



**PROCEDURE FOR REGISTRATION OF FIR AND FINAL REPORT – BNSS**

It is a document written by a police officer in the registry prescribed by the state government. An FIR is a very important document against a cognizable offence, since it sets the criminal justice process in motion.

**Essential/Contents of FIR**

- ✓ It is information relating to the commission of a cognizable offence.
- ✓ It is given by the informant either orally or in writing.
- ✓ It need not contain each and every minute incident that occurred.
- ✓ It requires only the substance of information received to be mentioned and the same cannot be said to be the repository of every factum.
- ✓ The information reduced in writing must be read out to the informant and a copy thereof should be given to the informant forthwith free of cost.
- ✓ The substance of the information shall be entered in a book in such form as the State Government may prescribe in this behalf. This book is called General Diary.

**Evidentiary Value of FIR**

The basic purpose of filing a First Information Report is to set the criminal law into motion. A FIR is the initial step in a criminal case recorded by the police and contains the basic knowledge of the crime committed, place of commission, time of commission, who was the victim, etc. FIR's can be registered by a victim, a witness or someone else with the knowledge of the crime.

- ✓ The established principle of law that FIR cannot be assumed as a substantive piece of evidence and can only be considered as an **important piece of evidence** (clue).

- ✓ FIR is proved by the prosecution for the purpose of **corroborating** (confirm) the statement of the maker.

For corroboration purposes i.e. to corroborate the statement of the maker there of under section 157 Evidence Act(S-160,BSA), but not of any other witness. It was held by the Supreme Court, that F.I.R. cannot be ignored altogether but can be used to corroborate the statement of the eye witnesses. [Cases: Sankar 1975 S.C. Sagar Chandra 1962 Cal. 85 see Abdul Ganj.]

- ✓ It can also be used to **contradict** the first informant.

For contradicting the evidence of person giving the information in accordance with section 145 Evidence Act (S- 148, BSA). **Note:** It can neither be used **against the maker** at the trial if he himself becomes an **accused** nor to corroborate or contradict **other witnesses**.

- ✓ It can be used for refreshing informer's memory under section 159 Evidence Act(S- 162, BSA).
- ✓ It can be used for impeaching the credit of an informer under section 155(S- 158, BSA) Evidence Act.
- ✓ It can be used for proving informer's conduct under section 6 of BSA.
- ✓ It can be used for establishing identity of accused, witnesses and for fixing spot and time as relevant facts under section 9 Evidence Act (S- 7, BSA).

Situations when FIR can be accepted as evidence FIR may even **become substantial evidence** in the following circumstances:

1. If the **informant dies**, and the **FIR contains** a statement as to the cause of his death or the circumstances relating to his death, it may be used as substantive evidence. **Note:** If an informant's death has no connection with a

complaint lodged then the FIR's contents will not be **admissible in evidence**. In other words, unless an **FIR is treated as a dying declaration**, deposition of FIR contents by the officer would not make the same admissible.

2. When the injuries are being caused in the **presence of S.H.O.** in PS and the **injured makes** a statement to the S.H.O. saying that accused was injuring him. [Under Section 4 of BSA]

3. Under section 163 of BSA when the informer who has written the F.I.R. or read it, **fails to recall memory** of those facts but is sure that the facts were correctly represented in F.I.R. at the time he wrote it or read it.

4. Where FIR can be tendered in evidence as a part of the conduct of the informant, it can be used as substantive evidence.

**Reasons why FIR is not substantive evidence and does not have substantive evidentiary value:**

- ✓ The statements made in FIR are not made under oath.
- ✓ The statements are not made during trial or at the time of proceedings.
- ✓ The statements recorded in FIR have no cross-examination in the court.
- ✓ The statements recorded by the police officer are not admissible in the court.

### **STEPS OF REGISTRATION OF FIR**

1. An informant can approach any police station (PS) irrespective of the area where the offence is committed.

2. Orally given information should be reduced to writing and be read over to the informant. The substance of such information will be entered in a book in such form.

3. If the information is given by a woman who is a victim of an offence under Section 64 –71, 74 –79 or Section 124 of **BNS**, then such information shall be recorded by a woman police officer or any woman officer.

4. If the victim of an offence under Section 64 –71, 74 –79 (**Sexual offences**) or Section 124 of BNS is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, **at the residence of the person** seeking to report such offence or at a convenient place of such person's choice. The recording of such information shall be **video graphed**.

A copy of the information as recorded (FIR) shall be given forthwith, free of cost, to the informant or the victim.

#### **e-FIR**

5. Immediately after receiving such electronic communication/complaint, the same be entered in the **General Diary** (GD). An acknowledgement of the receipt of such complaint shall be provided within **3 days**. The substance of such information will be entered in a book.

#### **Zero FIR**

6. If the **Place of Occurrence (PO) of the incident does not fall under the local jurisdiction** of the PS where information is given, the SHO will proceed to **register an FIR** without assigning it the regular number of FIR meant for the cases falling under the local jurisdiction of the PS. **SHO will transfer** the same at the earliest to the PS having the proper jurisdiction as per Section 175(1) BNSS. Simultaneously, the informant of the case should be duly informed about transfer of the case to the PS having local jurisdiction.

7. Immediately after receiving such information physically or by electronic communication, the same should be entered in the General Diary. Destination PS officers will take further action as per Section 173 BNSS.

### **Preliminary Enquiry (PE) - BNSS:**

- ❖ According to Section **173 (1) BNSS**, if the information discloses the commission of a cognizable offence, it becomes mandatory to register the FIR.
- ❖ Sub-Section (3) of Section 173 of the BNSS is an **exception** to sub-Section (1) of Section 173.
- ❖ According to Section **173 (3) BNSS**, in certain offences which are made punishable for **3 years** or more but **less than 7 years**, with the prior permission from a superior officer (not below the rank of Deputy Superintendent of Police), **conduct a preliminary inquiry** (within 14 days) to ascertain whether there exists a prima facie case for proceeding in the matter.
- ❖ Following this inquiry, **if a prima facie case is found**, the FIR must be **registered** immediately. If not, the informant must be informed so they can use the remedy under sub-section (4) of Section 173 and approach the Superintendent of Police.

**Note:** This is to avoid FIR registration in frivolous (behaving in a silly way) cases where the alleged offence, **although cognizable**, is punishable with imprisonment of three years or more but less than seven years

### **Conduct a preliminary inquiry ; Lalita Kumari Vs. Govt. of U.P. and Ors.**

A Constitution Bench of the Supreme Court in Lalita Kumari **Vs.** Govt. of U.P [W.P.(Crl) No; 68/2008] held that registration of **FIR is mandatory** under Section 154 of Crpc (Now Section 174 of BNSS) , if the information **discloses** commission of a **cognizable offence** and **no preliminary inquiry** is permissible in such a situation. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not. The **Supreme Court** issued the following **Guidelines** regarding the registration of FIR.

(i) **Registration of FIR is mandatory** under Section 154 of the Code, if the information **discloses commission of a cognizable offence** and no preliminary inquiry is permissible in such a situation.

(ii) If the information received **does not disclose** a cognizable offence but indicates the necessity for an inquiry, a **preliminary inquiry may be conducted** only to ascertain whether cognizable offence is disclosed or not.

(iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where **preliminary inquiry ends in closing the complaint**, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must **disclose reasons** in brief for closing the complaint and not proceeding further.

(iv) The **police officer cannot avoid his duty** of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

(v) The **scope of preliminary inquiry** is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

(vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. **The categories of cases in which preliminary inquiry may be made are as under:** (Exceptions to the Rule of Registering an FIR)

(a) Matrimonial disputes/ family disputes

(b) Commercial offences

(c) Medical negligence cases

(d) Corruption cases



(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

(vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

(viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.

#### Steps for conducting preliminary enquiry

In case the SHO decides to counter preliminary enquiry into the matter he will take following **steps**.

1. SHO shall enter the fact in **Station Diary** of the Police Station.
2. SHO will **seek permission** of the jurisdictional SDPO/ACP/**DSP** for initiating preliminary enquiry immediately after receipt of such information.
3. The jurisdictional SDPO/ACP/DSP **on receipt of such request** may **permit or decline** for such preliminary enquiry as soon as possible from the receipt of such request.
4. In case the SDPO/ACP/DSP **declines** to accord such **permission** for preliminary enquiry he **shall record his reason** in writing for such refusal and communicate the same to the SHO.

5. On receipt of the permission from SDPO/ACP/DSP, the SHO may himself **conduct the preliminary** enquiry or cause it to be enquired by his subordinate officer of and above the rank of ASI.
6. SHO must ensure that the **preliminary enquiry is completed** within the statutory period of **14 days** from the date of receipt of the information, as prescribed under section 173 (3), BNSS.
7. It may be noted that the objective of such Preliminary Enquiry is **not to ascertain the veracity of the allegation**. The enquiring officer has to verify if the incident narrated in the report has actually taken place or not. The questions like who committed the offence and to what extent are not covered under the ambit of the preliminary enquiry.
8. The Police officer conducting the enquiry **may visit the spot**, examine the complainant and the persons acquainted with the facts and circumstances of the case.
9. The Enquiring Officer shall **submit a report to the SHO** of the Police Station regarding actions taken during the enquiry and his opinion about the occurrence of the alleged incident and whether there exists a prima-facie cognizable case.
10. The **result of such Preliminary Enquiry** shall be **entered** in 'Preliminary Enquiry Register' kept in the PS by the SHO/any officer so entrusted for the purpose. Registration or non-registration of the case will be decided on the outcome of the Preliminary Enquiry.
11. While **registering** the case **after the preliminary enquiry**, the original written report submitted by the complaint shall be registered as FIR. The time consumed for the preliminary enquiry shall be duly mentioned in the FIR form as well as the case diary.
12. The **result** of such Preliminary Enquiry and consequent steps taken by the SHO shall also be **intimated to the complainant/informant** under intimation to the SDPO/ACP/DSP.

**Note:**



- ✓ This provision is not applicable in respect of complaint cases received from the cognizance taking **Magistrates**.
- ✓ Preliminary enquiry is not required upon registration of Zero FIRs by the non-jurisdictional Police Station registering of zero FIR. However, the jurisdictional Police station may conduct such preliminary enquiry in deserving cases.
- ✓ It may be noted that as per section 18-A of the SC and ST (POA) Act, **no preliminary enquiry** can be conducted.
- ✓ Concerned officers should also take note of Section 199(c) (Public servant disobeying direction under law i.e fail to record sexual offences) of the BNS, 2023, before taking a decision regarding **PE**.

## **FILING FINAL REPORT**

### **Police report : Nature:**

Police reports may be broadly categorized under two heads, namely:

- (i) Charge-Sheet and (ii) Final Report.

If the case is sent up for trial, the report made therein is known as **“Charge-Sheet”**.

Whether the case is not sent up for trial, the report submitted by the police is called **“Final Report”**.

### **Final Report**

- ✓ Final Report is submitted in cases where charge sheet could not be forwarded to the court after completion of investigation due to insufficient evidence or no evidence at all or false complaint or mistake of fact or mistake of law or due to non-cognizable nature of the case.
- ✓ The Final Report, pertaining to criminal cases, is compiled by the Investigating Officer in accordance with the provisions outlined in TN Police standing order 658, as well as Section 169 of the CRPC/**189 BNSS (Release of accused when evidence deficient)**

- ✓ **The final report** (Form No. 89) is the report prescribed by Section (173 Crpc) **(193(3)(i))** of the **BNSS** to be sent to the Magistrate having jurisdiction. This form will be used both, for referring cases as false and reporting them as undetectable.

There are many steps and investigation procedures between registering an FIR and filing the final report. According to the BNSS, the police have to file the charge sheet **after completing an investigation**. Let us look at the major steps involved in that process:

#### **Step 1: Complaint to police station (S-173/(1))**

The information may be given by any person who is aware of commission of cognizable offence. Even the accused may be an informant. Information may be given orally or in writing and it the duty of police officer to reduce it into writing, if it is oral and get it signed by the informant.

#### **Step 2: Registration of FIR (Cognizable offence) (S-173/(1))**

First Information Report (FIR) is a written document prepared by the police when they receive information about the commission of a cognizable offence. It is only after the FIR is registered in the police station that the police take up investigation of the case.

#### **Step 3: Forwarding complaint report to the Magistrate if non-cognizable offence ((S-174/(1))**

If the police officer receives information about a non-cognizable offence, they can record the information and refer the informant to the Magistrate. They cannot file an FIR or start investigating a non-cognizable case without the concerned Magistrate's order.

#### **Step 4: Procedure for Investigation (S – 176 BNSS)**

##### **I. Spot investigation (for a cognizable offence)**

If an officer in charge of a police station suspects that a cognizable offence has been committed, they can file an FIR and immediately send a report to the concerned Magistrate, and personally go (or depute a subordinate officer to go) to the spot where the offence has been committed. They investigate the facts and circumstances of the case, and if necessary, take measures for the discovery and arrest of the offender.

## **II. Examining witnesses (S – 180 BNSS)**

While investigating a case, a police officer can order (in writing) a person who may know about the case to present themselves for questioning as a witness.

The police officer can write down the witness statements. In this case, the officer should make a separate and true record of each witness statement. The witness does not need to sign the written statement recorded by the officer.

The witness statement can also be recorded in an audio-video format.

## **III. Search (S -185\_BNSS)**

If an investigating officer reasonably believes that something necessary for the investigation may be found in any place within the limits of their police station, they can search for it there.

The officer must believe that the search is necessary for obtaining the thing without undue delay. They must record in writing why they believe that the search is necessary, and the target of the search (as far as possible), before conducting the search.

### **Step 5: Released of accused upon completion of investigation (S -189 BNSS)**

If, after the completion of an investigation, the Investigating Officer considers that in spite of all steps taken, there is **no prospect of obtaining any further clue** and that nothing more can be done in the case, he will submit a final

report treating the case as undetectable. But, in instances where cases have to be referred as mistake of fact, mistake of law, civil in nature or false, the final report should be submitted forthwith.

In a cases where accused person or persons **dies/die before the completion** of investigation and no person or persons can be charged, a final report should be sent in Form No.89.

#### **Step 6: Preparation of Charge Sheet (S -190 BNSS)**

(i) If, upon the completion of an investigation, it **appears** to the Officer-in-charge of a Police Station that there is **sufficient evidence to warrant the filing of charge sheet** against the accused, he will submit to the Magistrate empowered to take cognizance of the offence, a charge sheet in Form No.65 setting forth therein the names of the parties with their full addresses and of the persons, who appear to be acquainted with the circumstances of the case, stating whether the accused (if arrested) has been forwarded in custody or has been released on bond, and, if so, whether with or without sureties.

Once the investigation is completed and a prima facie case is made out, there should be no delay in the submission of the charge sheet.

The names of such of the accused as are absconding should be entered in red ink in the appropriate column of the charge sheet. Care should be taken to see that all the columns in the charge sheet are filled in properly. No column should be left blank.

#### **Absconders and Proclaimed Offenders**

(i) Where an accused person against whom a charge sheet is being filed is **absconding**, the officer-in-charge of the Police Station shall append (add) a note on the charge sheet itself requesting the Magistrate to issue a **non bailable warrant** for the apprehension of the accused. If the warrant cannot be executed within a reasonable time, the Station House Officer or the

Investigating Officer shall move the court for instituting proceedings under Sections 82Crpc/84 and 83/**85 of BNSS**.

**(ii)** The charge should be brief but at the same time clear. The date, time and place of offence should invariably be mentioned in the charge. In simple cases, the charge sheets shall be prepared by Sub-Inspectors in consultation with the Inspector, where necessary.

In cases involving complicated points of law, the charge sheets should be prepared in **consultation with the Assistant Public Prosecutor**, and also the Public Prosecutor, where necessary.

**(iii)** In every case in which an accused person **previously convicted** of an offence punishable under Chapter X or Chapter XVII of the **BNS** with imprisonment of either description for a term of 3 years or upwards, is prosecuted for an offence punishable under either of the two chapters, with like imprisonment, Section 13 (**Enhanced punishment**) of the **BNS** should be **added in the charge-sheet**.

**Step 7: Charge Sheet/ Final report/Closure Report forward to Magistrate (193(3)(i) BNSS)**

After completion of the investigation the SHO shall forward the file to the APP for his opinion whether the material is sufficient to charge the case and also to discuss with the APP in person. The APP after perusing the case file shall give his opinion. If **further investigation (193(9) BNSS)** is necessary he shall give his opinion in accordance with the guidelines. If the material is sufficient for charge sheet, he shall give a draft charge sheet. On receipt of the same the SHO shall file charge sheet or investigate further as the case may be. If further investigation is carried out it will be once again submitted to the APP for charge sheet. In small and simple cases, the SHO may file charge sheet himself but where the police expect the APP to conduct the prosecution successfully and with responsibility, the above procedure shall be followed.

The charge sheet shall be prepared, forwarded and presented to the court only by the SHO/I.O. All recorded witness statements should be forwarded to the Magistrate along with the report under Section 173/**193 (3)(i) Crpc** (Report of police officer on completion of investigation) of the **BNSS**.

If, after the completion of an investigation, the Investigating Officer considers that in spite of all steps taken, there is no prospect of obtaining any further clue and that nothing more can be done in the case, he will submit a final report treating the case as undetectable, unocured, without sufficient evidence or report made due to genuine misunderstanding. But, in instances where cases have to be referred as mistake of fact, mistake of law, civil in nature or false, the final report should be submitted forthwith. In cases where accused person or persons dies/die before the completion of investigation and no person or persons can be charged, a final report should be sent to the Magistrate having jurisdiction.

Cases must not be reported as false unless they are clearly so. Mere probability will not suffice. Delay in referring cases as false must be particularly avoided, and cases in which there has been serious delay must be returned as undetectable, unless fresh facts are elicited demonstrating them to be false.

In cases disposed of under Section **176(2) BNSS**, including charged cases, the police have to serve a notice on the complainant or informant and forward the duplicate, duly endorsed, with the final report to the Magistrate.

In cases in which investigation is refused, a copy of the notice will be attached to the First Information Report sent to court. Final reports have to be sent through the Circle Officer who is bound to forward them to the Magistrate without delay, noting upon them any orders issued to the Station House Officer and any remarks that he may have to offer. The Inspector may order the Station House Officer to make further inquiry or do so himself.



### **Step 8: Protest Petition treat as Complaint (S – 223 BNSS – Examination of Complainant)**

In the event that the complainant of the case possesses adequate justification to suspect that the Investigating Officer displayed prejudice towards the accused, or **failed to carry out the investigation diligently**, they have the option to submit an application on blank paper called Narazi or **Protest Petition**, outlining the grounds for their belief and presenting any pertinent evidence, if available, in order to challenge the Final Report and request a **further investigation**. Essentially, this implies that the petitioner is dissatisfied with the police report and refuses to accept it.

The complainant may disagree with the final report and seek further investigation of the case citing valid reasons by filing Protest or Narazi petition in the court.

### **Step 9: Order of Magistrate on final report**

On receipt of a final report under Section 173 Crpc/**193 BNSS** referring a case as false, mistake of fact or law, or civil nature or undetectable, the Magistrate may order **further investigation**, but it is not open to him to direct the police to charge the case against their own report. The Magistrate has powers to take action himself under Section 190 Crpc /**210 BNSS**, if he is not satisfied with the report of the police in such a case. The fact that a final report has been sent in a case reporting it as undetected is no bar to further investigation. Further investigation may be taken up suo moto in such cases, if any fresh clues are forthcoming or under orders of a superior officer. It must be noted that the police are to lay charge-sheets only in cases investigated by them.

### **Note:**

Each type of report reflects the findings and conclusions reached by the Investigating Officer based on the evidence and legal considerations presented

during the investigation process. **When charge sheet cannot be** submitted in a case, Final Report is submitted to the court.

**The following parameters shall be considered while preparing police report (C.S./F.R.);**

- (i) The **name of the Court** shall be indicated.
- (ii) The final report/charge-sheet **number** should be given serially.
- (iii) **Sections** and Acts shall be clearly mentioned.
- (iv) The **type of final report** such as charge-sheet, untraced, mistake of fact, etc. shall be clearly indicated.
- (v) Details of things/properties seized shall be properly accounted and sent in the prescribed list.
- (vi) **Name(s) of the (IO)** Investigating Officer shall be furnished.
- (vii) **Particulars of accused persons** shall be furnished in a separate sheet must be used for each accused.
- (viii) **Status of the accused** such as bail, absconding, forwarded, etc.
- (ix) List of **witnesses to be examined** shall be furnished.
- (x) If the case is a false one, **indication about the proposal to take action** under Section 217/248, BNS (False information/false charge) should be made.
- (xi) **Result of the FSL** (Forensic Science Laboratory)/CFSL (Central Forensic Science Laboratory) shall be furnished.
- (xii) Facts of the charge with brief accounts of the motive, preparation. subsequent/previous conduct, the modus operandi adopted in the property offences shall be presented in clear and legal terms.

(xii) The Final Report/charge-sheet shall be sent to the Court which shall include the following papers;

- List of documents upon which the prosecution relies.
- Memo of evidence.
- All statements recorded under Section **180(3), BNSS** (Examination of witnesses by police) (if they have not been sent earlier).
- All documentary evidence (which has not been sent earlier.)
- Any other documents/papers.

**PREVIOUS SANCTION : BNSS (S 217 – 218,222/Section 196 and 197 ,199Crpc):**

Sections 195 to 199/**217to 222** of the BNSS mention the cases of which the courts shall not take cognizance without the sanction of, or complaint by some competent authority. In such cases, it should be seen that the required sanction is got when the investigation is completed and the **original sanction should be attached to the charge sheet** when laid in the court.

No cognizance can be taken by any court of the following offences **without the previous sanction** of the Central or State **Government:**

(a) any offence punishable under Chapter VII (**offence against State**) or under section 196, section 299 or sub-section (1) of section 353 of the Bharatiya Nyaya Sanhita, 2023; or

(b) a criminal conspiracy to commit **such offence**; or

(c) any such **abetment**, as is described in section 47 of the Bharatiya Nyaya Sanhita, 2023,

(d) any offence punishable under section 197 or sub-section (2) or sub-section (3) of section 353 of the Bharatiya Nyaya Sanhita, 2023; or

### **Section 199/222 BNSS – Prosecution for defamation**

Previous sanction is required if **defamation complaint** made against President, Governor, Minister or public servant.

### **OFFENCE COMMITTED BY PUBLIC SERVANT/ARMED FORCES**

According to BNSS - **Section 218**(197 Crpc). (Prosecution of Judges and public servants),

*“No Court shall take cognizance of any offence alleged to have been committed by any Govt servants while discharge of his official duty, except with the previous sanction of the Central Government”.*

**Note :** No sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section (**Sexual offences**)64, section 65, section 66, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79, section **143**, (Trafficking of person)section **199**(Public servant disobeying) or section **200**(Non treatment of victim) of the Bharatiya Nyaya Sanhita, 2023.

### **Procedure**

**1.**Previous **sanction** is required to investigate persons who are working for the Central/State Government at the time of the alleged offence.

**2.** The sanctioning authority may follow the following procedure:

**a)** On receipt of the proposal of the investigating authority, each case shall be separately processed in a file.

**Pre-sanction discussion** may be held with the investigating officer of the case.

**b)** The sanctioning authority shall **peruse relevant materials** which may include the FIR, detailed report of investigation of the SP, disclosure

statements, statements of witnesses, statement of the accused, recovery memos, seizure lists, draft charge sheet and all other relevant materials/.

Copy of the relevant materials perused by the sanctioning authority may be **retained in the file for future reference** or production before the Court in case of necessity.

**c)** The sanction order should reveal that the **sanctioning authority had been aware of the facts and circumstances of the case**, perused and scrutinized relevant materials and applied its independent mind in arriving at a conclusion that there is a prima-facie case against the accused and that the public servant may be prosecuted for the offences committed by him and any other offences punishable under the provisions of law.

#### Deemed Sanction

**d)** When no decision is taken by the Government regarding **grant or refusal of sanction**, the **bar** under Section 218(1) of the **BNSS would disappear on the expiry of a period of 120 days** from the date of receipt, by the Government, of the request made to it for granting sanction. Thereafter, the court can take cognizance of the offence against the public servant, on the premise that there exists the necessary sanction for prosecution. The accused public servant would be then estopped from raising a contention that cognizance of the offence taken is invalid

**3.** Investigation procedure by Police ..... and so on.

#### **Note:**

Section 197 CrPC(Now **section 218 of BNSS**): Employees Of Public Sector **Corporations Are Not Entitled** To Protection Of Sanction As 'Public Servant':  
**SC**

In order to attract the section 197 Cr.P.C (Now **section 218 of BNSS**) the offence alleged against a Government Officer must have some **nexus with** the

**discharge of his official duties** as Government Officer, held the Supreme Court.

### **CATEGORY OF FINAL REPORT:**

#### **Final Report False (FRF) :**

Let's consider a case where a **murder is reported to have occurred** at a specific location, prompting an investigation. However, upon meticulous (very careful) scrutiny, **no evidence of murder is found** at the claimed site and the case is found to be case of accidental drowning. Additionally, further inquiry reveals concrete evidence proving the innocence of the accused individuals, thereby debunking (not existing) any connection to the alleged crime.

In such circumstances, the Investigating Officer is duty-bound to issue a Final Report False (FRF), signaling that the reported incident did not unfold as purported, and thus, the accused individuals bear no responsibility for the offence.

#### **Final Report Mistake of Fact (FRMF) :**

Let's consider a situation where a serious accusation of **kidnapping is reported** to law enforcement authorities. However, upon meticulous investigation, it becomes evident that the **circumstances surrounding** the alleged crime are vastly **different**. Subsequent inquiries reveal that the purported **victim and accused were related** and the accused was uncle of the victim and they had gone to visit a relative's place, thus negating any criminal intent or wrongdoing.

In such cases, the Investigating Officer categorizes the report as a Final Report Mistake of Fact (FRMF), signifying that while there was an error in the initial reporting, no offence was committed by the accused individuals.

#### **Final Report Mistake of Law (FRML) :**



Let's consider a case where serious allegations of **abduction and rape are reported**, invoking specific legal statutes. Yet, upon meticulous investigation, it becomes apparent that the circumstances surrounding the **alleged crime do not align with the legal criteria set forth in the relevant laws**. Instead, the investigation reveals a consensual relationship between the two adult parties involved, which does not constitute an offence under the law cited in the initial report.

Furthermore, after a thorough examination, it is determined that the accused individuals bear no liability for any offence. However, the rationale (Set of reasons) behind this conclusion lies in a misinterpretation or misunderstanding of the applicable legal framework rather than a factual error.

**Final Report Non-cog (FRNC):**

Here, the Investigating Officer affirms that the reported incident did indeed occur, though with **variations from the initial report**. Moreover, it is determined that the accused individuals bear liability for an offence, but this **offence falls under the category of non-cognizable**, meaning it does not warrant immediate arrest without a warrant and is typically less severe than cognizable offences.