**INVESTIGATION (SECTION 154-173)**

General procedure for investigation is mentioned in the Code of Criminal Procedure, 1973. Section 5 of the Code[[1]](#footnote-2) provides that all offenses shall be investigated, inquired into, tried and otherwise dealt with in accordance with the Code. When information of the commission of cognizable of fence is received, the appropriate police officer has the authority to enter on the investigation of the same. Thus, investigation is a normal preliminary for an accused being put up for trial for a cognizable offense.

Investigation usually starts on information relating to the commission of an offense given to an officer in charge of a police station and recorded under Section 154 of the Code.[[2]](#footnote-3) If from information so received or otherwise, the officer in charge of the police station has reason to suspect the commission of an offense, he or his subordinate has to proceed to the spot to investigate the facts and circumstances of the case, and if necessary to take measures for the discovery and arrest of the offender. Under Section 155[[3]](#footnote-4), the officer in charge of a police station has the power of making a search in any place for the seizure of anything believed to be necessary for the purpose of investigation. The investigating officer has also the power to arrest the person under Section 41 of the Code. A subordinate officer may be deputed by him for that purpose. Where the investigation is conducted not by the officer in charge of the police station but by a subordinate officer such subordinate officer has to report the result of the investigation to the officer in charge of the police station.

Section 157 provides an officer in charge of the police station or subordinate officer deputed by him/her but not lower than officer designated by state in this regard. [Section 157 (1)]. If it appears to the officer in charge of police station that there is no sufficient ground to enter on an investigation, he shall not investigate the case.[[4]](#footnote-5) In this situation he must give the reason for his decision.

If, upon the completion of the investigation it appears to the officer in charge of the police station that there is no sufficient evidence, he may decide to release the suspected accused. If, it appears to him that there is sufficient evidence or reasonable ground to place the accused on trial, he has to take necessary steps under Section 170 of the Code i.e. to forward the accused with report to the magistrate.

In either case, on completion of the investigation he has to submit a report to the Magistrate under Section 173 of the Code in the prescribed form. Thus, under the Code, investigation consists of the following:-

* proceeding to the spot,
* ascertainment of the facts and circumstances of the case,
* discovery and arrest of the suspected offender,
* collection of evidence and
* formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial, and if so, taking the necessary steps for the same by the filing of a charge-sheet under Section 173.

In Abhinandan Jha & Ors. vs. Dinesh Mishra[[5]](#footnote-6), this Court held that when a cognizable offence is reported to the police they may after investigation take action under Section 169 or Section 170 Cr. PC. If the police thinks that there is no sufficient evidence against the accused, they may, under Section 169 release the accused from custody or, if the police thinks that there is sufficient evidence, they may, under Section 170, forward the accused to a competent Magistrate. In either case the police has to submit a report of the action taken, under Section 173, to the competent Magistrate who considers it judicially under Section 190.

**JUDICIAL INTERFERENCE:**

In the case of Union of India and Ors. v. Sushil Kumar Modi.[[6]](#footnote-7), investigation was entrusted to CBI in the fodder scam case by the High Court to ensure proper and honest performance of duty by CBI. Supreme Court directed CBI officers to inform the Chief Justice of the Patna High Court about the progress of the investigation and to obtain his directions if so required for conducting the investigation. The Joint Director of CBI submitted his report on the investigation carried out by him to the Chief Justice of the High Court. The High Court found that the Director was trying to interfere with the investigation and, therefore, the High Court directed that all reports of the CBI officers shall be submitted directly to the court without being forwarded to the Director, CBI. This order of the High Court was challenged. It was held that the Director, CBI was responsible and accountable for the proper investigation of the case and, therefore, he cannot be excluded from the investigation. It was, however, observed that the Director, CBI was duty-bound to make a fair, honest and complete investigation and officers associated with the investigation have to function as members of a cohesive team engaged in cmmon pursuit of such an investigation so as to uphold the majesty of the law and preserve the rule of law. In case of any difference of opinion between officers of CBI in respect of the investigation, final decision would not be taken by the Director himself or by the Director merely on the opinion of Legal Department of the CBI, but the matter would be decided according to the opinion of the Attorney General of India for the purpose of investigation and filing of the charge-sheet against any such individual.

In R. Sarala vs. T.S. Velu[[7]](#footnote-8), it was held that there is no stage during which the investigating officer is legally obliged to take the opinion of a Public Prosecutor or any authority, except the superior police officer in the rank as envisaged in Section 36 of the Code.

Further Section 160 speaks of summons by the police to the persons concerned i.e. the persons having reasonable knowledge about the happenings of the case. 161 speaks of oral examination of the witnesses. It is not signed and not admissible.

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1. Section 5, Code of Criminal Procedure, 1973 [↑](#footnote-ref-2)
2. Section 154, Code of Criminal Procedure, 1973 [↑](#footnote-ref-3)
3. Section 155, Code of Criminal Procedure, 1973 [↑](#footnote-ref-4)
4. Section 157 (1) (b), Code of Criminal Procedure, 1973 [↑](#footnote-ref-5)
5. AIR 1968 SC 117 [↑](#footnote-ref-6)
6. 1996 (6) SCC 500 [↑](#footnote-ref-7)
7. AIR 2000 SC 1731 [↑](#footnote-ref-8)