

Acknowledgement: Lawyers Collective, Women's Right Initiative

POSH – How to register an FIR

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Duly acknowledging the publication from Lawyers Collective, Women's Right Initiative, following transcript will help the aggrieved woman under POSH Act to simultaneously make a complaint with Law enforcement authorities.

How do I register an FIR?

Please take the following steps while registering an FIR:

As far as possible, the survivor must be the person who registers the FIR: Under the law, any person who has sufficient information about the commission of a cognisable offence can get FIR lodged. Cryptic knowledge, hearsay or gossip would not constitute sufficient information.

There is usually only one FIR in a case and the contents of the FIR have corroborative value during the Trial. Therefore, it is recommended that as far as possible, the survivor herself should take the initiative to get the FIR registered so as to give all relevant facts. *Avoid delays in approaching the police:* Delay in filing an FIR in sexual offences will not lead to your case being dismissed. However, it is strongly recommended you approach the police soon after the commission of the crime. If there is delay in filing the FIR, give reasons for the delay to the police. Early reporting of the offence will strengthen your case.

Mandatory FIR: In a cognisable offence, the police must register FIR. The scope of preliminary inquiry by the police is restricted only when upon the information received it is unclear whether cognizable or non-cognizable offences have been committed.

Thereafter, such inquiry can only be limited to ascertain whether the information reveals cognisable or non-cognisable offence and not to conduct verification. Further, the new Section 166A, IPC [inserted by the CLA Act], penalises a police officer/public servant who

fails to record FIR for any of the offences under Section 326A, 326B, 354, 354B, 370A, 376, 376A, 376B, 376C, 376D, 376E or 509, IPC, or attempt to commit any such offence, and the offence of default under Section 166A, IPC, is punishable with the minimum imprisonment of six months extendable to two years and fine.

Inform the Police even if you are unaware of which sections constitute the offence: You need not wait to know offences committed against you and the local police can always add the particular penal provisions when the facts constituting the offence are placed before them.

In an emergency you need not ascertain whether the offence is cognisable: You need not know whether the offence is cognisable before informing the police, for on getting to know the facts constituting a cognisable-case the police are duty bound to commence the investigation. **If you have time, reduce the information into writing and while handing it over to the police, get an endorsement on a photocopy as the receipt of the complaint so that there is no dispute as to the information given to the police.**

In case of urgency, approach the nearest police station: In an emergency, you can approach the nearest police station, even though the offence was not committed within its jurisdiction (this is known as a “zero-FIR”). Subsequently the investigation will be handed over to a police station having local jurisdiction. If, however, there is no emergency, you should contact the local police station having jurisdiction to avoid any delay in the investigation.

Call the police control room when immediate help is required: When immediate help of the police is required for your protection, medical help or rescue, you should call the Police Control Room (“PCR”) first and not the local police station. The PCR calls are recorded and in an emergency, a police team is sent to the spot to escort the victim for medical examination or to stop the violence immediately. The local police station is also informed.

There will be a proof of the call made by you to the PCR, which can be used in your application under Section 156(3), Cr.P.C, for a magisterial direction to register FIR and conduct police investigation.

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