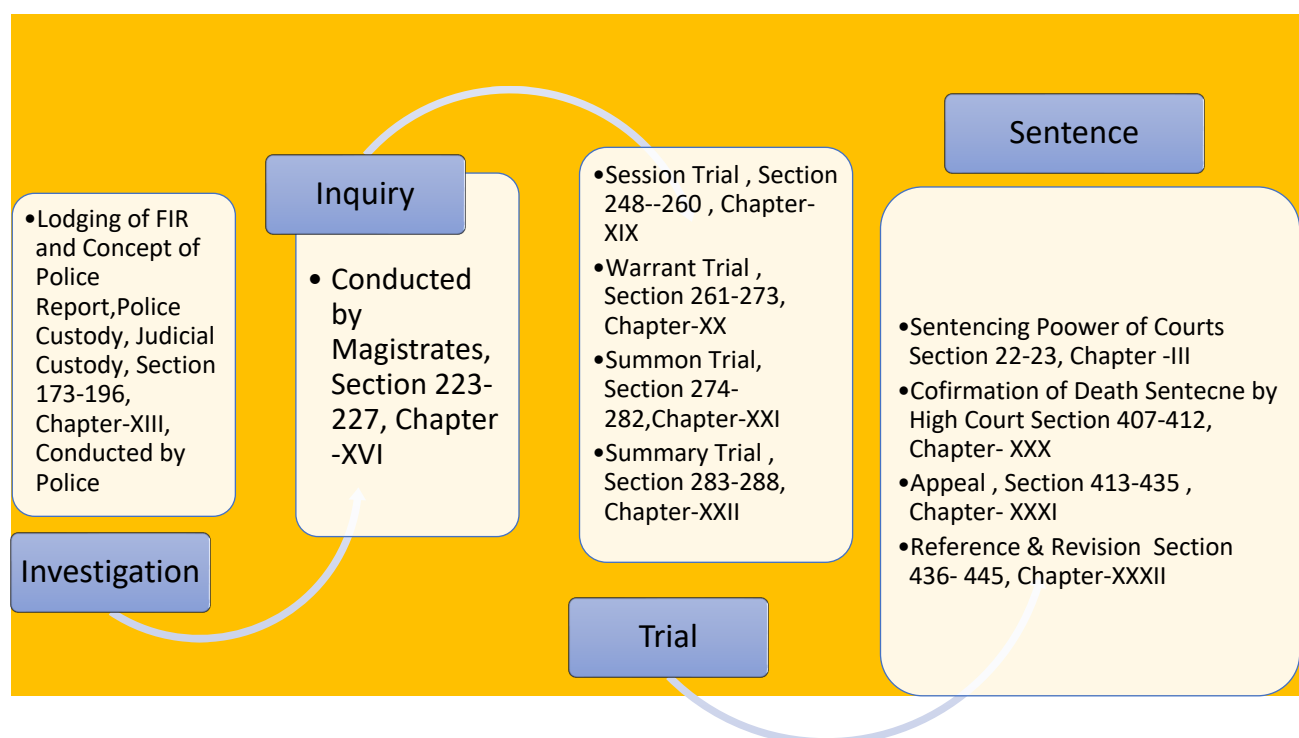
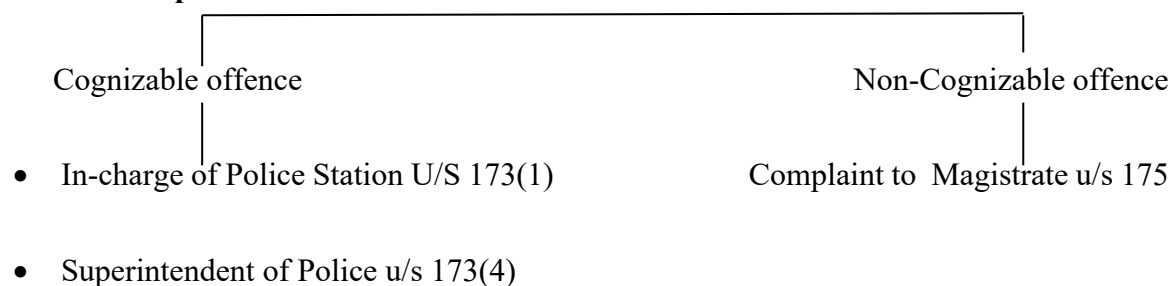


Diagram-1, Procedure of Criminal Justice System under BNSS, 2023

Information to police for commission of

Definition and Meaning - In the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the term *First Information Report* (FIR) has not been explicitly defined. However, the concept of FIR is embodied under Section 173 of the Sanhita. It refers to the information provided to the officer in charge of a police station regarding the commission of a cognizable offence. Such information may be given either orally or through electronic communication.

Irrespective of the jurisdictional area where the offence was committed, the BNSS recognizes the concept of *Zero FIR*, which is a welcome step toward ensuring prompt registration of offences. Section 173 elaborates the complete procedure for recording information when a cognizable offence has been committed.

In cases of sexual offences against women and children—such as rape, outraging the modesty of a woman, or acid attack—which are defined and punishable under Chapter-V of the Bharatiya Nyaya Sanhita, 2023 (BNS), particularly Sections 64, 65, 66, 67, 68, 69, 70, 71, 74, 75, 76, 77, 78, and 124—the information must be recorded by a woman police officer. if a **woman police officer is not available**, other **legally empowered women officers**¹ (within the system) can assist, to protect the dignity and comfort of the victim.

- **Main Ingredients/ Salient Features of Section 173-** Following are the essentials/
Salient features of section 173

1. It relates to the **commission of a cognizable offence**, irrespective of the place where the offence occurred (Concept of Zero F.I.R).
2. It is given by the informant to the **officer-in-charge of a police station**.

¹ Even if she is not the Station House Officer (SHO), but is formally appointed in the police force (e.g., constable, sub-inspector, assistant sub-inspector). She must be an official member of the police force.

3. It may be given either **orally** or by **electronic communication**.
4. If given orally, it must be:
 - **Reduced to writing** by the officer or under his direction,
 - **Read over to the informant**, and
 - **Signed by the informant**.
5. If given by electronic communication, it must:
 - Be taken on record,
 - Be signed by the informant within 3 days, and
 - The substance must be entered in a book in a form prescribed by the State Government (commonly the General Diary or FIR Register).
6. In cases involving certain offences against women (Sections 64–79 and 124 of BNS, 2023 e.g., rape, sexual assault, etc.):
 - The information must be recorded by **a woman police officer** or any woman officer.
7. **If the victim is mentally or physically disabled:**
 - The information must be recorded at the victim's residence or a convenient place of their choice.
 - It must be done in the presence of an interpreter or special educator, if needed.
 - The process must be videographed.
 - The victim's statement must be recorded by a Magistrate as soon as possible.
8. A copy of the recorded information must be given to the informant or victim immediately, free of cost.

9. For offences punishable with imprisonment between 3 and 7 years:

- A preliminary enquiry may be conducted with prior approval from a Deputy Superintendent of Police, within 14 days, or
- Investigation may begin directly if there is prima facie evidence.

10. If the officer in charge refuses to record the information:

- The aggrieved person may send the information in writing by post to the Superintendent of Police (SP).
- If the SP is satisfied, he shall order investigation or investigate it himself.
- If the SP fails to act, the person may approach the Magistrate for further directions.
- **Who Can Lodge the FIR**

It is not necessary that the information for lodging an FIR must come from a real primary source or an eyewitness. There is no requirement of *locus standi* to file an FIR. Moreover, every minute detail is not essential at the stage of registration, as the FIR is not an encyclopedia of facts. It can even be based on hearsay. In *Shenandan v. State of Bihar*², the Supreme Court held that anyone can set the criminal law in motion.

*State of Haryana v. Bhajan Lal*³, the police are duty-bound to register an FIR once information discloses a cognizable offence.

(a) Mandatory Registration of FIR/ Duty as to Register FIR

It is the **duty and legal obligation** of the police officer to register an FIR upon receiving information regarding the commission of a **cognizable offence**. This obligation has been emphasized in several landmark judgments by the Hon'ble Supreme Court, including *State of Haryana v. Bhajan Lal*⁴ and *Lalita Kumari v. Government of U.P.*⁵. In these decisions, the Court

² (1987) 1 SCC 288

³ (1992) Supp (1) SCC 335

⁴ (1992) Supp (1) SCC 335

⁵ (2014) 2 SCC

held that the police officer is **duty-bound** to register an FIR **if the information discloses the commission of a cognizable offence**.

The legislative intent behind **Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** is to ensure **mandatory registration of FIRs**. This intent is evident from the **use of the word “shall”** in Section 173, which makes the act of registration **compulsory** rather than discretionary. Furthermore, the omission of qualifiers such as “reasonable” or “credible” information from the text of the provision demonstrates the clear intention of the legislature — that **the police have no discretion to refuse to record an FIR** if the information reveals a cognizable offence. This leads to an important question:

Is a preliminary inquiry necessary before lodging the FIR? The answer lies in the landmark judgment of *Lalita Kumari v. Government of U.P.*⁶, which is discussed in the following paragraph.

(b) Circumstances in which a preliminary Inquiry is necessary

The general rule regarding the lodging of an FIR is that **no preliminary inquiry is required**. However, there are **certain exceptional circumstances** where the police are permitted to conduct a **preliminary inquiry before registering the FIR**. This was clearly laid down in the landmark case of *Lalita Kumari v. State of U.P.*⁷ where the Hon’ble Supreme Court provided a list of categories in which such an inquiry may be justified. These include:

1. Matrimonial or family disputes
2. Commercial disputes
3. Medical negligence cases
4. Corruption cases
5. Cases involving **abnormal delay in lodging the FIR**

A **new provision** has also been inserted under **Section 173(3) of the BNSS, 2023-**

⁶ (2014) 2 SCC

⁷ (2014) 2 SCC

“Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence, -(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or(ii) proceed with investigation when there exists a prima facie case.”

It states that for offences punishable with imprisonment **between three and seven years**:

- A **preliminary inquiry may be conducted**, but **only with prior approval** from a Deputy Superintendent of Police, and such inquiry must be completed **within 14 days**, or
- **Investigation may begin directly** if there exists **prima facie evidence** of the offence.

From a **critical perspective**, this provision **enlarges the scope and discretion of police authorities**, as it uses the word “**may**”, rather than “**shall**.” This language gives the police the **option** to either conduct a preliminary inquiry or proceed directly with FIR registration. Such **discretionary power** can lead to **confusion** about whether an inquiry is mandatory in certain cases or not. If the police choose to register the FIR, they can do so **without any hesitation**, regardless of the inquiry. Moreover, the **nature and gravity of the offence** will now depend largely on the **literal interpretation** of the provision, and this can **vary from case to case**, potentially leading to **inconsistent application**. Ultimately, it **broadens the authority of the police** to register FIRs based on their own assessment, which may raise concerns about misuse or arbitrariness in practice.

(c) FIR Lodged by the Accused: If the first information about the commission of a cognizable offence is given by the accused himself, it can be treated either as:

- a **confessional statement**, or
- a **non-confessional statement**.
- **Value of a Confessional FIR:** An FIR that contains a confession of guilt by the informant (i.e., the accused) is inadmissible in evidence under Section 23 of the

Bharatiya Sakshya Adhiniyam, 2023 (BSA), as confessional statements made to a police officer are barred and have no evidentiary value.

- **Value of a Non-Confessional FIR:** However, a non-confessional FIR made by the accused is admissible under Section 19 of the BSA, 2023, as an admission against the person making it or on behalf of others if it reflects their criminal intent or conduct. It may also be relevant under Section 6 of the BSA, 2023, if it demonstrates conduct relevant to the facts in issue. In certain cases, such statements may even be treated as **dying declarations** under Section 26 of the BSA, 2023, and may also be used against the informant (i.e., the accused) if he is deceased. This principle was discussed in *Damodar Das Prasad Chandrika Prasad v. State of Maharashtra*.⁸

(d) Evidentiary Value of FIR

In *Damodar Das Prasad Chandrika Prasad v. State of Maharashtra*⁹, the Supreme Court held that although any person can set the machinery of criminal law in motion, the FIR is **not considered a substantive piece of evidence**. A person cannot be held guilty solely on the basis of the information or facts stated in the FIR.

At the time of trial, the FIR may be used:

- to **contradict** a previous statement under Section 148 of the Bharatiya Sakshya Adhiniyam, 2023, or
- to **corroborate** the previous statement of a witness under Section 160 of the BSA, 2023, **provided the witness is someone other than the informant**.

In *Aghnoo Nagesia v. State of Bihar*¹⁰, the Supreme Court further clarified that an FIR can be used during cross-examination:

- to **corroborate** a witness's testimony under Section 160 of the BSA, and
- to **contradict** it under Section 148 of the BSA.

⁸ (1972) 1 SCC 107

⁹ (1972) 1 SCC 107

¹⁰ AIR 1966 SC 119

However, these provisions **do not apply** when the informant himself is being examined.

Additionally, a statement made by a witness and recorded by the police under Section 154 of the CrPC (now Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023) **cannot form the sole basis for conviction**. This principle was reiterated in *Narra Peddi Rajju v. State of Andhra Pradesh*¹¹.

(e) Zero FIR under BNSS, 2023

The concept of **Zero FIR** has not been explicitly defined in the Bharatiya Nagarik Suraksha Sanhita, 2023. It refers to the practice of registering information regarding the commission of a cognizable offence **irrespective of whether the offence was committed within the jurisdiction of the police station receiving the information or not**. Such an FIR is recorded **without assigning a serial number**, and the details are also entered in the General Diary. The FIR is then forwarded to the police station having territorial jurisdiction over the matter.

Although the concept of Zero FIR was not recognized under the earlier Criminal Procedure Code, 1973, a **progressive step** has now been taken through **Section 173(1)** of the BNSS, 2023. This section includes the phrase "*irrespective of the area where the offence is committed*", making it clear that the police are **obligated** to register an FIR upon receiving information about a cognizable offence, regardless of jurisdiction. The FIR may then be transferred to the appropriate police station.

In *Kriti Vashisht v. State and Others*¹², the Delhi High Court held that **it is mandatory for the police to register an FIR even if the alleged crime did not occur within their jurisdiction** and that the FIR should be transferred to the competent police station where the offence actually took place.

(f) Delay in FIR

In criminal jurisprudence, the prompt registration of a First Information Report (FIR) plays a pivotal role in setting the wheels of justice in motion. Recognizing this, the **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**, has introduced several progressive provisions aimed at

¹¹ *Criminal Appeal No. 1553 of 2019*

¹² *Criminal M.C. No. 5933/2019*

ensuring **transparency, procedural integrity, and timeliness**, including the integration of **electronic FIR mechanisms (e-FIR)**.

While timely registration is crucial, it is equally settled in law that a **mere delay in lodging an FIR cannot be treated as a sole ground** to discard the prosecution's case. The Supreme Court has repeatedly emphasized that **each case must be assessed on its own merits**, and the presence of a delay must be evaluated in the context of surrounding circumstances. For example, in *Gajanan Dashrath Kharate v. State of Maharashtra*¹³ and *Mukesh v. State (NCT of Delhi)*¹⁴, the Court acknowledged that a delay could potentially provide an opportunity for **manipulation or concoction**, thus necessitating **stricter judicial scrutiny**. However, genuine reasons for delay cannot be ignored or dismissed outright.

The primary objective behind insisting on **early FIR registration** is to ensure that key details — including the **identity of the accused, the nature of the offence, and the names of witnesses** — are recorded promptly, thereby **reducing the scope for distortion** or embellishment of facts. In *State of U.P. v. Raghuvir*¹⁵, the Apex Court observed that **unjustified or unexplained delays** in lodging an FIR are to be viewed with **circumspection**, as they may indicate **afterthoughts or fabricated accounts**.

The framework under BNSS seeks to mitigate such risks by leveraging **technology, digital documentation, and procedural accountability**. By encouraging **e-FIR registration and enforcing time-bound measures**, the new legal regime not only aims to curtail delays but also instills greater **public confidence in the criminal justice system**. The move is in line with the broader vision of **ensuring that justice is neither delayed nor denied**, particularly at the foundational stage of criminal proceedings.

- **Remedies Available in Case of Non-Registration of FIR under BNSS, 2023**

If the Officer-in-Charge of a police station refuses to register a First Information Report (FIR) under **Section 173(1)** of the *Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023*, the informant is entitled to seek the following statutory remedies:

¹³ (2016) 4 SCC 604

¹⁴ (2017) 2 SCC (Cri) 673

¹⁵ (2018) 13 SCC 732

1. Approach the Superintendent of Police [Section 173(4)]:

The aggrieved person may submit the information in writing to the **Superintendent of Police (SP)**. Upon receiving such a complaint, the SP may:

- Either investigate the case himself, or
- Direct any subordinate officer to initiate the investigation.

2. Approach the Magistrate [Section 175(3)]:

If no action is taken by the Officer-in-Charge or the Superintendent of Police, the complainant may approach a **Judicial Magistrate** under **Section 175(3)**.

*In the case **Om Prakash Ambadkar v. The State Of Maharashtra & Ors**¹⁶- Justices J.B. Pardiwala and R. Mahadevan mentioned that “Further, by requiring the Magistrate to consider the submissions made by the concerned police officer before proceeding to issue directions under Section 175(3), BNSS has affixed greater accountability on the police officer responsible for registering FIRs under Section 173. Mandating the Magistrate to consider the submissions of the concerned police officer also ensures that the Magistrate applies his mind judicially while considering both the complaint and the submissions of the police officer thereby ensuring that the requirement of passing reasoned orders is complied with in a more effective and comprehensive manner.”*

- The Magistrate, upon satisfaction that a cognizable offence is disclosed, may order the police to register the FIR and commence investigation.

3. Exhaustion of Statutory Remedies Before Writ Jurisdiction:

In **M. Subramaniam v. S. Janaki**¹⁷, the Hon’ble Supreme Court held that if a police officer refuses to register an FIR, the complainant must first avail the remedies provided under **Section 173(3) and 173(4)** of BNSS (previously Section 154(3) and 156(3) CrPC).

¹⁶SCC, 2025 INSC 139

¹⁷ (2020) 16 SCC 728

- Filing a **writ petition under Article 226 of the Constitution** for FIR registration should not be the **first recourse** unless these statutory remedies are **exhausted**.

This framework under BNSS reinforces the procedural hierarchy and ensures that avenues for grievance redressal remain effective and accessible, while discouraging premature invocation of constitutional remedies.

- **Conclusion**

The **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**, through **Section 173**, aims to reform the FIR registration process by enhancing **accessibility, efficiency, and accountability** in the criminal justice system. It permits FIRs to be lodged both orally and through electronic means, mandates prompt documentation, and ensures a copy is provided free of cost to the informant. This marks a progressive shift from the earlier framework under CrPC, 1973.

One of the key advancements in practice, though not explicitly codified in BNSS but now well-recognized in police manuals and judicial interpretations, is the **concept of Zero FIR**. This allows an FIR to be registered at **any police station**, irrespective of the jurisdiction where the offence was committed. The police station registering the Zero FIR is then required to transfer it to the competent jurisdiction. This doctrine reinforces **victim-centric justice**, especially in cases like sexual assault or emergency offences, where **delays** in identifying jurisdiction could prejudice the investigation.

Furthermore, **Section 173(4)** of BNSS provides a remedial path for individuals whose FIRs are refused registration by the officer in charge. Such persons may escalate the matter to the **Superintendent of Police**, who must act if a cognizable offence is disclosed. If no action follows, the individual may further approach the **Magistrate under Section 175(3)**, who may direct the FIR to be registered.

It is important to also critically examine **Section 173(3)**, which permits — but does not mandate — the police to conduct a **preliminary inquiry** for offences punishable with imprisonment of **three to seven years**. The use of the word “*may*” introduces **discretion**, which could potentially be misused to delay or avoid full investigation. Without clear guidelines or oversight, this discretionary power risks being exercised arbitrarily, undermining the

transparency and timeliness the BNSS seeks to promote.

In conclusion, **Section 173 of BNSS, 2023**, alongside practical mechanisms like **Zero FIR**, represents a substantial evolution in India's criminal procedure regime. It seeks to instill **public confidence**, reduce procedural barriers, and accelerate the delivery of justice. However, the success of these reforms hinges on **proper implementation, training of police officials**, and **judicial vigilance** to ensure that **discretion is not misused** and that **rights of victims and informants are fully protected**.