

**ZERO FIR: AN UNDISCOVERED RIGHT FOR THE LEGAL
PROTECTION OF WOMEN**

Dr. Bhavana Sharma¹

ABSTRACT

Nirbhaya's case led to many amendments in our existing legal system and Zero FIR was one of them. This important provision has led to file the FIR from anywhere and was quite a stepping stone in legal history but people still are not aware of this right and it was only the movie 'Pink' has led to the awakening among people's mind that what is 'Zero FIR'. So, in this paper the emphasis is on to discuss what exactly 'Zero FIR' is?

Keywords:Zero FIR, Legal Right, Criminal.

INTRODUCTION

In our Country, the capital itself is known to be one of the most dangerous cities to live in. Many protests took place all over the country against the lame status of law and order. After that, the ruling body came up with provisions to set the motion of justice favoring the victim. Alas! the tragedy lies in unawareness of masses regarding their rights and on the part of government failing to spread awareness, as well. Zero FIR is one such provision, which might help the victim to appeal for investigation without wasting time. But, many times the victims are denied the right to file a FIR by police authorities because the area of crime does not fall under their jurisdiction².

This provision of law was introduced in the recommendation of the Justice Verma Committee in the new Criminal Law (Amendment) Act, 2013 after the horrific Delhi Rape case but only the movie 'Pink' has created many speculations in the minds of Indians especially women regarding the concept of Zero FIR. The movie has played the scene as:

¹Principal (Offg.), HIMCAPES' School of Legal Studies, Badhera, Haroli, Una, H.P.

²Akshat Pathak, What is a Zero FIR, http://H:/ZERO%20FIR/What%20is%20a%20Zero%20FIR_%20-%20Fundacurry.html (as browsed on 10 December, 2016).

Sir, a man hit me on the breast from his bike and then showed me his middle finger. I have the gaadi number. I'd like to register a complaint. Where did this happen, ma? What dress were you wearing? I was wearing exactly what I am now. It happened in Indiranagar earlier today. Amma, don't you know you have to go to the Indiranagar police station to register that complaint? Go, go now. And you should wear a dupatta, then no one will hit you again. But there is one more aspect shown in the film that people should know about - Zero FIR and other FIR-related laws. The film deals with young working women in Delhi who have never had a brush with the law, and therefore, know nothing about their legal rights. In the film, Taapsee Pannu's character Meenal goes to a police station to file a complaint against a group of boys threatening her and her friends, after she injured one of them in self-defense. However, after giving her moral gyaan, the police officer tells her that he can't register a complaint because "ghatnatoh Surajkund kihai". When she later goes to a senior officer, he tells her about Zero FIR - that irrespective of the jurisdiction in which the crime happened, an FIR can be filed anywhere and be later transferred to the concerned police station³.

In another scene, after Meenal is arrested right before the weekend and her friends are trying to get her bail, a lawyer tells them to come on Monday, as she can't get bail on a weekend. That's when Amitabh Bachchan's character - Deepak Sehgal, a retired lawyer - comes to their rescue and tells them that women and minors can get bail on weekends and the bail proceedings can be heard at a judge's residence on Saturday and Sunday. To make sure that people, and young women in particular, know about these laws, the central government is planning to use the film to spread awareness about legal procedures. Delhi Police officials tell us that they have been trying to spread awareness about law through their Parivartan Cell and the film might help them in the endeavour⁴.

In this paper, the researcher has tried to explore the concept of zero FIR and provisions relating to it in depth.

What is FIR? First let us understand what does an FIR mean. A First Information Report (F.I.R.) is the first information in point of time regarding the commission of a cognizable offence that is given to the police and is recorded in the manner provided under section 154 of

³ Know what Zero FIR is? If not, watch Pink. <http://m.dailyhunt.in/news/india/english/zenparent-epaper-zenpa/know+what+zero+fir+is+if+not+watch+pink-newsid-58265472> (as browsed on 10 December, 2016).

⁴ Ibid.

the Cr.P.C. It is generally a complaint lodged with the police by the victim of a cognizable offence or by someone on his or her behalf, but anyone can make such a report either orally or in writing to the police. Any person who has knowledge about the commission of a cognizable offence may register an F.I.R. with the police. Such person may be:

- the victim of the offence, or
- a family member of the victim, or
- a witness to the offence, or
- the person who has committed the offence, or
- a police officer, or
- any other person who has come to know about such offence.

An F.I.R. may also be registered under the order of a Magistrate. For example, Sarita files a complaint before the Magistrate that her husband is harassing her for dowry. If the Magistrate forwards the complaint to the officer-in-charge of the concerned police station without taking cognizance, then the officer should register an F.I.R. and then investigate the case (Cr.P.C., section 156 (3))⁵.

Every FIR has serial no, date of occurrence, time of occurrence, place of occurrence, contents of complaint etc. and it is lodged because of commission of cognizable offence (an offence in which police can take suo motu action and no prior approval from court is required). Every police station has jurisdictional area for which they can take up the investigation if commission of cognizable offence area found under their jurisdiction. Suppose my phone is theft at Bus stand of LalQuila , Delhi then the police station whose under LalQuila come will lodge my FIR and investigate it.

As described in law,

⁵MadhuBala v. Suresh Kumar (1997)8SCC 476).

- When information about the commission of a cognizable offence is given orally, the police must write it down.
- The person giving information or making a complaint has a right to demand that the information recorded by the police be read to him or her. Once the information has been recorded by the police, it must be signed by the person giving the information.
- Now lets come to the concept of Zero FIR. It's very simple and designed specifically for the ease of the victim.

Notion of Zero FIR The provision of Zero FIR came up as a recommendation in Justice Verma Committee Report in the new Criminal Law (Amendment) Act, 2013 after the heinous Nirbhaya case of December 2012. The provision says:

A FIR can be filed at any police station irrespective of place of crime and area of jurisdiction. This provision is for everyone. When in trouble Men and women will be benefited equally⁶.

In Zero FIR, any police station can register FIR irrespective of jurisdictional area but the investigation will be taken up the police in which place of occurrence reported in FIR. The police station registers the zero FIR marking it serial no. zero and transfer to the competent jurisdictional area which can carry out the investigation. The sanctity of legal process remains same in zero FIR. It is very helpful for people as it facilitate them by not allowing making rounds of different police station for lodging the FIR⁷. A Zero FIR can be filed in any police station by the victim, irrespective of their residence or crime place. Even if you are away from the place of incident or are unaware of the right jurisdiction, you can successfully file an FIR in any police station. This type of FIR is termed as a Zero FIR.

Now what is more shocking is that the police officers deny to acknowledge a Zero FIR and also try to convince the victim and his family to approach the concerned police station for registering the FIR rather than trying to help them. Many of us do not know that according to Section 166A of the Indian Penal Code added by Criminal Law (Amendment) Act, 2013, a

⁶ Supranote 2.

⁷ Rahul Verma, http://H:/ZERO%20FIR/What%20is%20zero%20FIR_%20-%20Quora.html(as browsed on 10 December, 2016).

police officer refusing to register FIRs related to certain offences against women (such as rape, molestation, etc.) can be punished with imprisonment for a term which may extend to one year or with a fine or with both⁸. A Constitution Bench of the Supreme Court in *LalitaKumariv. Govt. of UP and Others*⁹ has issued the following guidelines:-

- a) The registration of FIR is mandatory under section 154 of CrPC, if the information discloses commission of a cognizable offence.
- b) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.
- c) Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

The Supreme Court in *BimlaRawal and Others Vs. State (NCT of Delhi) and Another*¹⁰ has held:-“It is clear that the law is that police can register an FIR of commission of a cognizable crime but after registration of FIR, if on scrutiny or investigation, it is found that crime was not committed within the jurisdiction of that Police Station but was committed within the jurisdiction of some other Police Station, the FIR should be transferred to that Police Station. However, if at the time of registration of FIR itself, it is apparent on the face of it that crime was committed outside the jurisdiction of the Police Station, the Police after registration of FIR should transfer the FIR to that Police Station for investigation. Normally a ‘Zero’ FIR is registered by Police in such cases and after registration of FIR, the FIR is transferred to the concerned Police Station.”

i. How to File a Zero FIR?

- a. Like all regular FIRs, a Zero FIR can be filed in accordance to the below mentioned checklist.
- b. Statement will be recorded by the police officer in writing.
- c. All details, without any speculation or assumption should be provided to the police during the statement.
- d. Make the statement official by signing the register.

⁸ Supranote 2.

⁹(2008) 7 SCC 164.

¹⁰2008 II AD Delhi 188.

- e. Get a copy of your complaint and ask for the identification number or Roll is not provided.

ii. When to use a Zero FIR?

The main idea of a Zero FIR is to initiate the investigation or urge the police to take their initial action. Once you have lodged a Zero FIR, make sure that your complaint is not transferred to the appropriate police station in your jurisdiction without any initial action or investigation. Crimes like murder, rape and accidents require immediate action from the concerned police authorities so that they take appropriate samples, eye witnesses and other circumstantial details. Zero FIR allows the authorities to pen down the initial action taken rather than trying to figure out what had happened at the crime scene initially¹¹.

SCOPE AND ANALYSIS

If a person visits Police Station informing the police that his friend was murdered on the road (cognizable offence). Incidences like this require immediate action on part of the police (like collecting samples, getting information from eye witnesses, etc.); in such a situation police cannot excuse themselves saying that the case does not fall within their jurisdiction. This will hamper the very objective of the police force that is ‘to maintain law and order’. But at the same time it is mandatory to adhere to statutory regulations, so after investigation is over, if the Investigating Officer arrives at the conclusion that the cause of action for lodging the FIR has not arisen within his territorial jurisdiction, then he is required to submit a report and forward the case to the Magistrate empowered to take cognizance of the offence and must also submit all the materials including copy of FIR, collected sample of evidence and detailed report of the inquiry done till the date the case is transferred to the concerned Police Station.

In the case of *Satvinder Kaur vs. State (Government of NCT Delhi)*, The complainant had appealed in the Supreme Court against the order of the High Court, where the High Court had quashed the FIR filed at Delhi Police Station by the complainant. The Supreme Court held that, Police can investigate the case, which does not fall under their jurisdiction.

In the case of *Bimla Rawal and Ors. v State (NCT of Delhi) and Anr*, FIR was lodged in Delhi, despite the fact that all incidents occurred in Mumbai. Writ Petition was filed in Supreme Court regarding the mala fide intentions of police succumbing under the pressure of opposite

¹¹Paridhi, http://H:/ZERO%20FIR/What%20is%20zero%20FIR_%20-%20Quora.html

party. Supreme Court quashed the FIR filed at Delhi and ordered to file a fresh FIR in Mumbai. In this case the police misused the power of filing a Zero FIR at the behest of the opposite party.

i. Impact: The infamous AsaramBapu Rape case: Take a famous example of AsaramBapu Rape case, In the FIR, the place of occurrence of offence falls under the jurisdiction of Jodhpur, Rajasthan but the Police Station Kamla Market, Delhi registered the FIR, then transferred it to Jodhpur, for further investigation. Then Jodhpur police taken up the investigation.

ii. Why it is needed?

1. In India, 93 cases of rapes are reported every day. Provisions like ZERO FIR are essential to bring out the process of justice in a very efficient fashion. Many cases go unsolved because of lack of evidence, which was lost because of wastage of time.
2. Crimes like murder, rape and accidents require immediate action from the concerned police authorities so that they take appropriate samples, eyewitnesses, and other circumstantial details.
3. Zero FIR is a great asset when you are traveling and unfortunately become a victim of any cognizable crime. You can reach any police station and file a zero FIR¹².

Path Ahead: After sexual assault on a woman, the woman faces the real assault by the police. The protector becomes the assaulter. Only when a senior officer intervenes than such complaints or FIRs are registered and investigated upon. How do we stop such incidents? If all complaints on women-related offences were to be filed by senior most officers then why do we have a police station in every area? Even 3 years after the new Criminal Law (Amendment) Act was passed in 2013, many police officers fail to recognize Zero FIR and instead continue to dodge their responsibility on others.

The concept of Zero FIR is a free jurisdiction FIR. It was introduced in order to avoid the delay in filing the crime that adversely impacts the victim. The government should run campaigns to make people aware of such provisions and peoples should also show more concern about knowing their rights¹³.

¹² Supranote 2.

¹³ Ibid.

Amitabh Bachchan starrer 'Pink' has awakened the minds of many people. Also how we are not aware of our right and continue to be suppressed and intimidated by the police officers. We hope that the message of PINK reaches every individual and no one is bullied by any police officer.

We are not here to judge every police officer, but at majority times such incidents happen. It is very easy to manipulate a vulnerable person. Stop being one. Do not let any police officer to tell you which type of offence should be reported and which not. They will say something like once an FIR is filed, it will not be taken back and it will result in a long legal procedure. These are their key words¹⁴.

¹⁴Zero FIR – An Undiscovered Right, <https://themonkeyscandal.com/2016/10/11/zero-fir-undiscovered-right/> (as browsed on 10 December, 2016).