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Registration of Second FIR (First Information Report) in Sughran Bibi Case: A Landmark Judgement of the Supreme Court of Pakistan

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ARTICLE DETAILS	ABSTRACT
History: Accepted 12 May 2020 Available Online 30 June 2020	<i>The registration of First Information Report (FIR) has remained a challenging area for the judicial system of Pakistan; the multiplicity of the FIRs means separate investigation and separate police report. Precedents were available far and against the second FIR which had been creating perplexity and nuisance for law enforcement agencies. First Information Report is contaminated by the inclusion of exaggerated facts by the aggrieved parties. Moreover, there are several allegations on the working of police in Pakistan for drafting the FIR arbitrarily. Although FIR is a mere document to report the incident, however, it has gained a significant role in deciding the fate of a criminal trial in Pakistan. Therefore, it is imperative to examine the status of FIR in criminal-trial framework of Pakistan. To do this, Sughran Bibi Case is very significant in interpreting the status of multiplicity of FIRs in the criminal trial framework. Seven judges of esteemed Supreme Court decided the fate of second FIR in this human rights case. The study investigates the doctrinal aspects of the judgement by presenting a theoretical examination of the status of FIR, its evidentiary value, and effectiveness in the criminal trial framework.</i>
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1. Introduction

The method of lodging a first information report (FIR) is followed in South Asian and Southeast Asian countries including Myanmar, India, Bangladesh, and Pakistan. The police organizations in these countries prepare a document (commonly known as FIR) at the time of receiving information, normally in the form of complaint lodged by a person, victim of a cognizable offence, or someone else on the behalf

of that person. However, it is not mandatory that only victim or someone on the behalf of the said victim is required to make such report to the police. This report can be made by anyone, including police officers, having the knowledge of the happening of such offence. The purpose of lodging FIR is to set the process of criminal justice in motion. The police organizations start investigation of most type of cases once FIR is registered.

The criminal justice system of Pakistan provides rules for registration of FIR, by police on the reporting of an event or criminal incident an offence (for which police are not required to obtain an arrest warrant to make an arrest), under the Code of Criminal Procedure.

‘Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.’

The concept of the FIR is simply the earliest intimation or communication about the occurrence of a cognizable offence, to the relevant police station, for the purpose of setting the investigation into motion. The FIR contains all the relevant information about the incident as to the place of incident, offence, description or identity of the suspected offenders, roles of the suspects and commission of offence. The essential purpose of FIR is very simple, informing the police authorities about the commission of a cognizable offence, not a conclusive or binding primary document.

However, historically, the court system of Pakistan has been placing much higher evidentiary value on the contents and sanctity of the FIR. The trial courts, as well as superior courts, have been relying upon the significant details relating events, identity and role of the accused mentioned in the FIR for the purpose of conviction. This unnecessary reliance of the courts and judicial system has encouraged the prosecution, with the help of complainants and police, to fabricate FIRs through reverse-engineering. Consequently, this process has helped accused persons in escaping from conviction by granting them bails at interim stage of trials, as a result, the general public started losing confidence on the criminal justice system.

A quick reading of most of the FIRs relating the incidents of murders all over Pakistan, provides a set pattern of the happening of incidents. The reader often comes across a stereotype story that involves accused along with his friends ‘Shouted (lalkara) before firing upon the deceased. The presence of witnesses is normally in the form bystanders (mostly relatives or friends of the deceased). Afterwards, the fabricated stories and scenes crammed by the witnesses from both the sides, aware of their roles and responsibilities, will follow the rest of the process that is governed by rules of conviction.

The public has lack of trust on police department and on the criminal justice system in Pakistan. A worst perception of police has developed in public, on the registration of FIR on the report of police officers, through various incidents of biased and fake registration of FIRs. This perception has gained more strength on the happenings of police encounters. The general public does not rely on the version of police whenever any incident of police encounter is reported, especially after the happening of police encounter in Naqibullah Mehsud case. The Supreme Court of Pakistan has acknowledged that performance of police is not considered as satisfactory by the general public in Pakistan. Therefore, the trust level of the general public remains very low on police, especially in situations of FIRs lodged on the report of police.

The lack of trust on police in the matter of lodging FIR on the report of police urged Mst. Sughran Bibi to file a (Human Rights) case in the Supreme Court of Pakistan. She prayed for ordering the direction to local police for recording a second FIR contrary to police officials who allegedly murdered her son Mohsin Ali in a police encounter for which first FIR was registered on the report of the said police official. The Supreme Court went through not only the grounds of that petition but also put an end about confusion of a question of law on registering the second or multiple FIRs in same incident. The Supreme Court rejected the request and clarified the purpose of the registration of FIR.

2. Sughran Bibi Case

2.1 Facts of the Case

Mst. Sughran Bibi filed a case under Article 184(3) of the Constitution of Pakistan, 1973 in the Supreme Court of Pakistan. She requested the Supreme Court to exercise its original jurisdiction, considering and resolving the matter (Fundamental Human Right) as a question of public importance. She prayed for order of direction to local police to record a second FIR, contrary to FIR registered on the report of police officials, who had allegedly murdered her son Mohsin Ali in an encounter. Mohsin Ali who died in police encounter in case FIR No. 177 registered Sub-Inspector Zulfiqar, for the same incident, at Police Station Shahdara Town, District Lahore, on the same day.

The charges of attempting to commit qatl-i-amd, assault/criminal force to halt the public servants from discharging their duties, voluntarily obstructing public servants in the discharge of their public functions, and keeping ammunition were put on Mohsin Ali and others in the FIR. Mohsin and others were alleged in that they commenced murderous attack upon a police party and in right of private defense the police party shoot back resulting the death of Mohsin Ali.

The petitioner (Mst. Sughran Bibi, mother of Mohsin Ali deceased) as an alternate remedy filed a private complaint in respect of Mohsin Ali murder in the court of Additional Session Judge, Lahore. She alleged that police had cold-bloodedly murdered her son, Mohsin Ali, in a planned encounter. The court, on the base of prima facie evidence, summoned 16 accused police officers for trial. The petitioner, for the purpose of getting the accused police officers arrested, filed an application in the Supreme Court of Pakistan. A larger bench of seven judges of the Supreme Court was established to hear the case.

2.2 Judgement

This case gave birth to the question of instituting a second FIR regarding new version in the same incident where FIR had already been registered in concerned police station. The Supreme Court, while declaring detailed judgment regarding filing of second FIR, rejected the necessity of filing a second or FIRs for any new-fangled report or version in the same incident. The court extensively looked into the matter by analyzing relevant case-law on the subject matter, elucidating the appropriate statutory law and discussing the nexus lying between the registration of FIR and the power of arrest given to police under the law. The Supreme Court, through this judgment, reiterated the necessity to scan the system and scheme of criminal procedure code, 1898 and Police Rules, 1934.

In this judgement, the Supreme Court looked into the statutory provisions and interpretation of laws relating FIR and were explained in detail. The court made it clear that the registration of FIR (First Information Report) is a normal procedure when police receives information about the happening of an incident that amounts to the commission of a cognizable offence, under section 154 of the Code of Criminal Procedure, 1898. Based on same analogy, the second or third information to the police relating such incidents, should be called as SIR (Second Information Report) and TIR (Third Information Report).

However, there is no statutory provision in the Code of Criminal Procedure relating SIR or TIR.

This judgement is based on three fundamental points regarding filing of FIRs. Firstly, it permits the registration of only one FIR (called First Information Report) for an occurrence and clearly explains that all new versions and other relevant statements relating the same case are recorded by police. It is the responsibility of police to investigate the case and find out truth. So, police can record and investigate a single case and only one trial can take place in court.

Secondly, police are bound to register the FIR under section 151 of the Criminal Procedure Code of Pakistan. Therefore, if second or third FIRs are permitted in the same case on a subsequent or new version after registration of FIR, multiple cases and trials will be needed to take place in court regarding the same incident. Thirdly, second FIR can be allowed or not it depends upon the circumstances of the case.

The Supreme Court has tried to dissociate the FIR from power of arrest in deciding *Mst. Sughran Bibi* case. She has prayed for the registration of second FIR, while she has already availed the alternate remedy of a private complaint, because she has been insisting the arrest of police officers allegedly involved in the murder of her son. The court stated that 'the power of arrest has to be reasoned' by citing the relevant aspects from another judgment in the *Khizer Hayat* case.

3. Legal Value and Purpose of FIR

The analysis of this case makes it amply clear that present judgment is a landmark and solid for legal and administrative improvements. Within the sphere of criminal justice, a main factor of legal reforms likely to minimize the centrality and dominance of the public document which is called the First Information Report. It has been observed that it is only a procedural tool or device for registration and to put the law in motion, it has presumed overwhelming consequence by all the elements of the criminal justice system. The police deal it the same as biblical; therefore, it organized their investigation. The prosecution is subsequently stymied by whatsoever work and functions has been carried out by the police in the sense of effects relating to the controlling of FIR. In so far as the judiciary is interested emphasis is on the potency of authorized precedent in criminal justice and assessment of FIR as 'evidentiary value'. The supreme judiciary of Pakistan has tried to acquire stock of this scheming effect of the FIR in its present judgment.

The said judgement clarifies the legal value and purpose of the registration of FIR. According to this judgement, any information regarding the commission of cognizable offence under section 154 CrPC, 1898 to the concerned police is a FIR which means only first information report in that regard. Information received by any source about the commission of any offence to be considered as enough and valid to record a FIR.

There are incidents when local police receive the information relating the happening of an incident that amounts to cognizable offence that contains various versions of the committing of crime, people involved in that crime, and background of the committing of such crime. In such cases the version of that incident is considered as the version of the informant only, therefore, the investigating police officer needs not to unreservedly accept it as truth as a whole. When a FIR is registered a criminal 'case' comes into being so a number to be allotted to such case. Once number assigned to FIR remains same till the final decision of the case.

After the registration of FIR, during investigation when new or relevant version arise in same

incident than investigation officer records them under section 161 CrPC, 1898 and no separate FIR be registered in same incident regarding any version. According to section 161 of Criminal Procedure Code of Pakistan:

‘Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case. Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would tend to expose him to a criminal charge or to a penalty or forfeiture. The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.’

According Rule 25.2(3) of Police Rules, it is responsibility and duty of investigation officer, during the investigation of case investigate the matter from all possible aspects and keeping in mind all views relating to fact or any type of version in the case:

‘It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person.’

Another important point has been declared that no person arrested by police on this base that he is nominated in the FIR unless enough material of evidence does not available during investigation which necessary before the arrest of accused person. Investigation officer arrest of accused person when he satisfied from evidence and grounds and gives enough cause and justification and for this procedure, he is to be guided by Police Rules, 1934 and the code of criminal procedure, 1898.

After completion of investigation, the investigation officer submitted the report under section 173 CrPC, 1898 which is made on base of facts investigated, irrespective of first informant or other version must come in notice in the same incident of investigating officer or by any other person.

4. Impact on the Criminal Justice System of Pakistan

According to the World Justice Project organization the index of Rule of Law of the year 2017-2018 that out of 113 states that were calculated, Pakistan has lowest rank range at 105 in overall performance. This number was the second last number, in the whole region, only higher than Afghanistan. The ranking of Pakistan in the area of order and security remained at number 113. Pakistan stood at number 107 in civil justice, whereas at number 81 in criminal justice system. The above ranking depicted the pathetic situation of Pakistan in providing justice to the general public, as well as making its impression in relation to the rule of law in the eyes of the world community. There various factors had been affecting the perception of Pakistan in terms of providing justice, including a fragile criminal justice system.

The honorable Supreme Court of Pakistan needs to be appreciated for delivering an inclusive judgment on matter relating the registration of second or multiple First Information Reports, to mitigate the irrational debates and discussions about the necessity of second or third FIR. This landmark judgment clearly restated the important points of law in a comprehensive style by unreservedly differentiating and overruling its previous judgments. Multiple registrations of criminal cases were challenging and harmful development in criminal justice system. It has been observed previously that the FIR is only considered report to police and controls the criminal justice system, upon the registration of each FIR means a

specific or distinct case, lead to separate investigation, distinct inspection by a prosecutor, under section 173 CrPC, 1898 submission of challan report and conclusion of full-blown trial.

So, multiple FIRs and parallel criminal proceedings in the same incident were increase the burden on criminal courts . The reason behind the surge of multiple and parallel criminal proceedings in practice were having seen by introduction of an amendment in the code of criminal procedure according to justice of peace has powered to issue direction to the police regarding the registration of FIR and investigations.

The criminal justice system of Pakistan needs such type of decisions to incorporate valuable principles to become efficient and effective. This judgment has vigorously delinked, as needed by statutory law and pronounced in previous dicta of the Court, to record a criminal case from arrest. The declaration has once more thrown the venture of introducing inner controls on the exercise of influence of the police on higher-ranking police leadership which, often, ‘commotions’ about the escalating tendency of judicialization of police authority in Pakistan.

The Constitution Pakistan is devoted to the principle of the rule of law. Therefore, it provides for the healing or treatment of every citizen, including any person within its jurisdiction, according to law. It has been analyzed that this judgment will liberate the administration of justice from overburdening due to bulk of cases and repetition of criminal proceedings. This will maintain a discipline of judicial system. This case put further emphasize on speedy expeditious disposal of cases. No legal practitioner or officers can exploit the layman. The amendment in criminal procedure and police rules is needed.

Sughran Bibi case had been continued from more than a decade, the Supreme Court has passed the direction to trial court that conclude trial within four months and submit the report to registrar of this court. Overall this judgment is supposed to be seen as encouraging the enforcement of the fundamental rights. The insistence on long-lasting by them may develop the functions and performance of the criminal justice system in Pakistan.

The authoritative judgment of supreme court of Pakistan resolving the controversy of registration of 2nd FIR regarding the same incident and remove confusion among three categories of groups about the lodging of multiple FIR.

‘As an FIR had been registered in the present case regarding the same occurrence and the offences allegedly committed therein and upon completion of the investigation of the case a Challan had been submitted before the trial court and as the present petitioner had instituted a private complaint depicting her version of the same incident and after summoning of the accused persons nominated therein a trial is already in progress in connection with that private complaint, therefore, ordering registration of another FIR based upon the petitioner’s version of that very incident is not legally warranted. This petition is, thus, dismissed.’

It tried to understand the intention of legislature and interpreting the provision of law under section 154 and 161, The code of criminal procedure, 1898.

‘According to section 154, Cr.P.C. an FIR is only the first information to the local police about commission of a cognizable offence. For instance, an information received from any source that a murder has been committed in such and such village is to be a valid and sufficient basis for registration of an FIR in that regard.’

It has made this judgment the binding precedent.

5. Conclusion

The decisions of Supreme Court are binding on all courts and no remedy exists next to Supreme Court. This landmark judgment not only examines statutory law but also provides a scope for a comprehensive legal framework to criminal justice system. Before passing of this landmark judgement, during examination of relevant case laws by bench, it has been observed that prior case laws have not scrutinize the statutory legal structure. There have been cases to be decided according to the circumstances and based on necessity. The criminal judicial system of Pakistan has a record of cases that have been discussed in different categories in this judgment.

This landmark judgment restates the law about investigation in Pakistan in its immaculate form by trusting the police as a department. As police department is not considered as honest by the society so this essential step has taken by Supreme Court through this judgment. It paves the way of recording new versions of information under section 161 CrPC, 1898 and investigate the case from all possible angles. It serves the purpose of preventing from false litigations and leaves no other way except relying on the police investigation.

The First Information Report (FIR) is a public document and has its own importance in criminal law. It required to be constructed under Article 102 Qanoon-e-Shahadat, 1984 read with section 154 CrPC, 1898 and Police Rules, 1934, 24(5) which must be proved under Article 78 of Qanoon-e-Shahadat, 1984. It sets the process of criminal justice in motion and activates the police machinery to open an account of investigation to threshold the truth, so culprits be identified and taken to the task by process of law.

FIR set the criminal proceedings into the motion so there is no need of subsequent FIRs in any new set or set of facts. It can be included under section 161, CrPC during the investigation process. The investigation officer must record all relevant facts which he finds himself or brought before him, shall be recorded be without any prejudice and submitted the same to court under section 173 CrPC. The court came to conclusion that people and legal personals just emphasize registration of subsequent FIR because they ignorant of law and scope of private complaint. This judgment has binding effect, and this will liberate administration of justice from overburdening and repetition of criminal litigation in Pakistan.

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