
POLICE IN CRIMINAL JUSTICE SYSTEM IN INDIA

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ABSTRACT

Police plays a very important role in Criminal justice system across the world. Immediate help to the victim of the crime is the main purpose of the Police force. Not only immediate help, but also nabbing the accused of the crime, investigation of crime and set criminal justice system into motion is the main function of the Police. It is not wrong to say entire prosecution rest on the investigation and story told by the Police. If the Police are not vigilant and fair there will be collapse of the Criminal Justice System. This paper This paper will discuss about the role , responsibilities of Police in Criminal Justice System in India.

Keywords: Police, Power, Criminal Justice System

INTRODUCTION

Whenever any offences are committed, it is the Police which set the criminal justice into motion. Police is entrusted for maintaining the law and order in the society and it is the paramount duty to provide protection to the society. It is the duty of the police to report the crime and investigate fairly and collect all evidence which is related to the offence committed and also to apprehend the accused and bring the accused to the criminal justice system for punishment. The police recognize themselves psychologically and morally bound to do all probable to restrain crime and investigate the cases effectively to meet the peoples' prospects. In this procedure, the police often resort to short cut methods and displays negative character of police force sub-culture, specifically, offensiveness, use of third degree methods, defensiveness in the face of criticism, lack of innovativeness etc. Police are one of the most ubiquitous organizations of the society. The policemen, therefore, happen to be the most visible representatives of the government. In an hour of need, danger, crisis and difficulty, when a citizen does not know, what to do and whom to approach, the police station and a policeman happen to be the most appropriate and approachable unit and person for him. The police are expected to be the most accessible, interactive and dynamic organization of any society. Their roles, functions and duties in the society are natural to be varied, and multifarious on the one hand; and complicated, knotty and complex on the other. Broadly speaking the twin roles, which the police are expected to play in a society are maintenance of law and maintenance of order. However, the ramifications of these two duties are numerous, which result in making a large inventory of duties, functions, powers, roles and responsibilities of the police organization. ¹This paper will discuss about the role , responsibilities of Police in Criminal Justice System in India.

POLICE SYSTEM IN INDIA

The word 'Police' is a French word and in Greek 'Politeia' which indicates government or civil administration. Police terminology originated in France in the eighteenth century.² Article 246 of the Constitution of India places Police as the state subject so state has the power to make rules and regulation which will regulate the Police Department. The Head of the Police

¹ <https://bprd.nic.in/WriteReadData/userfiles/file/6798203243-Volume%202.pdf>

² Kulshreshtha Ashish Kumar, Intricacies Of Police Investigation, Role Of Police In Criminal Justice System Of India And Need To Reform, International Journal of Creative Research Thoughts (IJCRT) Volume 8, Issue 5 May 2020

Department in every state is the Director General of Police who's able to supervise the police department across each state to the "state government", as well as to suggest suggestions on police-related matters.³ The Indian Police Force is governed by Indian Police Act, 1861, it is still effective today with slight modification. Although state police forces are separate and may differ in quality of equipment and resources, their patterns of organization and operation are similar, but the investigation of crime is governed by the criminal procedure code, 1973 as amended up so far. It is the duty of Police to require action immediately upon the knowledge about crime of sexual offences against women and help the victim then investigate the said crime properly and fairly. In the state case, a good justice which is to the satisfaction of the victim is usually depend on the fair investigation and collection of concrete evidence and therefore the burden of proof lies on the shoulders of Police, where Police is responsible to prove their case beyond reasonable doubt against the accused of the crime.⁴

POLICE UNDER CRIMINAL PROCEDURE CODE, 1973

As it is stated above, the first State agency to intervene in the crime scene is the Police. The first stage is the lodging of the First information Report (F.I.R). "First Information Report is not defined in the Criminal Procedure Code. It may be defined as follows:

1. It is an information which is given to the Police Officer .
2. Information must relate to the a cognizable offence,
3. It is information first in point of time.
4. It is on the basis of this information that investigation into the offences commences."⁵

The provisions of lodging FIR in cognizable cases are mentioned in Section 154 of the Code. The information which is given to the police officer and reduced in writing in book is known as First Information Report. It is on the basis of this report that investigation of a cognizable offence starts under Section 154. In the case of *State of U.P. v. Mukesh*⁶ it was held that FIR is the intimation about the occurrence of the incident. It is a mandatory duty of Police Officer to register a First information Report in a cognizable cases. It was held in *Rajinder Singh Katoch v. Chandigarh Administration and others*⁷ that although the officer-in charge of a police station

³ Ms. Anusree Telfy C, "Role Of Police In Criminal Justice System In India" Law Audience Journal, Volume 2 Issue 2, June 2020 ISSN (O): 2581-6705

⁴ Supra 2

⁵ Mishra S.N, The Code of Criminal Procedure, 22nd Edition, Central Law Publications

⁶ (2013) 1 Cr. L.J .194 (S.C).

⁷ (2008) 1 Cr. L.J. 356 (S.C.)

is legally bound to register a First Information Report in terms of Section 154 if the allegations made give rise to an offence which can be investigated without any permission from the Magistrate concerned the same may by itself, however does not take away the right of the competent officer to make a Preliminary enquiry, in a given case in order to find out as to whether the First Information Report sought to be lodged had any substance or not. It was held in *Aleque Padamsee and others v. Union of India and others*⁸ that in case of inaction of police officials in registering First Information Report, person aggrieved can adopt modalities contained in Section 190 read with Section 200 Cr.P.C. by laying complaint before the Magistrate having jurisdiction to take a cognizance of offence. Again in the case of *State represented by Inspector of Police, Chennai v. N.S. Ganeswaran*⁹ that in order to declare a provision mandatory the test to be applied is as to whether non compliance of the provision could render entire proceedings invalid or not. Whether the provision is mandatory or directory, depends upon the intent of legislature and not upon the language for which the intent is clothed. But the circumstances that legislature has used the language of compulsive force is always of great relevance. Thus, applying the said test to be provisions of Section 154(2) are merely directory and not mandatory as it prescribes only a duty to supply the copy of FIR. It was also made clear that unless aggrieved makes out a case of prejudice or injustice some infraction of law would not vitiate the order /inquiry/ result.¹⁰ Section 155 of the code deals with the information in Non-Cognizable cases and investigation by the Police in such cases. Where a Magistrate under Section.155(2) Cr.P.C. gives an order to a Police Officer to investigate a non-cognizable offence, the police officer receiving such order may exercise the same powers in respect of the investigation except the power to arrest without warrant which he does in a cognizable offence.¹¹ Section 156 is the important provision which empowers the police officer to investigate cognizable case, without the orders of the Magistrate, “According to section 156(3) Cr.P.C, any Magistrate is empowered under Section. 190 Cr.P.C. can order a police officer in charge of a police station to investigate any cognizable offence. Section 190 empowers any Magistrate to take cognizance upon receiving any complaint or upon police report (challan) or upon information received from any person other than police officer who is having knowledge that such offence is committed.”¹² The power under Section 156(3) can be invoked by the Magistrate before taking cognizance and was in the nature of preemptory

⁸ (2007) 4 Cr.L.J 3729 (S.C.)

⁹ (2013) 3 Cr.L.J.3691(S.C.)

¹⁰ Supra 5

¹¹ Supra 2

¹² Supra 2

reminder or intimation to the police to exercise the plenary power of investigation beginning with Section 156 and ending with report or charge sheet under Section 173. Section 157 of the code deals with procedure to be followed by the Police in investigation where the commission of cognizable offence is suspected and authorizes an officer- in-charge of a police station not to investigate if he considers that there is no sufficient ground for investigation. It requires that prompt intimation of every complaint or information made to an officer-in charge of the police station of the commission of a cognizable offence shall be given to the Magistrate having jurisdiction.¹³ As per section 160 Cr.P.C police officer may by order in writing require attendance of witnesses. Provided that no male person under the age of 15 years or above 65 years or a woman or a mentally or physically disabled shall be required to attend at anywhere aside from the place during which such person abovementioned resides. As per section 161 Cr.P.C statements are taken from the one that are familiar with the facts and circumstances of the case and are reduced into writing. as long as statement made under this sub-section can also be recorded by audio-video electronic means. By the Criminal Law (Amendment) Act, 2013, it had been stated that the statement of a lady against whom an offence u/s 354, 354A, 354B, 354C, 354D or 376, 376A, 376B, 376C, 376D, 376E or section 509 of IPC is imagined to be committed or attempted shall be recorded by a lady policeman.¹⁴ After the investigation is over, every police officer has mandatorily to submit report to Magistrate under Section 173 of the code. Report submitted under this section often called 'Completion Report' or 'Charge Sheet'. This Police charge sheet corresponds to the complaint made by private person on which criminal proceedings are initiated. Submission of Charge Sheet means that preliminary investigation and preparation of the case is over and the Magistrate can take cognizance of the offence.¹⁵ After the filing of the Charge sheet under section 173 and posting of the case for further cross-examination there can be no further investigation into the case by Police.¹⁶ Charge Sheet is not a complete or accurate basis of the Prosecution case.¹⁷ Provision related to search by police officer is given under section 165 of the code. Besides this there are other provision regarding arresting of the accused by the Police is given under Section 41 of the Code. Cr. P.C, it includes the arrest power given to police officers, including "an arrest without a warrant", the detention of a person who refuses to disclose himself and his "place of residence", the "search for premises" in which the person in custody enters or has been

¹³ Supra 5

¹⁴ Supra 2

¹⁵ Rama Shankar v. State of U.P. AIR 1956 All 525

¹⁶ In re N. Krishnaswami, AIR 1956 Mad 592.

¹⁷ R.K. Dalmia v. Delhi Administration AIR 1962 SC 181

suspected to even have visited, the seizure of private possessions with these arms, etc.¹⁸The arrest of the person should be according to the law. Article 21 of the Indian Constitution which is a fundamental right to life talks about the person deprived of his liberty according to the procedure established by law. It was held in *Avinash v. State of Maharashtra*¹⁹ that Section 41 is a depository of general powers of the police officer to arrest but this power is subject to certain other provisions contained in the Code itself as well as in the special statute in which the Code is applicable. Under section 42 of Cr. P.C. a "police officer" is also motivated. To apprehend any person accused of committing a non-recognizable crime and refusing to give his name and residences at the request of that officer or officer, there are grounds to assume that such evidence is false in order to determine certain information.²⁰ In the cases of sexual offences against women, most of the offences other than the Rape are like summon cases as "Arrest must be made after satisfying necessary parameters as mentioned under section 41 of the Cr.P.C,"²¹

CONCLUSION

Police position is significant and they need to utilize police strength cautiously in any case, not arbitrarily. Police examinations have become a significant piece of the "Criminal equity framework" and along these lines "law execution" could surely commit senseless errors which regularly lead to either a blameless man going to jail. Cops need to submit to huge lawful guidelines so if exploring a wrongdoing.

¹⁸ Supra 3

¹⁹ 1983 Cr.L.J. 1883.(Bom).

²⁰ Supra 2

²¹ *Arnesh Kumar v.State of Bihar & Another*, (2014) 8 SCC 273; Supra 2

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