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REGISTRATION OF FIR AND REMEDIES AGAINST REFUSAL REGISTER UNDER BNSS, 2023

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1. Introduction

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) replaced the Code of Criminal Procedure, 1973 (CrPC) and came into force on 1 July 2024. One of the important functions of the criminal justice system is the prompt registration of information relating to cognizable offences.

Under Section 173 of BNSS, information relating to a cognizable offence can be given to the officer in charge of a police station. Registration of the FIR enables the police to commence investigation according to law.

When the police refuse to register information relating to a cognizable offence, the aggrieved person has statutory remedies, including approaching the Superintendent of Police and thereafter the Magistrate.

2. Abstract

The registration of a First Information Report (FIR) is an important first step in the criminal justice process. Section 173 of BNSS deals with information in cognizable cases. It permits information to be given orally or by electronic communication, irrespective of the area where the offence was committed, subject to the statutory requirements.

The provision also provides a remedy where the officer in charge of a police station refuses to record the information. The informant may send the substance of such information in writing and by post to the Superintendent of Police. If the matter is not properly addressed, the informant can approach the competent Magistrate in accordance with BNSS.

Thus, BNSS seeks to ensure accessibility, accountability and timely commencement of criminal proceedings.

3. Scope

The scope of FIR registration under BNSS includes:

- Information relating to cognizable offences.
- Oral information given to the police.
- Information communicated through electronic communication.
- Registration irrespective of the territorial area of occurrence, subject to law.
- Preliminary inquiry in certain cases as provided under Section 173.
- Remedy against refusal by the police to register information.
- Approach to the Superintendent of Police.
- Approach to the Magistrate where necessary.
- Judicial protection against arbitrary refusal by police authorities. BNSS, 2023 – FIR Registration and Remedies

4. Objects

The main objects of the provisions relating to FIR registration are:

- To ensure prompt registration of cognizable offences.
- To provide access to the criminal justice system.
- To prevent police authorities from arbitrarily refusing to register cases.
- To protect the rights of victims and informants.
- To facilitate a lawful investigation.
- To create an official record of the information relating to the alleged offence.
- To ensure accountability of police officers.
- To provide alternative remedies when the police fail to perform their statutory duty.

5. Methodology

This study adopts a doctrinal and analytical methodology.

Primary Sources

Bharatiya Nagarik Suraksha Sanhita, 2023.

Constitution of India.

Judicial decisions of the Supreme Court of India.

Secondary Sources

Textbooks on Criminal Procedure.

Legal commentaries.

Law journals.

Government and legislative materials.

The relevant statutory provisions and important judicial decisions are analysed to understand the procedure for registration of FIR and remedies against refusal.

6. Analysis

A. Section 173 – Information in Cognizable Cases

Section 173 BNSS deals with information relating to the commission of a cognizable offence.

The information may be given:

- orally; or
- through electronic communication.

The provision is designed to make reporting of cognizable offences more accessible.

Important feature – Zero FIR

The wording of Section 173 permits information relating to a cognizable offence to be given irrespective of the area where the offence is committed.

Therefore, a police station should not simply refuse to receive information merely on the ground that the offence occurred outside its territorial jurisdiction. This facilitates the concept BNSS, 2023 – FIR Registration and Remedies commonly known as Zero FIR.

B. Electronic Communication

Under BNSS, information relating to a cognizable offence may also be given through electronic communication. Where information is given electronically, it is required to be signed by the person giving it within the prescribed period. This provision recognises modern methods of communication and makes reporting of offences easier.

C. Preliminary Inquiry

Section 173 also contains a provision concerning preliminary inquiry in certain cases. For offences punishable with imprisonment of three years or more but less than seven years, the officer in charge may, with the prior permission of an officer not below the rank prescribed under the section, conduct a preliminary inquiry to ascertain whether a prima facie case exists. Such preliminary inquiry is subject to the time limit prescribed by the section.

Therefore, the statutory scheme distinguishes between cases where immediate registration/investigation is appropriate and specified cases where a preliminary inquiry may be undertaken.

7. Remedies Against Refusal to Register FIR

Step 1 – Approach the Police Station

The complainant should first provide the information regarding the cognizable offence to the officer in charge of the police station. The complainant should preserve evidence of having approached the police, such as:

- copy of complaint;
- acknowledgement;
- postal/electronic proof;
- supporting documents.

Step 2 – Approach the Superintendent of Police

Under Section 173(4) BNSS, where the officer in charge refuses to record the information, the aggrieved person may send the substance of the information in writing and by post to the Superintendent of Police.

If the Superintendent of Police is satisfied that the information discloses a cognizable offence, the SP may:

- investigate the case himself; or
- direct an investigation by a police officer subordinate to him.

Step 3 – Approach the Magistrate

If the grievance is not adequately addressed even after approaching the police authorities, the aggrieved person may seek the appropriate remedy before the competent Magistrate under the BNSS. The Magistrate can examine the complaint and exercise the powers available under the Sanhita according to the circumstances of the case.

8. Flow Chart

Cognizable offence committed

↓ BNSS, 2023 – FIR Registration and Remedies

Information given to Police Station

↓

Police registers FIR under Section 173 BNSS

↓

Investigation begins

If Police Refuse:

Police refuse to register FIR

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Send complaint to Superintendent of Police – Section 173(4)

↓

SP considers the information

↓

Investigation / direction for investigation

↓

If appropriate remedy is still required

↓

Approach competent Magistrate under BNSS

9. Important Case Laws

1. Lalita Kumari v. Government of Uttar Pradesh

Citation: (2014) 2 SCC 1

Facts: The petitioner approached the authorities alleging that a cognizable offence had been committed, but the FIR was not properly registered.

Issue: Whether registration of an FIR is mandatory when the information discloses a cognizable offence.

Judgment: The Supreme Court held that registration of FIR is mandatory under Section 154 CrPC when the information discloses a cognizable offence. A preliminary inquiry is permissible only in the situations recognised by the judgment.

Importance under BNSS: The principles concerning mandatory registration and limited preliminary inquiry remain highly relevant while understanding Section 173 BNSS, subject to the changes introduced by the BNSS.

2. Sakiri Vasu v. State of Uttar Pradesh

Citation: (2008) 2 SCC 409

Principle: The Supreme Court explained that when a person has a grievance regarding non-registration of an FIR or improper investigation, the person has remedies before the higher police authority and the Magistrate.

Importance: This case is important for understanding the remedial mechanism available when the police fail to register or properly investigate a criminal case. BNSS, 2023 – FIR Registration and Remedies

3. Priyanka Srivastava v. State of Uttar Pradesh

Citation: (2015) 6 SCC 287

Principle: The Supreme Court emphasised that applications seeking directions for investigation should not be made casually and that the procedural safeguards prescribed by law must be followed.

Importance: The judgment is useful when discussing applications before the Magistrate following failure of police authorities to act.

10. Importance of FIR Registration

FIR registration is important because it:

- Sets the criminal law in motion.
- Provides an official record of the alleged offence.
- Enables police investigation.
- Helps preserve evidence at an early stage.
- Protects victims from unnecessary delay.
- Provides accountability to police authorities.
- Assists the court in understanding the initial version of the prosecution case.

However, an FIR is not substantive evidence by itself. Its evidentiary use is governed by the applicable evidence law.

11. Conclusion

The provisions of the BNSS, 2023 relating to registration of information in cognizable cases aim to make the criminal justice system more accessible and effective. Section 173 BNSS recognises oral and electronic communication and facilitates registration even when the territorial jurisdiction is not immediately clear.

Most importantly, the law provides remedies when the police refuse to register information.

The complainant can approach the Superintendent of Police under Section 173(4) and, where necessary, seek appropriate relief from the competent Magistrate.

Thus, the BNSS framework seeks to balance efficient police investigation with the protection of the rights of victims and informants.

12. References

Statutes

Bharatiya Nagarik Suraksha Sanhita, 2023 – Section 173.

Constitution of India.

Bharatiya Sakshya Adhiniyam, 2023.

Cases

Lalita Kumari v. Government of Uttar Pradesh, (2014) 2 SCC 1.

Sakiri Vasu v. State of Uttar Pradesh, (2008) 2 SCC 409.

Priyanka Srivastava v. State of Uttar Pradesh, (2015) 6 SCC 287. BNSS, 2023 – FIR
Registration and Remedies

Books

R.V. Kelkar, Criminal Procedure.

K.N. Chandrasekharan Pillai, R.V. Kelkar's Criminal Procedure.

Relevant commentaries on the Bharatiya Nagarik Suraksha Sanhita, 2023.

