Chapter- III

PRE- INVESTIGATION PROCEDURE - FIRST INFORMATION REPORT

Generally, the term 'Investigation,' refers to a systematic and procedural way of collection, collation, analysis and ascertainment of facts to a crime. It is both an art and a science. It is an art because a successful police investigator has to possess certain investigative skills and expertise. It is a science because its process of enquiry has to be systematic and procedural.

(a) The police powers to investigate crimes: The section 2(h) of the Code of Criminal Procedure has defined the term 'investigation' as "all the proceedings under this code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf." The police are designated as the principal agency for carrying out investigation of cognizable offences efficiently and effectively with all necessary powers and privileges under section 156 CrPC. They can summon, examine and record the statements of witnesses to the crime under section 160, 161 and 162 CrPC; effect search and seizure under section 100 and 165 ; arrest the accused under section 46 CrPC and file charge-sheet, if the evidence is forthcoming, under section 173(1) CrPC. However, these powers of the police are not unfettered. The police are required to use the powers of investigation as per the procedures and rules laid down under the CrPC and the Judiciary. They cannot punish the witness, under section 188 IPC, who refuses to comply with the directions of the police holding investigation as the order under section 160 CrPC is not an order promulgated by a public servant.[1]

The police are empowered, *suo motto,* to investigate only cognizable offences and not non-cognizable offences. "Cognizable offence" as defined

under section 2(c) CrPC refers to an offence for which, and "cognizable case" refers to "a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant." In non-cognizable offences, the police cannot commence investigation without the written order of a competent magistrate. "Non-cognizable offence" under section 2(l) CrPC, refers to "an offence for which, and "non-cognizable case" refers to a case in which, a police officer has no authority to arrest without warrant." Again, the police cannot investigate all the cases. Section 155 envisages the procedure for the police to investigate non-cognizable offences. Further to arrest a person for non-cognizable offence, the police have to obtain a written warrant of arrest from a competent magistrate. Only an officer in charge of a police station under section 2(o) CrPC or any other officer of higher rank empowered under section 36 of CrPC only can investigate cases.

(b) Territorial limits of the police to investigate cognizable offences: As far as territorial limits of the police to investigate cognizable offences are concerned sections 177 to 189 CrPC have clearly laid down certain provisions. The provisions of the sections are very clear where an offence might be committed within the local limits of one police station, or it might have been committed partly within the local limits of one police station and partly within the local limits of another police station, or an offence might be committed on journey or voyage, and then questions may arise as to which police station is to undertake the investigation into such an offence. Under such situations sections 177 to 189 will come for the help of the police who are empowered to hold investigation under section 156 CrPC. In so far as registration of complaint there is no territorial bar and the police can continue with the investigation of a case till the jurisdictional police take over the case for investigation. In ***Satvinder Kaur v. State*** [2] the Supreme court has held that the original complaint was filed by the petitioner in the police station at Patiala. Later another complaint was filed in a police station in Delhi, the Delhi police has, in view of Sections 177 and 178 CrPC, power to hold the investigation.

(c) Authority given to a private citizen to investigate: There are several options open for a person aggrieved of the commission of cognizable offence to get justice when he feels that the police will not redress his problem. He may approach a magistrate with a complaint. The magistrate may there upon take up the cognizance of the offence and may proceed to take steps for the trial of the accused person. When this is not possible or feasible, and when the police appears to be partial and unfair and would damage the investigation for any reasons and considerations, the magistrate may direct an investigation to be done by a person other than a police officer as per the provisions of section 202(1) CrPC. Such a person will have all the powers of investigation except the power to arrest the accused without a written warrant from the magistrate as envisaged under section 202(3) CrPC.

(d) Object to make investigations speedy and just: As a paradox to the maxim that the justice delayed is justice denied, the law-makers with deep intuition and vision have incorporated several provisions into sections 154 to 176 CrPC to ensure speedy and just investigations. These sections expect the investigating police officer to be prompt and fast in investigations with out resorting to any delay tactics to bury the case by delayed investigation. The CrPC is also very particular that the investigating police do not transgress and over do to finalize the case under investigation by harassing and abusing the accused as well as the innocents for extraneous considerations.[3] Section 57 CrPC expects the investigating police officer to complete the investigation within 24 hours after the arrest of the accused. If the investigation is not completed is within 24 hours, the investigating police officer has to seek police custody of the accused under section 167 CrPC, wherein the time he is required to complete the investigation within 15 days. In a summons-case the investigating police officer is expected to complete investigation within six months, otherwise he has to obtain permission from a magistrate to continue further investigation of a case as envisaged under section 167(5) CrPC. With the same spirit clause (2) of section 167 requires the investigating police officer to file charge-sheet within ninety days from the date of detention of an accused

person in judicial custody where an offence is punishable with death, imprisonment for life or imprisonment for a term of not less than ten years and sixty days where the investigation relates to any other offence. Further, section 173 of (1) CrPC expressly provides that every investigation under chapter XII of CrPC shall be completed without unnecessary delay.

(e) Relationship between the police and judiciary: The police are empowered under section 156 CrPC to investigate *suo motto* cognizable offences without the order of a magistrate. Generally the judiciary is not empowered to interfere with the investigation of the police unless there are certain glaring flaws of law. This is clearly substantiated by the Supreme Court in ***State of Haryana v Bhajan Lal***,[4] by observing that the High Court of Haryana cannot quash the FIR or stop the investigation unless the complaint does not discloses cognizable offence or civil or mala fide in nature. Even the Law Commission has also observed that a magistrate is kept in the picture at all stages of the investigation, but he is not authorized to interfere with the actual investigation or to direct the police as to investigation is to be conducted.[5] This restriction is imposed to ensure that the investigation runs fairly and impartially without any interference and influence from the judiciary to meet the interests of justice. However, the judiciary can interfere with the investigation of the police when the latter transgress the procedural path with vested interest and the innocents are made to suffer from it. In appropriate cases an aggrieved person can always seek a remedy by invoking the power of the High Court under Article 226 of the Constitution (or under section 482 CrPC) under which, if the High Court could be convinced that the power of investigation has been exercised by the police officer *mal fide*, it can always issue a writ of mandamus restraining the police officer from misusing his legal power.[6]

A. What is First Information Report :- Generally, investigation of a cognizable offence commences with lodging of First Information Report (FIR) to the police. It is a pre-requisite for the police to commence the investigation of a cognizable offence by setting criminal law into motion.

Vivisection of section 154 CrPC, will provide the following constituents of FIR:

1. Information to be given to an officer in charge of a police station must be relating to the commission of cognizable offence.
2. Information may be given either in writing or orally.
3. If the information is given orally to such an officer, it shall be reduced to writing by him or under his direction, and be read over to the informant and shall be signed by the person providing such an information.
4. The information given in writing must also be signed by the informant.
5. 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 book is generally known as Station House Diary or General Diary.
6. A copy of the information shall be given forthwith, free of cost to the informant.
7. Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by CrPC, and such officer shall have all the powers of an officer in charge of a police station in relation to that offence.

It is pertinent to note that the information furnished to an officer in charge of a police station under section 154 must be of commission of cognizable offence. Any information other than this will not attract action under the section. Moreover, information relating to the commission of cognizable offence must not be vague and be definite enough to commence investigation. [7] The information on which the police officer is expected to act must be authentic. In other words, the information must be capable of being

traced to a specific individual who would take the responsibility for the same so that if the information subsequently turns out to be false, the informant may be proceeded against under section 182 IPC. The information must be sufficiently definite and clear enough to suspect that a cognizable offence had been committed. The condition as to the character of the statements is really two-fold: first it must be information; and secondly, it must relate to a cognizable offence on the face of it and not merely in the light of subsequent events. It was never meant to be laid down that any sort of information would fall under section 154 so long as it was the first in point of time.[8]

A cryptic and vague message, not clearly specifying commission of any cognizable offence cannot be taken as an FIR.[9] In a murder case, an information over telephone by the village chowkidar to the police that firing was going on and that there was a commotion in the village, was held to be cryptic by the Supreme Court, and the said information was held not sufficient to be treated as an FIR.[10] An entry in the police station relating to the movements of the API (Assistant Police Inspector) to get the injured medical attention, was held not to be an FIR, even if the said entry was the first in point of time. Such an entry lacking particulars like names of the accused, time and place of incident etc. was held not to be equivalent to an FIR.[11] A dying declaration under section 32(1) of the Evidence Act becomes an FIR when that declaration is taken up as a complaint by the police.

In ***Joydeb Das alias Jogi & Another v State of West Bengal***[12] the High Court of Calcutta held that information given to the Head Constable by the Prosecution Witness-2 on phone was a cryptic report and only for the purpose of visiting the scene of occurrence. If, in the aforesaid premise, another first information report which was a detailed one came to be recorded, no exception can be taken to the same being treated as a first information report. If however, upon an oral complaint, the investigation gets started, any subsequent written report about the incident cannot be taken as an FIR but only as a statement under section 161 of CrPC. Such a statement under section 161 CrPC, unlike

an FIR, cannot be used to corroborate the evidence of the informant.[13] A report will not be treated as an FIR if it was prepared and handed over to the police officer during the investigation of the case as it is hit by section 162 CrPC. When more than one person goes at or about the same time and make statements to the police about the same cognizable offence, the police officer will use common sense and considers one of the statements as FIR. [14]

It is the first and foremost duty of an officer in charge of a police station to receive such an information, register a case by making necessary entries in the General Diary, and carry out the investigation as per the powers and procedures laid down under section 156 and 157 of CrPC. In ***State of Haryana v. Bhajan Lal,*** [15] the Supreme Court has clearly held that if any information disclosing a cognizable offence is laid before an officer-in-charge of a police station satisfying the requirements of section 154(1), the said police officer has no option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information. If such information is orally given before an officer in charge of a police station the same should be recorded by that police officer without any interpolations and obtain signature of the informant or his thumb impression, if he is an illiterate. The requirement of recording the substance of the FIR in the daily diary means mentioning not only the particulars of the person who is recording the FIR, but also the particulars of eyewitnesses and names of the accused in the daily diary as it is observed by the High Court of Delhi in ***Rajesh Kumar v State.*** [16]

As the Supreme Court held in ***Tulsiram v State of M.P.***, [17] that it is not permissible to hold an *ex parte* inquiry before the registration of the case when a written report given to the police discloses commission of cognizable offence. The Apex Court has further said that any pre-FIR inquiry cannot be made the basis by the police to refuse to register an FIR.[18] However, in ***Rajinder Singh Katoch v. Chandigarh Admn. and Others,*** [19] the Supreme Court has held that although an officer in charge of a police station is legally bound to register a first information report in terms of Section 154 of CrPC, if the allegations made

by them give rise to an offence which can be investigated without obtaining any permission from the Magistrate concerned, the same 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 sought to be lodged had any substance or not.

The first information report is a very valuable document and the accused is entitled to know what was said in that report to connect him with the offence so that he may be in a position to protect his interest by cross-examining the prosecution witnesses with respect to any additions or alterations in the story of the prosecution, which may subsequently be made in evidence.[20] The receipt and recording of an information report is not a condition precedent to the setting in motion of a criminal investigation. No doubt in the great majority of cases, criminal prosecutions are undertaken as a result of information received and recorded in this way. But there is no reason why the police, if through their own knowledge, or by means of credible though informal intelligence which genuinely leads them to the belief that a cognizable offence has been committed, should not of their own motion undertake an investigation into the truth of the matters alleged as per section 157. Further, under the section when directing that a police officer who has reason to suspect from information or otherwise that an offence which he is empowered to investigate under section 156 has been committed, shall proceed to investigate the facts and circumstances to support this view. In truth, the provisions as to a first information report are enacted for other reasons. All criminal courts should bear in mind the importance of examining, when there appears to be any necessity to do so, the first information of an offence reduced to writing in accordance with this section, in view of the notorious tendency in this country to improve upon the original statement of facts to strengthen the case as it proceeds and sometimes to add to the persons originally named as the offenders. So, it is of great importance to know what was said at first, before there is time for facts to be forgotten or embellished.[21]

B. Nature and Contents of FIR :- As far as possible an FIR should be a natural outcome of report of the complainant. It must embrace all the basic requirements to set criminal law in to motion and also for smooth and successful conduct of investigation. It should contain the name, signature and address of the informant, circumstances leading to the crime, the nature of crime committed, the place, date and time of crime, name(s) of the accused and witness (s) to the crime, if any property is lost or stolen and its list etc. In ***Bhimappa Jinnnappa Naganur v State of Karnataka,*** [22] the Supreme Court has disbelieved the presence of eyewitnesses, when the written report upon which the FIR was based did not contain the names of witnesses. In the FIR the details of torture, narrated in evidence in the court, were not mentioned, hence the High Court of Calcutta set aside the conviction under section 306.[23] The High Court of Gujarat held that an FIR need not contain incidental matters, but it must contain crucial or relevant information concerning the offence and perpetrators thereof.[24] If the name of the eye-witnesses to the occurrence is given in the FIR that increases the credibility of the information. The High Court of Kerala in ***Balkar Singh v State of U. P.***, [25] observed that it is not safe to rely on alleged recovery of clothes and bag and other articles of the deceased at the pointing out of complainant was highly suspicious. In ***Sabbi Mallesa and Others v. State of A.P,*** [26] the High Court of Allahabad observed that especially in heinous cases of homicide etc., FIR should contain details of all the accused persons otherwise it would be not correct to rely on the deposition of eye witnesses to the scene of crime who have made omnibus statements. In ***K.T.Palanisamy v. State of Tamil Nadu,*** [27] the Supreme Court has held that the fact that the deceased was last seen with the appellant should have been specifically disclosed in the first information report.

As far as possible an FIR should be natural. If it is full fledged one with all minute details of the incidence then it will give suspicion of having prepared at the instance of someone with specific motive to prosecute. In ***State of Punjab v Mohri Ram,*** [28] the Supreme Court has held the evidence of a witness

to be suspicious, as the FIR recorded by the witness contained every minute detail of the incident. The repetition of the minute details by the witness in the trail court, subsequently, was held not to make the deposition trustworthy. However, if the FIR is a natural outcome of what the informant stated it should not be suspected to be doubtful as it contains all the details of incidence though it may depend upon case to case.

First Information Report - Whom to be sent :- As soon as the case is registered a copy of the FIR will be retained in the station and the original FIR will be forwarded without delay to the magistrate having jurisdiction, enclosing the original complaint made by the complainant. Where a Station House Officer of a police station is sub-inspector, a copy will be sent along with a Station House Diary to the Circle inspector of police, and to Sub-Divisional police officer. In case of heinous crimes a copy of FIR has to be sent invariably to Superintendent of Police. Where Station House Officer is a police inspector then a copy of FIR will be sent directly to sub-divisional police officer. When the magistrate having jurisdiction is not the local magistrate a fourth copy will have to be sent to the latter also.[29]

In cases coming under clause (b) of the proviso to section 157 CrPC, the copy of the FIR should be sent to the magistrate, through the circle inspector.

In cases referred under section 155(2), 156(3) and 202, CrPC, a copy of the FIR need not be sent the magistrate as the referred complaint itself constitutes first information. Similarly in cases registered under section 182 or 211 of Indian Penal Code, without the orders of the magistrate, a copy of the FIR need not be sent the magistrate.[30]

C. How to Lodge an FIR :- Under CrPC, there are three ways through which an aggrieved person or on his behalf some one else may lodge complaint for commission of cognizable offence. The first and foremost way of lodging complaint is under section 154 CrPC, wherein any person can lodge first information report as to the commission of a cognizable offence before an

officer in charge of a police station. If an officer in charge of a the police station refuses to register the FIR, the aggrieved person may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him. When an aggrieved person fails to get his FIR registered from above means then he can approach a competent judicial magistrate to lodge the complaint. The magistrate may there upon take up the cognizance of the offence and may proceed to take steps for the trial of the accused person under section 202 CrPC or before taking cognizance of the offence he may direct under section 190 read with 156(3) CrPC the jurisdictional police to investigate the case. Commonality is that in all kinds of complaints the nature and contents remain the same.

D. Persons who can lodge FIR :- Under the scheme of CrPC not any one or every one can lodge complaint before the police or a magistrate, except for the offences mentioned under section 39 of CrPC. Only victim or on his behalf a person who has been given general power of attorney can file a complaint. For instance, if A has been cheated by B- a private person, then either A himself can lodge a complaint or C who has been authorized by A can lodge a complaint against B and none else. Section 39 provides that:

(1) Every person, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code (45 to 1860), namely:-

i) Sections 121 to 126, both inclusive, and section 130 (that is to say, offences against the state specified in Chapter VI of the said Code).

ii) Sections 143, 144, 145, 147 and 148 (that I to say, offences against the public tranquility specified in Chapter VIII of the said code).

iii) Sections 161 to 165-A both inclusive (that is to say, offences relating to illegal gratification)

iv) Sections 272 to 278, both inclusive (that is to say, offences relating to adulteration of food and drugs etc)

v) Section 302, 303 and 304 (that is to say, offences affecting life)

vi) Sections 364-A (that is to say, offence relating to kidnapping for ransom etc).

vii) Section 382 (that is to say, offence of theft after preparation made for causing death, hurt or restraint in order to the committing of the theft).

viii) Sections 392 to 399, both inclusive and section 402 (that is to say, offences of robbery and dacoity)

ix) Section 409(that is to say, offence relating to criminal breach of trust by public servant etc)

x) Sections 431 to 439 both inclusive (that is to say, offences of mischief against property)

xi) Sections 449 and 450 (that is to say, offence of house trespass)

xii) Sections 456 to 460 both inclusive (that is to say, offences of lurking house trespass) and

xiii) Sections 489 A to 489E both inclusive (that is to say, offences relating to currency notes and bank notes).

Under section 157 (1) CrPC an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate based on an information received or otherwise, he shall forthwith send a report of the same to a magistrate empowered to take cognizance of such offence upon a police report and shall proceed with investigation. In other words, under the section an officer in charge of a police station can *suo moto* register a complaint.

Section 151 CrPC provides that every police officer receiving information of a design to commit any cognizable offence shall communicate such information to the police officer to whom he is subordinate and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

E. Evidentiary Value of FIR :- The first information report is an important legal document, though it is not a substantive piece of evidence. [31] However, its importance cannot be ignored as it can be used to corroborate the informant under section 157 of the Evidence Act or to contradict him under section 145 of the evidence Act, if the informant is called as a witness at the time of trial. [32] It may however become relevant to under section 8 of the Evidence Act. The FIR can also be used for the cross-examination of the informant and for contradicting him under section 145 of the Evidence Act,but the FIR cannot be used for the purpose of corroborating or contradicting any witness other that the one lodging the FIR.[33] It lends credence to the prosecution version and diminishes the possibility of a coloured version being put up by the complainant in the report. It is for this reason that the courts view with concern any delay in the lodging of the FIR and the law provides for the time and of the lodging of the FIR to be recorded. As observed by the High Court of Bombay in ***Ramesh Nana Ghorpade v State of Maharasthra,*** [34] the prompt lodging of the FIR to a great extent brings out the spontaneous version of the occurrence and rules out the possibility of a coloured and thought-out version being put-up. The object of FIR is to obtain early information regarding the circumstances in which crime was committed, the names of the actual culprits, part played by them and the names of the eye-witnesses present at the scene of crime. Further, it is also vividly clear that the legislature by providing in section 157 CrPC that an officer in charge of a police station shall forth with send a copy of the report to the Magistrate concerned , provides an external check for the prompt lodging of the FIR. Even the Police Manual mandate the police to dispatch a copy of FIR to the immediate superior officer as soon as the case is registered. Thus, this section provides a safety valve in cases where the FIR is either ante-timed or ante-dated.

It should be noted that an unexplained delay is always fatal to the prosecution. It weakens the case of prosecution but also convinces court to draw adverse inference against the prosecution. As the Supreme Court

observed in ***Thanedar Singh v. State of M.P*** [35] that "a specific suggestion was put to Prosecution Witness 10 (Station House officer , Sihonia Police station) that FIR was prepared 2 or 3 days after the occurrence which, of course, was denied. Prosecution Witness -10 admitted that no attempt was made to apprehend the accused on 19th and 20th May. It is significant to note that the crime number/FIR number is not to be found in the inquest report (P-6), site plan (P-5) or P-8 which is a requisition sent to the hospital for post-mortem. No reference whatsoever is made in Exhibit P-6 about the information, if any, furnished by Prosecution Witness 8 or Prosecution Witness 6. All this would support the defence version that FIR (P-10) in which the names of the accused were mentioned would have probably come in to existence much later."

In ***Jagdish Murav v. State of U. P. and Others,***[36] the Supreme Court has observed that an undue delay in sending FIR to the Magistrate would also have an adverse effect on the prosecution. The original diary had not been produced despite the fact that a specific defence was raised that the FIR was not ante-timed or ante-dated. The Circle Officer, whose office was situated at about 1 1/2, km from the police station and was housed in the building of Kotwali police station, saw the FIR only on 11-3-1993 though FIR was stated to be registered on 7-3-1993. It reached the Court of Magistrate much later i.e. 16-3-1993. In ***Mahendeo Kundalik vaidya v State of Maharastrha,*** [37] the High Court of Bombay has held that an adverse inference might be drawn that the FIR was lodged later than the stated time, unless delay in sending the FIR was explained properly.

In cases where the accused himself is the complainant in such situation the FIR cannot be used either for corroboration or contradiction, because the accused cannot be the prosecution witness, and he would very rarely offer himself to be a defence witness under section 315 of CrPC. Moreover, if the FIR is of a confessional nature it cannot be proved against the accused-informant as it would be hit by section 25 of the Evidence Act as the section envisages that no confession made to a police officer shall be proved as against

a person accused of any offence. [38] If the FIR given by the accused is non-confessional, it may be admissible in evidence against the accused as an admission under section 21 of the Evidence Act or as showing his conduct under Section 8 of the Evidence Act. [39]

F. Role of the Police in Investigation of Non-cognizable cases:- Under the scheme of CrPC, the police do not have *suo motto* powers to investigate non-cognizable offences. Non-cognizable offences are considered, generally, as petty- private criminal wrongs which may be committed in the society in normal course and do not deserve to be investigated and punished severely. Such offences may be investigated by the police provided a competent magistrate orders so in writing. The aggrieved person can, however, approach a magistrate with a complaint and the magistrate may take necessary steps for the trial of the offender.

(a) *Information to the police as to non-cognizable offence:* As section 155 (1) CrPC provides that if any person gives information to an officer in charge of a police station of the commission of a non-cognizable offence, the officer shall enter or cause to be entered the substance of the information in a book prescribed for this purpose. The officer shall then refer the informant to the magistrate. The police officer has no further duty unless he is ordered by a magistrate to investigate the case.

*(b) Powers of the Police to investigate a non-*cognizable *case depends on magistrate order:* The cardinal rule envisaged under section 155(2) CrPC is that no police officer shall investigate a non-cognizable case without the order of a magistrate having power to try such case or commit the case for trial. This power is not expressly provided under the section. This can be implied from the very wording of the section 155(2). However, the power cannot be exercised arbitrarily. The magistrate's order should be based on objectivity and just reasoning. Otherwise, an ordinary person will be put in to unnecessary harassment and abuse.

If a police officer investigates a non-cognizable case without the order of a magistrate, such a non-conformance to the mandatory provisions laid down in section 155(2) may be a material one vitiating the ultimate proceedings and may also be considered as violative of Article 21of the Constitution. [40] When such a breach is brought to the notice of the court at an early stage of the trial, the court will have to consider the nature and extent of the violation and pass appropriate orders for such re-investigation as may be called for. If at all a police officer wants to investigate a non-cognizable case, he may write to jurisdictional judicial magistrate requesting him with *bona fide* reason to pass an order to investigate the case.

(c) A case constituting both cognizable and non-cognizable offences: If a case consists of both cognizable and non-cognizable offences, then there is no bar as such to investigate such a case by a police officer. This power is used by virtue of section 155(4), wherein it is provided that "where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable, notwithstanding that the other offences are non-cognizable". In ***State of Haryana v. Bhajan Lal,*** [41] the Supreme Court has clearly held that under the newly introduced sub-section (4) to section 155, where a case relates two offences in which at least one is cognizable, the case shall deemed to be a cognizable case notwithstanding that the other offences are non-cognizable and, therefore, under such circumstances the police officer can investigate such offences with the same power as he while investigating a cognizable offence. First Schedule of CrPC provides for classification offences as cognizable and non-cognizable which could be made use of by the police as ready-reckoner to find out which offence is cognizable and which is non-cognizable.

(d) Powers to investigate a non-cognizable case: Under section 155(2) & (3) of CrPC a magistrate may pass such an order to a police officer to investigate a non-cognizable case. The police officer receiving such order may exercise the same powers in respect of the investigation, except the power

to arrest without warrant, as an officer in charge of a police station may exercise in a cognizable case.

G. Investigation of Unnatural and Sudden Deaths.- Under section 174(1) CrPC an officer in charge of a police station or some other police officers, who have been specially empowered by the State Government in this behalf, are required to make an investigation as to the apparent cause of death in cases where they receive information that a person:-

a. has committed suicide, or

b. has been killed by another or by an animal or machinery or by an accident, or

c. has died under circumstances raising a reasonable suspicion that some other person has committed an offence.

However, under section 173 (2) CrPC the police are not required to hold an inquest as this can be done by the magistrate specified in section 174 (5) of the CrPC when:

(i) the case involves suicide by a woman within seven years of her marriage or,

(ii) the case relates to the death of a woman within seven years of her marriage or

(iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf or

(iv) there is any doubt regarding the cause of death or

(v) the police officer for any other reason considers it expedient so to do, he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

An officer in charge of a police station shall, upon receipt of information of the sudden death of any person, immediately send a report in prescribed Form to the magistrate authorized to hold inquests and to other senior officers. He shall proceed expeditiously to the place where the dead body is and hold an investigation in the manner prescribed by section 174 CrPC. When the officer in charge of the police station is unable to hold the investigation himself for adequate reasons, he can depute a subordinate who has been specially empowered by the State Government. In case of disinterment of bodies in cognizable cases, the police officer concerned can do it without the orders of a magistrate, where as in cases of suicide and accidental death as there is no investigation of a crime, the police officer has to obtain the orders of a magistrate to disinter copses.

In investigation of unnatural deaths respectable inhabitants, who are required by section 174 CrPC to take part in the investigation as panchayatdars, should be summoned by an order in writing as per the powers and provisions of section 175 CrPC. In addition, persons who appear to be acquainted with the facts of the case should also be summoned similarly and examined during investigation in the presence of the panchayatdars.

Every part of the body should be carefully and systematically examined starting either from the surface of the head or from the surface of the feet and a full descriptions of the nature and dimensions of every injury found recorded by the investigating officer.

After inquest proceedings on the body are over, the body has to be sent for post-mortem examination providing necessary details and seeking necessary opinion from the medical officer who conducts post-mortem on the dead body.

Once all these formalities are completed, the investigating officer has to draw opinion as to whether any cognizable crime has been committed and then prepare the report and submit to the Jurisdictional Executive Magistrate and send the copies to his superior officers.

End Notes

1. *T. Purushottam v. C. I. of Police,* 1997 Cri. LJ 4011 (AP).
2. 1999 SCC (Cri.) 1503.
3. ***Abhinandon Jha v Dinesh Misrha,*** AIR 1968 SC 117.
4. AIR 1992 SC 604, 1992 Supp (1) SCC 335.
5. *41st Report*: vol. 1, p.167.
6. ***S.N. Sharma v Bipen Kumar Tiwari*** AIR 1970 SC 786.
7. ***State of Assam v U.N. Rajkhowa,*** 1975 Cri. LJ 354, (Gua); *also see* ***State of Haryana v Bhajan Lal,*** 1992 Supp (1) SCC 335.
8. ***Mani Mohan Ghose v Emperor,*** AIR 1931 Cal 745; also see ***Devaiya v State of Coorg,*** AIR 1956 (Mys) 51.
9. ***Marudhapandiyan v State*** 1993 Cri. LJ 1594 (Mad); also see ***Godu Ram v State of Rajasthan*** 1997 Cri. LJ 547 (Raj).
10. ***Sheikh Ishaque v State of Bihar*** (1995) 3 SCC 392, 1995 Cri. LJ 2682 (SC), 1995 (2) Crimes 294 (SC).
11. ***Sham Alias Raju R Anupur & Others v State of Maharashtra*** 1997 Cri. LJ 581 (Bom).
12. ***Pyara & Others v State of Rajasthan*** 1997 Cri. LJ 1065 (Raj).
13. ***Sunil Kumar & Others v State of Madhya Pradesh***, AIR 1997 SC 940; also see ***Golla Jalla Reddy v State of Andhra Pradesh,*** AIR 1996 SC 3244.
14. ***Mani Mohan Ghose v. Emperor***, ILR 58 Cal 1312.
15. AIR 1992 SC 604, 1992 Supp (1) SCC 335.
16. 1996 Cri. LJ 607 (Del).
17. 1993 Cri. LJ 1165 (MP).
18. ***Mohindro v State of Punjab & Others,*** AIR 2001 SC 2113, (2001) 9 SCC 581.
19. (2008) 1 SCC (Cri.) 571.
20. 1998 Cri. LJ 2879 (All); also see ***Jayanthi Lalubhai Patel v State of Gujarat*** 1992 Cri. LJ 2377 (Guj).
21. ***Apren Joseph v State of Kerala,*** AIR 1973 SC1, 1973 Cri. LJ 185.
22. ***Mani v State of Kerala***, 1987 Cri. LJ 1965(Ker).

23. ***Ramachanra Prasad Sharma v State of Bihar***, AIR 1967 SC 349: 1967 Cri. LJ 409 (SC).

24. ***State of U. P. v PA Madhu,*** AIR 1984 SC 1523.

25. ***Joydeb Das alias Jogi and Another v State of West Bengal***, 1999 Cri. LJ 1816 (Cal).

26. 1997 Cri. LJ 547 (Raj); also see ***Sheik ishque v State of Bihar*** (1995) 3 SCC 392; also see ***Raj Mandal Thakur v State of Bihar,*** 1993 Cri. LJ 1090 (Pat).

27. 2001 Cri. LJ 3329 (SC): AIR 2001 SC 2637.

28. 1994 Supp (1) SCC 632, 1994 SCC (Cri.) 737.

29. *The Karnataka Police Manual*: vol. II, chap.XXII, p. 123

30. *The Karnataka Police Manual*: vol. II, chap.XXII, p. 123-124

31. ***Damodarprasad Chandrikaprasad v State of Maharashtra,*** (1972) SCC(Cri.) 110; also see ***Kapil Singh v State of Bihar***, 1991 Cri. LJ 1248 (Pat).

32. ***Hasib v State of Bihar,*** (1972) 4SCC 773.

33. ***Damodarprasad Chandrikaprasad v State of Maharashtra,*** (1972) SCC (Cri.) 110.

34. 1996 Cri. LJ 2185(Bom).

35. ***Thanedar Singh v. State of M.P*** (2002) 1 SCC 491.

36. (2007) 2 SCC (Cri.) 236.

37. 2001 Cri. LJ 4306 (Bom).

38. ***Nisar Ali v State of U.P.***, AIR 1957 SC 366.

39. ***Bheru Singh v State of Rajasthan,*** (1994) 2 SCC 467.

40. ***P. Kunhumuhammed v State of Kerala,*** 1981 Cri. LJ 356 (Ker).

41. AIR 1992 SC 604, 1992 Supp (1) SCC 335 & 614.