What to do when police refuses to register an FIR or begin investigation in a case?

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It is a very common phenomenon that people are saying that police is not lodging FIR. If any untoward incident occurs such as road accident, house trespass, mischievous activity, murder, rape, molestation, theft in house, theft of his bike/car, purse stolen, robbery, dacoity, murder etc happened with you or with your any family members, friends, neighbor, well wisher etc then first of all you should not loose you calmness, be cool and report the incident to nearest police station for taking necessary actions against the wrong-doer. The information given to the police for such incident is called as First Information Report.

**Who can lodge FIR?**

An FIR can be lodged by the victim or a witness to the incident, or any person with knowledge of the incident. This information can be given in written or in oral or on telephone.

**If police refuses to register your FIR then what to do ?**

It is a very common phenomenon that people are saying that police is not lodging their FIR. Even sometimes people are ill-treated by the police.

  If Police officer concerned (SHO), refuses to Register complaint/FIR, than by virtue of section 154(3), a written Complaint may be send by Post to the Superintendent of Police or the Commissioner of Police (in Metropolitan areas); If Superintendent of Police or the Commissioner of Police (in Metropolitan areas) is satisfied that the Complaint discloses cognizable offence, he may himself investigate the case or cause the investigation of the case by any Police officer subordinate to him.

Even after that if no any action has been taken then an application can be made under section 156(3) read with section 190 of Code of Criminal Procedure to a judicial Magistrate/ Metropolitan Magistrate thereby praying that police to register the FIR., investigate the case, file charge-sheet or report.

A Writ Petition in the respective High Court may be filed for the issuance of Writ of Mandamus against the defaulting Police officers, inter alia, to Register the FIR and directing him to show cause (a) why he has not registered the FIR; (b) why disciplinary proceedings for "Misconduct" should not be initiated against him for dereliction of duty; (c) why he should not be suspended from Police service for interfering in the administration of justice and shielding the accused person.

You can file an online complaint, find relevant information and also get the contact details of each State's own Human Rights Commission office on the website of the National Human Rights Commission <http://nhrc.nic.in>.

Refusing to register an FIR on jurisdictional ground could now cost a policeman a year in jail. Taking strong view of increasing instances of such acts by police in various states, the Union home ministry has issued strict instructions to all states to not only initiate departmental inquiry against such cops but also prosecute them under Indian Penal Code.

The home ministry told the states and Union Territories to clearly instruct all police stations that failure to register FIR on receipt of information about any cognizable offence will invite prosecution of the duty police officer under I.P.C. Section 166A (government official disobeying law) which will invite imprisonment up to one year.

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In its latest directive, the MHA told the states and UTs that policemen should be sensitized to respond to complaints with alacrity, whether it is from man or woman, and must apprehend the accused immediately after the complaint, as it adversely impacts the victim and there is tendency of persons committing crimes to slip away when there is delay on extraneous grounds like jurisdiction.

**For what crimes FIR can be lodged?**

The police can register FIRs only for cognizable offences — where the police have the power to arrest without a warrant. Examples of cognizable offences include murder, rape, theft, attack, etc. For non-cognizable offences, such as bigamy or defamation, the police cannot arrest without a warrant and thus cannot register an FIR. The complaint is sent to the Judicial Magistrate for action.

**When FIR should be lodged?**

The FIR has to be registered at the earliest point of time after the incident. Any delay in registration has to be adequately explained. Delay in registration may cause a suspicion as to whether it was an afterthought or a concocted version.  
  
**Where it can be registered?**

Ideally, the FIR should be registered in the police station within whose geographical limits the crime took place. But in case of an emergency, there is no bar on any other police station registering the FIR and then transferring the investigation to the correct station. Also, it is not always necessary to go in person to register the FIR. In an emergency, the police can register an FIR based on a phone call or e-mail.

As for the police, once the FIR is registered, they have to investigate the case, record statements of all witnesses, and file a final report. If the police conclude that there is no basis for the complaint or no evidence available to prosecute the case, further action is dropped. This has to be communicated to the complainant. If there is enough evidence, the final charge sheet is submitted before Court and the trial begins.

By the help of above mentioned remedy FIR will be lodged.

THE HON’BLE SUPREME COURT HAS HELD THAT , “A Vague, indefinite or unauthorized piece of information cannot be regarded as F.I.R merely because it was received first in point of time. Likewise an unclear message over the phone simply stating that a person is lying dead on the road does not amount as First Information report.”

One must know all the remedies that one will have if Justice is denied.

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