



ONLINE FILING OF FIR *Youth Bar Association of India v. Union of India*

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INTRODUCTION

First Information Report (FIR) is a report of a crime pertaining to cognizable offence filed with the police to record and initiate the investigation process. It is a necessary document in a criminal case and can majorly support the case of the informant or the victim. However, this right is also been given to the person so accused provided by Sec.207 of The Code of Criminal Procedure, 1973.

FACTS

In the case of *Youth Bar Association of India vs. UOI*¹ a Writ of Mandamus was filed by the petitioner before the Supreme Court of India, to direct the Union of India and the States to upload each and every FIR registered in all the police stations within the territory of India in the official website of the police of all States, as early as possible, preferably within 24 hours from the time of registration.

ANALYSIS

In the case, the learned counsel for the petitioner submitted that after registration of

the First Information Report if it is uploaded in the official website of police that will solve many unnecessary problems faced by the accused persons and their family members. He contended that when the criminal law is set in motion and liberty of an individual is at stake, he should have the information so that he can take necessary steps to protect his liberty. He referred to the judgement of *State of West Bengal and Ors. v. Committee for Protection of Democratic Rights, West Bengal and Ors.*² which clearly states that, State has a duty to enforce the human rights of a citizen providing for fair and impartial investigation against any person accused of commission of a cognizable offence.

In another case of *Som Mittal v. Government of Karnataka*³ it was stated that, the right to liberty Under Article 21 of the Constitution is a valuable right, and hence should not be lightly interfered with. This was said in reference to the right of the accused to have the information on time so that he has a fair chance to protect his liberty.

The learned Additional Solicitor General appearing for Union of India on being asked suggested that directions issued by the High Court of Delhi can be applied with certain modifications. He also put focus on paragraph 4 of the affidavit filed in an interlocutory application in the present Writ Petition. It reads as, 'it is respectfully

²*West Bengal and Ors. v. Committee for Protection of Democratic Rights, West Bengal and Ors* (2010) 3 SCC 571

³*Som Mittal v. Government of Karnataka* (2008) 3 SCC 753

¹*Youth Bar Association of India vs. UOI & Others* [W.P. (CRL) No.68/2016]



submitted that Central Government is supporting all the States to set up a mechanism for online filing of complaints under the protect 'Crime & Criminal Tracking Network & Systems'.

On having heard both the parties the Supreme Court laid down certain directions.

The court said that the FIRs have to be uploaded online on the police website and if there is no such website then on the official website of the State Government within 24 hours of the registration of the FIR unless it is a sensitive case like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under Protection of Children from Sexual Offences Act and such other offences.

The exception is provided in case of sensitive cases as it deals with the concept of right to privacy and in such cases FIR has to be filed with the Superintendent of Police or Commissioner in case of metropolitan cities. A committee will be setup by the commissioner and the grievance shall be dealt with in three days from the date of receipt of the representation and communicated the same to the grieved person. So looking at the nature of the FIR it has to be decided whether it has to be uploaded online or not.

The reason given for this online updating within 24 hours is that the accused person should also have a right to know of the charge filed against at the right time. For this if the FIR is timely updated online he can easily access it and file an appropriate application for redressal of his grievances before the court of law.

The only exception to delay in updating the FIR online could be geographical location for which time can be extended up to 48 hours and further maximum up to 72 hours.

But the court pointed out here that for whatever reason if the FIR is not uploaded online, it cannot be a ground to obtain the benefit under Sec.438 of The Code of Criminal Procedure Act, 1973. Section 438 provides direction for grant of bail to a person apprehending arrest.

CONCLUSION

The guidelines laid down by the court solve many unnecessary problems faced by the accused persons and their family members. The uploading of FIR online has many advantages to it. It will help enhance transparency as everyone will have access to the FIR. This will also help reduce chances of victimization of the accused and will also ensure justice to the accused if the FIR is a wrong and flimsy. This is also helpful to the victim. As the FIR is uploaded online it will ensure the victim lodge a case or apply for compensation timely. So it can be concluded that uploading of FIR will not only benefit the victim, the accused but also help in smoothening the whole process.

RECOMMENDATIONS

- There would be lack of skilled persons in rural areas with digital expertise. Training should be provided to such police officers.
- As the uploading of FIR online would curb their malpractices there could be laxity on part of the police.



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- Connectivity issues in rural areas to be solved immediately for this system to be a success.
 - To make this process a success there should be specialised separate department to upload FIRs in police stations.

