

PROCEDURE FOR INVESTIGATION AND POLICE REPORT: A CRITICAL STUDY OF INDIAN LAW AND PRACTICE

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Abstract

In the study, this is one of the main elements of the criminal process. At the first stage by or that information received by the police about the commission of a crime, that is, "investigation". The purpose of this study is to determine the identity of the criminal, and before him-production and proof of his guilt or innocence, in accordance with the provisions of the Code. The biggest problem for the police, according to investigators, is not only that it has the potential to obtain a huge amount of available data, but also in the sense of knowledge that it does not know very well, but the knowledge is usually incomplete, which means this information is basically not accurate. In this article the attempts has been made to replace various Police Department research and report procedures, as well as a critical analysis of Indian law and practice.

Keywords: Police, Procedure, Investigation, Laws, Criminal Process.

INTRODUCTION

An investigation is one of most crucial part of criminal procedure. The very first step after a crime is committed or information which is received by a police officer about the commission of an offence is "investigation." The purpose of investigation is to identify the offender and precede him for trial so as to prove his /her guilt or innocence as per the provisions of the Code. Section 156 of the Code of Criminal Procedure confers powers on police officers to investigate in cognizable cases. In Non Cognizable cases, the policeman has no authority to research without warrant and has got to obtain a warrant under Section 155 (2) of the Code. The major problem for the police in conducting a criminal investigation is that not only is there potentially massive amounts of data available, but the relevance of the knowledge is often unknown, the knowledge is usually incomplete, and therefore the information is usually inaccurate. Further, to be useful in proving guilt in court (where beyond a reasonable doubt is the standard), The Chapter XII (Sections 154 to 176) of the Code deals with information to police and their powers to investigate.

MEANING AND DEFINITION

The term “investigation” has been defined in Section 2(h) of the Code of Criminal procedure, Investigation includes all the proceedings under this Code that seeks to collect and gather evidence of a crime for a case or specific purpose conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf

TYPES OF INVESTIGATIONS

Criminal Investigation Criminal investigation describes the process of gathering information (or evidence) about a crime in order to: (1) determine whether a crime has been committed; (2) to identify the perpetrator; (3) arresting the perpetrator; and (4) provide evidence to support the conviction in court.¹

Types of Criminal Investigations¹

- Fraud investigation
- Investigation of the scene
- Sexual offenses investigation
- Theft investigation
- Kidnapping investigation
- Investigation of an attack
- Murder investigation
- Crime prevention investigations

Security Inquiry: After a person has been arrested or denied his or her right to work in any way necessary, in that case any question raised by any law officer refers to a final investigation.

Neighbor Inquiry: It should be a very important step that is often overlooked. This step involves identifying and negotiating with people who were present at the scene of the crime or other wrongdoing that took place.

Investigations contain: -

- Moving on to the area.
- Fun facts and circumstances of the case.

- Detection and arrest of a suspect.
- Collection of evidence which may include: Assessing the people involved and reducing their writing statements. Search and seizure of places and objects respectively is considered appropriate.
- Formation of a view of whether there is a criminal case, and to take appropriate action accordingly.¹

INVESTIGATION PROCESS

Visible and Invisible Case: The apparent offense is described in Section 2 (C) of the Code, where a police officer may arrest without permission. The case is serious and misleading to the public, where the persecution is carried out at the discretion of the state. The penalty is imprisonment for three years or more and with or without penalty. Eg: - Death, Rape, Murder, etc. An unspecified crime and guilt is defined in Section 2 (I) of the Code, where the police cannot arrest without permission. The crime is not so serious in nature and the persecution is carried out on behalf of the parties. A penalty may be imposed not exceeding three years in prison. Eg: - Assault, Fraud, Degradation, etc.

Details to the Police: Section 154 of the code deals with when information is given as a material offense¹. The information must be provided by the person in charge to the station commander in writing or must be in writing by the police station commander. The written information must be read and signed by the person with the information, referred to as the "First Information Report." Where information is provided to a woman in any of the cases under Section 326-A, 326-B, 354, 354-A to 354-D, 376, and 376-A to 376-E or 509 IPC suspected you have a commitment or attempt, such a statement will be recorded by a female police officer. After the information is received by the police, it will begin its investigation, as long as it has grounds to suspect that a serious offense has been committed.

Power of Police Investigation: Section 156 of this code empowers the officer in charge of a police station to investigate a case in his or her area without the presiding of the Magistrate if the case is known to be natural. The police officer may also initiate an investigation into a Magistrate's order authorized under Section 190.

Cases Consisting of both Known and Unknown Cases According to section 155 (4), where two or more cases are pending in the case, at least one of which is unconstitutional, and the other unambiguous, the whole case must be regarded as a known offense, and the investigating officer shall have all the powers and authority.

INVESTIGATION PROCESS

The Section 157 of the Act sets out the procedure for the investigation to be followed by the police, to gather evidence. The investigation of a plausible case begins when the police officer in charge of the police station has reason to suspect a charge of trespassing on the basis of FIR or other such information obtained. It requires immediate MOTO closure to be submitted to the Magistrate. The police will continue to go to the scene in person to investigate the facts and circumstances, or to send one of his or her subordinates accordingly, and if necessary, steps will be taken to locate and arrest the person.

Where information obtained by a police officer is not sensitive, a police officer does not have to personally act or appoint a subordinate officer to investigate immediately. And if there is not enough reason to enter the investigation, he will not investigate the case. It will also state in its report that it does not comply with the requirements of this section, and inform the informant that it will not investigate the case or cause it to be investigated. He will then send the report to a competent Magistrate to look into the matter.

REPORTING TO THE MAGISTRATE (SECTION 158)

A report is sent to a Magistrate called a police report. A senior police officer was sent to inform the Magistrate that a case was being investigated by a police officer. The main purpose of submitting a report is to enable the Magistrate to manage the investigation and to provide guidance if required under Section 159 of the Code.

The report must be submitted to the Magistrate without delay. It was held that the delay in sending the report did not completely dismiss the prosecution's case.

In different stages of investigation, different reports must be submitted by the police to the Magistrate. These reports are:

Section 157 of the CrPC requires the police officer in charge of the police station to submit a report to the Magistrate, called the original report.

Section 168 of the CrPC requires the nearest officer to report to the officer in charge of the police station.

Section 173 of the CRPC requires that a final report be submitted to the Magistrate after the conclusion of the investigation.¹

Order of Investigation by Magistrate: The Magistrate, under Section 159, is empowered, if he deems it necessary, after receiving this report to direct the investigation, or to conduct himself or to order the Magistrate under him to conduct an initial investigation. And with the Supreme Court being held, the Magistrate has no power to stop the investigation after it has begun.

Order of Investigation by the Magistrate: The Magistrate, under Section 159, has been empowered, if he feels necessary, after receiving the report to direct investigation, or to conduct himself or direct a subordinate Magistrate to hold a preliminary inquiry. And as held by the Supreme Court, in *S.N. Sharma v. Bipen Kumar*, that Magistrate has no power to stop the investigation after it has started.

The Presence of Witnesses: The investigating officer is empowered under Section 160 to require the presence of any person as a witness who knows the facts and circumstances of the case. The section above also provides that no man or woman under the age of fifteen years shall have to travel to any place other than the residence of a man or a woman. The State Government will make laws to pay the appropriate costs for people to travel to any place other than the place where they live.

Examination of Witnesses: Any police officer in charge of an investigation or other officer who makes an application to the presiding officer shall be empowered to examine a witness or person who knows or is aware of the facts and circumstances of the case before him or her. Section 161 of the Act gives the police the power to examine witnesses.

The statements of witnesses are important as they can make a person guilty or innocent. The people under investigation are expected and will truthfully answer all questions regarding such charges brought before them. They are not obligated to truthfully answer questions that could lead to criminal or other criminal charges. After the examination, the police officer conducting the investigation will reduce the number of statements made by the person during

the examination. And if that is done, you will keep the same separate record. He is not obligated to write down statements but is preferred to do so.

Statements to the police that they should not be signed: Statements made by witnesses during the examination do not have to be signed by him. It should also not be used in any investigation or trial. Statements made by a witness can only be used in court to argue with him, not to convince him. If a witness is brought to the prosecution's side, any part of his statement if proven may be used by the defendant and may be used only by prosecutors with the consent of the Court, to challenge him. That is, statements made under Section 161 may be used against him.

However, the exceptions to the above section are: If any statement falls under the provision of Section 32 (1) of the Indian Evidence Act, or if any statement applies to the provisions of Section 27 of the Evidence Act.

Recording of Confession and Statements: Any magistrate, whether metropolitan or judicial, with jurisdiction in this case, is empowered under Section 164 to record any statement or confession made under the circumstances. But a police officer who has been empowered by a magistrate has not yet been empowered to record the same.¹ The magistrate, before recording the statement, is required to explain to the person giving the statement that he or she is not obliged to give it and that the statements may be used as evidence against him or her.

The magistrate must ensure that the person making the confession is voluntary. The Magistrate may not authorize the arrest of a person in police custody if the person refuses to give a statement at any time before the confession is recorded.

Recording of confession when the Magistrate is powerless: A Magistrate, who records statements and confesses when he or she is unable to do so, will refer them to a competent Magistrate who must inquire about the case or who will commit the offense.

Acceptance of evidence: The confession of sins recorded under section 164 may be used only as substantial evidence, without legal proof. Recording of such confession is accepted as evidence. All confession must be in writing. The Court must weigh it carefully with other evidence. The Court may reject part of it.

Where the consent was found to be denied, the sentences based on them could not be supported.

Non-confession statements recorded under section 164 are not strong evidence. However, if the perpetrator is called as a witness in a case, his or her previous statement may be used to challenge his or her testimony in Court under sections 145 and 157 of the Evidence Act. *In Balak Ram v. The State of the U.P.* held that the testimony of witnesses could not be dismissed simply because their statement was written under section 164. Their testimony must be accompanied by caution.”

Search by Police: A police officer is empowered under Section 165 of the Act to search for any premises that he or she has reasonable grounds to believe that he or she contains material that is reasonably necessary in connection with an authorized investigation. The reasons for issuing a search warrant are provided in Section 93 (1) of the Code.

Thinking Process: The police officer must record the reasons for the search, the area to be searched and the location to be searched, after which he or she can find out in person. If a police officer is unable to search on his own, then, in writing, he may order the officer under his command to conduct a search, directing him to the search area and the item to be searched. The submanager can then conduct a search on the basis of the written order given to him or her. The officer must make a record of the search conducted and send the same report to the nearest Magistrate who may also provide it to the owner / occupier of the searched area, free of charge, upon request

When the Inquiry will be conducted outside of India: Where the investigator or one of his or her superior has reason to believe that the required evidence can be obtained from a place or country outside of India, any criminal court will issue a letter of application to the authorities of that country or place requesting verbal examination. They are also required to submit all documents and evidence to the court that issued the letter. Grants are granted under section 166.

The process by which an investigation cannot be completed within 24 hours: Section 167 deals with the process by which an investigation may not be completed within 24 hours. The purpose of this section is to affirm the notion of free will. The purpose is to protect the suspects from police misconduct and to

give the Magistrate an opportunity to decide the question of further detention, to facilitate the investigation, and to prevent any arrests without trial. For this purpose, it is provided that the respondent or the arrested person cannot be detained for more than 24 hours. Section 167 is appealed in the following cases: -

- When the accused is arrested without a warrant and kept by the police under his supervision.
- More than 24 hours are required for an investigation.
- There are reasons to believe that the allegations or information he or she is facing are wellfounded.

The officer in charge of the police station or a detective who is not below the rank of minor inspector takes the suspect to court before a Magistrate.

The Magistrate's Court to whom the accused has been transferred may order the detention of that person in custody for a period not exceeding 15 days. If the Magistrate has no jurisdiction to try the case and considers that further arrests are not necessary then the respondent will be referred to the Magistrate who has the authority to try the case.

The Magistrate will authorize the arrest of the accused (but not in a police cell) if he or she has reasonable grounds to believe in the need to do so. However, in any case, the Magistrate will not issue an arrest warrant for a maximum period of time: -

- 90 days, in which a person is charged with a crime punishable by imprisonment for a period of not less than ten years in prison for life or death.
- For 60 days, during which he is charged with any other offense. And if the 60-day or 90- day period expires, whatever the case, he will be released on bail if he is able to provide bail.

This period will be calculated from the date of arrest and not from the date of arrest.

In the absence of a Justice Magistrate, the Presiding Magistrate or the Metropolitan Magistrate in whose jurisdiction the Magistrate of Justice will currently act. The Presiding Magistrate will refuse custody for a period not exceeding 7 days. If the arrest continues, the respondent will be referred to a competent Magistrate.

If the order is issued by any Magistrate other than the Chief Justice, he or she will send a copy of his or her instructions and explain the reasons for doing so, to the Chief Justice.

In the case of a summons, if the investigation is not complete within six months, the Magistrate is required to order the suspension of the investigation unless he or she has reasonable grounds to believe that further investigation is necessary for justice. If the Magistrate has ordered the suspension of the investigation and an application is made to the Session Judge against the order, the interim judge is empowered under Section 167 (6) to overturn the order given to the Magistrate under subsection 5, if there are good reasons to do so.

Procedure to be followed in concluding an investigation (Section 169-S.173)

Upon completion of the investigation, the following procedure will be followed:

Release of defendant in the absence of evidence: If there is not enough evidence and good reason to accept the defendant's referral to the Magistrate, the police will release him or her while he or she is conducting a bond, with or without bail, and may direct him or her to appear before a magistrate when necessary.

Cases to be referred to the Magistrate where the evidence is sufficient: When the police have enough evidence and good reason, they will refer the respondent to the Magistrate, so that the Magistrate can identify the case and try the accused or give him or her charge. In this case, the accused will be given bail and released on bail, but will appear before the Magistrate where necessary, as well as his or her daily presence before the Magistrate.

Diary of investigations: This section deals with the content of the case diary, which each police officer conducting the investigation must keep. The purpose of this section is to make the Magistrate aware of the daily details of a police officer investigating the case. Oral statements from witnesses should not be recorded in this diary. This diary can be used in a trial or investigation, not as evidence, but to assist the court in proceeding with the case.

Police report upon completion of the investigation: A final police report after the completion of the investigation will be submitted to the Magistrate under Section 173. This report is often referred to as "Chargesheet" or "Challan". Once

the chief executive has been appointed by the State Government, the report will be submitted by him to the Magistrate. And while the Magistrate's orders are pending, he will direct further investigations to the officer in charge of the police station.

If, according to the police officer, part of the statement in the report submitted to him is invalid, he will ask the Magistrate to leave that section and not look into it. Also, further investigations can be conducted even after the report is submitted to the Magistrate.

The Power to Call People: This section empowers the police to call witnesses to the person being examined to testify about the injuries found by the investigating officer in the body of the deceased. However, he is not required to record witness statements or sign a questionnaire. The interviewee to the interrogator will answer all the questions except the one that would have landed him / her in the case. Refusal to answer questions is punishable under Section 179 IPC and for providing false answers is punished under Section 193 of the IPC. The investigation report is not conclusive evidence but can be used to corroborate the evidence provided by the police officer conducting the investigation report.

CONCLUSION

An investigation is the most complete process in criminal law and is conducted through a process established by law. The investigative process involved in criminal cases is quite thorough. It involves a number of processes that need to be followed with proper effort. One mistake can also lead to guilt. The police left no stone unturned in the investigation of the case. The investigation starts from the discovery of the case until the completion of the report under section 173 before the Magistrate. The accused will be convicted after his trial and the Court will find evidence that he committed the crime.

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H.N. Rishbud vs. State of Delhi, AIR 1955 SC 196.

The Code Of Criminal Procedure, 1973 Section 2(c) " cognizable offence" means an offence for which, and" cognizable case" means 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."

The Code Of Criminal Procedure, 1973 Section 2(l) " non- cognizable offence" means an offence for which, and" non- cognizable case" means a case in which, a police officer has no authority to arrest without warrant."

The Code of Criminal Procedure, 1973 Section 154- Information in cognizable cases" 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."

Gaur,K.D, The Indian Penal Code,1860 (Universal Law Publication, 6 th Edition) 2006.

The Code of Criminal Procedure, 1973 Section 157- Procedure for investigation preliminary inquiry.

Swati Ram v. State of Rajasthan

Supra note 10.

The Code of Criminal Procedure, 1973. Section 168 - "Report of investigation by subordinate police officer. When any subordinate police officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police station"

The Code of Criminal Procedure, 1973. Section 173- Report of police officer on completion of investigation.

S.N. Sharma v. Bipen Kumar

1970 AIR 786, 1970 SCR (3) 946

Ratan Lal Dhiraj Lal, The Code of Criminal Procedure, 1973 (20th Edition).

Id.

The Indian Evidence Act, 1872 Section 32(1) when it relates to cause of death. -"When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question. Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question."

The Indian Evidence Act, 1872 Section 27 How much of information received from accused may be proved.-"Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved."

The Code of Criminal Procedure, 1973. Section 164 -Recording of confessions and statements.

Id.

AIR 1977 SC 1095, 1977 CriLJ 716, (1977) 4 SCC 597 C, 1977 (9) UJ 287 SC

7 The Code Of Criminal Procedure, 1973 Section 93(1) (a)- “Where any Court has reason to believe that a person to whom a summons or order under section 91 or a requisition under sub- section (1) of section 92 has been, or might be, addressed, will not or would not produce the document or thing as required by such summons or requisition, or(b) -where such document or thing is not known to the Court to be the possession of any person, or(c) -where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection, it may issue a search- warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.”

The Code of Criminal Procedure, 1973 Section 167- Procedure when investigation cannot be completed in twenty four hours.

The Code of Criminal Procedure, 1973 Section 169 –“Release of accused when evidence deficient. If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report, and to try the accused or commit him for trial.”

The Code of Criminal Procedure, 1973 Section 172- Diary of proceedings in investigation.

The Indian Penal Code, 1860 Section 179- Refusing to answer public servant authorised to question.- “Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

The Indian Penal Code, 1860 Section 193- Punishment for false evidence.-“ Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.”