

THE LAWWAY WITH LAWYERS JOURNAL

Website: www.the-lawway-with-lawyers.com

VOLUME:-35 ISSUE NO:- 35 , MAY 17, 2026

ISSN (ONLINE):- 2584-1106

Email: thelawwaywithlawyers@gmail.com

Digital Number : 2025-23534643

CC BY-NC-SA

Authored By :- Ms. Ishrat

Co Authored By:- Mrs Raunak Gupta

DELAY IN LODGING FIR: LEGAL IMPLICATION AND JUDICIAL APPROACH IN INDIA

Abstract

The First Information Report (FIR) is the first step in India's criminal justice system. It is the first thing that the State hears about a cognizable crime, and it is highly important that it be filed on time for the integrity of any future investigation and prosecution. But the law has never said that a FIR must be filed within a certain amount of time. Because of this omission, there is now a huge and complicated body of law about whether and to what degree a delay in filing the FIR might hurt the prosecution's case (**Thulia Kali v. State of Tamil Nadu, 1972**).

This article conducts a thorough legal and judicial examination of the consequences of delays in filing a FIR under Indian criminal law. It analyzes the legal foundation established by the previous Code of Criminal Procedure, 1973 (CrPC), and the recently adopted Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which supersedes the CrPC effective July 1, 2024 (**Government of India, 1973; Government of India, 2023**). The study examines the evidential significance of a First Information Report (FIR), the three specific forms of delay in FIR registration, the judicial principles regulating explained vs. unexplained delay and the ramifications of such delay on bail, anticipatory bail, and the final results of criminal cases. It also assesses the repercussions of delays in specific types of offenses, particularly sexual offenses, and

analyzes the key judicial rulings of the Supreme Court of India that have influenced the current legal framework (**Lalita Kumari v. Government of Uttar Pradesh, 2014**).

The magazine states that a delay alone isn't enough to destroy a case, but if the wait is unexplained or unreasonable, it's quite likely that the evidence was made up or thought of after the fact. The prosecution needs to explain it in a way that makes sense. The BNSS is a huge step forward for the law because it makes it easier to register Zero FIRs and adds electronic FIRs. However, the new rules also make things more complicated and conflict with established legal norms (**State of Himachal Pradesh v. Gian Chand, 2001**)

Keywords: FIR, delay in FIR, criminal procedure, evidentiary law, victim justice, Indian courts

INTRODUCTION

Background and Context

The First Information Report is one of the most important papers in India's criminal justice system. It marks the beginning of the whole criminal procedure, when a private wrong becomes a public issue and the State takes on the role of prosecutor (**Lalita Kumari v. Government of Uttar Pradesh, 2014**). The word "first" in "First Information Report" itself shows that promptness is the most important thing. The name of the document itself shows that it is expected that information about a crime will be sent to the police as soon as feasible.

In real life, though, the time between when a crime happens and when it is reported to the police is rarely immediate. Victims and witnesses may be in shock, scared, hurt, or under societal or family pressure. Rural areas might not be close to a police station. People in marginalized communities may not be able to get to or trust the police. People who are accused of a crime and have a lot of power may try to stop or delay the filing of a complaint. And in other cases, a dishonest person who complains may use the time that has passed to make up, add to, or lie about a narrative (Law Commission of India).

The dual nature of delay - sometimes innocent and justifiable, other times intentional and dubious has rendered the problem of delayed FIR registration one of the most disputed matters in Indian criminal law.

The Bharatiya Nagarik Suraksha Sanhita, 2023, which superseded the Code of Criminal Procedure, 1973, has added new levels to this investigation. The BNSS presents the notions of electronic FIR and Zero FIR, as well as the potential for a preliminary inquiry before to FIR registration in specific categories of offenses. These changes change the way that concerns of delay must now be looked at in the legal system.

1.2 Objective of the Study

The goals of this research report are as follows:

- To analyze the legal regulations pertaining to the FIR under the CrPC, 1973, and the BNSS, 2023
- To look into the legal and evidential value of a FIR
- To sort and look at the three forms of delays in registering a FIR • To follow the changes in judicial concepts that regulate delay through important Supreme Court cases
- To look at what it means for sexual offense cases and situations with vulnerable complainants when there is a delay
- To evaluate the influence of FIR delay on bail and anticipatory bail processes, and
- To look closely at the new parts of BNSS, 2023 and what they mean for the law about delays.

Legislation

- Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46 of 2023 (India) <https://www.indiacode.nic.in/handle/123456789/20062> on 4 April 2026. • Code of Criminal Procedure, 1973 (India) <https://www.indiacode.nic.in/handle/123456789/1616> on 4 April 2026. **Case Laws**
- Thulia Kali v State of Tamil Nadu (1972) 3 SCC 393, accessed on 4 April 2026, available at <https://indiankanoon.org/doc/1062643/>.
- State of Himachal Pradesh v Gian Chand (2001) 6 SCC 71, accessed on 4 April 2026, available at <https://indiankanoon.org/doc/1546366/>
- Lalita Kumari v. Government of Uttar Pradesh, (2014) 2 SCC 1, viewed on April 4, 2026, at <https://indiankanoon.org/doc/110813550/>

Reports / Websites

- Law Commission of India, Reports on Criminal Procedure

Accessed the Law Commission of India website on April 4, 2026

<https://lawcommissionofindia.nic.in>

- Ministry of Home Affairs, Government of India

Accessed <https://www.mha.gov.in> on April 4, 2026

Research Methodology

This work uses a doctrinal research method. The main sources used are the Bharatiya Nagarik Suraksha Sanhita, 2023, the Indian Evidence Act, 1872, and the Bharatiya Sakshya Adhinyam, 2023. Judgments from the Supreme Court of India and several High Courts, legal comments, law journal articles, and reports from legislative standing committees are all examples of secondary sources (**Law Commission of India, n.d.**).

THE INITIAL INFORMATION REPORT: NATURE, OBJECTIVE, AND STATUTORY FRAMEWORK

Definition and Concept of FIR

It's interesting that neither Section 154 of the CrPC nor Section 173 of the BNSS provide a specific legal definition of the word "First Information Report." However, the phrase is generally known in law and practice as the first written report that a police officer makes when they find out about a cognizable crime. It is the base on which the whole structure of criminal inquiry is based.

In the case of (**Manoj Kumar Sharma v. State of Chhattisgarh, 2016**), the Supreme Court stressed how important a written FIR is, saying that it is the initial step in an investigation and is necessary for justice to be done. The purpose of pressing on the quick filing of a FIR is to get information as soon as possible about the crime's circumstances.

Legal Provision

Section 154 of the CrPC, 1973

Section 154 of the Code of Criminal Procedure, 1973 required that any information regarding the occurrence of a cognizable offence, when communicated verbally to an officer in charge of a police station, must be documented in writing by the officer or under their supervision, and thereafter recited to the informant. The informant must then sign it, and the police must write down what it says in a book. The informant will get a free copy of the information that was recorded in sub-section (1) right away. Sub section (3) said that anyone who was upset that the police wouldn't write down the information could send it in writing and by mail to the Superintendent of Police (**Government of India, 1973; Government of India, 2023**).

Under the BNSS, 2023—Section 173

Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023, takes the place of Section 154 of the CrPC. Section 173 keeps the main job of recording information on cognizable offenses, but it also adds a number of important new features. First, it allows for the registration of an electronic FIR. For this to happen, the person who gives information by electronic communication must sign it within three days. Second, it makes the idea of Zero FIR legal, which means that you can register a FIR at any police station, no matter where you live. Third, Section 173(3) adds the controversial requirement that a preliminary inquiry must be done before a FIR can be filed in cases where the crime is punishable by three to seven years in prison, with the permission of a Deputy Superintendent of Police, and must be done within fourteen days.

The Purpose and Object of a FIR

There are many reasons why it is important to file a FIR right away. First, it lets the investigation start right away, which lowers the chance of evidence being lost, changed, or destroyed. Second, a contemporaneous FIR has built-in credibility because it was written down soon after the event happened. This means it is less likely to be changed, made up, or thought of later. Third, it protects the accuser's rights by making sure that the prosecution can't make up a case after the fact. Fourth, it makes sure that the magistracy knows about the investigation from the start, which

allows for judicial monitoring (**State of Himachal Pradesh v. Gian Chand, 2001**).

The FIR's Value as Evidence

A FIR is not substantive evidence because it cannot be used to prove the facts it contains.

However, it can be used for the following limited evidentiary purposes:

(i) To support or go against the person who made the FIR under Section 157 and Section 145 of the Indian Evidence Act (now Bharatiya Sakshya Adhiniyam, 2023);

(ii) As a previous statement of the informant for cross-examination; and (iii) As

an admission on behalf of the prosecution in certain cases.

The Supreme Court ruled in **Malkiat Singh v. State of Punjab** that a FIR is not substantial evidence and can only be used to dispute the person who made it or to support their testimony. The fact that a FIR is a current record with no extra details is what makes it so useful (**Malkiat Singh v. State of Punjab, 1991**).

DELAY IN LODGING FIR CATEGORIES AND REASONS

The Three Types of Delay

There could be a delay in the FIR registration procedure at three different points, and each one has significant legal consequences. The law and court cases agree that these three groups are:

(i) The Informant's delay in filing the FIR

This is the type of delay that is most often fought in court. It means the time between when the crime happened and when the informant went to the police station to report it. This type of delay is looked at the most closely by the courts, and they have always said that if the delay is long and there is no explanation for it, it can be assumed that there was planning, consultation, and

embellishment (**Lalita Kumari v. Government of Uttar Pradesh, 2014**).

(ii) The police took their time writing down the FIR.

This kind of delay arises when the informant goes to the police straight away, but the officer in charge of the police station doesn't write down the information right away. This could happen because the cops are sluggish, the people who are being charged are powerful, there is corruption, or there is political pressure. The Supreme Court made it very clear in *Lalita Kumari v. Government of U.P. (2013)* that the police had to file a FIR right soon if they got information that showed a cognizable offense. They can't choose to wait or not register it (**India Law Offices, n.d.**).

(iii) Late Submission of the FIR to the Magistrate

The law specifies that a copy of the FIR must be given to the Magistrate in charge as soon as it is written. Section 157 of the CrPC says that the officer must send a report to the Magistrate as soon as feasible. People worry that the FIR might have been amended or added to later if it takes too long to send it to the Magistrate. In other cases, the courts have said that this kind of delay can make the prosecution's case less apparent.

Factors Contributing to Delay — A Sociological and Legal Analysis

People delay to submit a FIR for a lot of various reasons, and it all depends on the situation. In rural and tribal areas, the true delay could be because the local police station is far away, there is no way to get there, and the communication infrastructure is not very good. When someone is sexually assaulted, they may not want to report it because they are ashamed, afraid of being shunned, or because the incident itself was so traumatic. This is especially true for women and children. In circumstances where powerful people abuse their position, people may be afraid to file a complaint because they are afraid of retaliation. The injured person or their family may be too busy taking care of the victim's medical needs and other needs to call the police right away.

4. JUDICIAL PRINCIPLES REGARDING DELAY IN FILING FIR 4.1 The

Fundamental Principle: Delay Is Not Inherently Detrimental

The Supreme Court of India has set a basic rule that a delay in filing a FIR is not, by itself and as a matter of law, fatal to the prosecution's case. The highest court has confirmed this idea many times over the years. The Supreme Court said in *Ram Naresh v. State of Chhattisgarh* (2012) that a delay in filing the FIR that is fully justified does not hurt the prosecution's case. In a 2023 decision, a two-judge bench of the Supreme Court made up of Justice Bela M. Trivedi and Justice Dipankar Datta said, "The delay in filing a FIR by itself cannot be seen as a strong enough reason to draw an unfavorable conclusion against the prosecution case, nor can it be seen as fatal to the prosecution case." The Court needs to find out why there was a delay, taking into account the facts and circumstances of the case (***Ram Naresh v. State of Chhattisgarh, 2012***).

4.2 The Embellishment Doctrine - When Procrastination Induces Distrust

4.2 The Embellishment Doctrine: When a Delay Makes You Suspect

Delay is not always a bad thing, but inexplicable delay is often seen with suspicion and could be a reason to question the prosecution's story. The first time the "embellishment doctrine" was clearly stated was in the important case of *Thulia Kali v. State of Tamil Nadu* (1973). In that case, a Constitution Bench of the Supreme Court said that delays in filing the FIR often lead to embellishments because of afterthought. The Court said that because of the delay, the FIR loses the benefit of being spontaneous and runs the risk of being changed to include a biased perspective, an exaggerated narrative, or a made-up story because of discussion and thought. Hundreds of decisions after this one have used and mentioned this observation. In the case of *Apren Joseph v. State of Kerala* (1973), the Supreme Court said that waiting too long to file a FIR can lead to changes that make it less reliable as a record. Because of this, the prosecution must give a good reason for any delay in filing the FIR (***Thulia Kali v. State of Tamil Nadu, 1973***).

4.3 The Examination of Adequate Justification

When a court is presented with a delayed FIR, the most important thing it must decide is whether the reason given for the delay is "satisfactory" or "plausible." The test is not strict or mechanical. It

is an investigation that is full with facts and requires the court to look at all of the facts. In *P. Rajagopal v. State of Tamil Nadu* (2019), a three-Judge Bench of the Supreme Court articulated the criteria as follows: 'The Court is obligated to ascertain if the provided explanation is sufficiently credible in light of the facts and circumstances of the case.' If the complainant seems trustworthy and has no reason to falsely accuse the accused, the delay may be excused (**P. Rajagopal v. State of Tamil Nadu, 2019**).

The Supreme Court said in *Ram Jag and Others v. State of U.P.* that witnesses can't be asked to justify every hour of delay. Instead, a common-sense approach must be used to determine whether the FIR was filed after an unreasonable wait that would allow for evidence to be tampered with. The Court also said that whether the delay is long enough to make the prosecution look suspicious relies on a number of things that will be different in each case. Even if the report of an event is filed late, it can still be accepted if the witnesses whose testimony the prosecution relies on have no reason to charge the defendant.

4.4 The Principle of Prolonged Delay: The Possibility of Compensation

If the delay is significant, lasting days, weeks, months, or even years, the court may enforce heavier penalties. The Supreme Court has noted in multiple cases that, under specific conditions, the prosecution's ability to manufacture evidence is vital and crucial. The Supreme Court scrutinized the regulations set forth in *Apren Joseph v. State of Kerala* and *Mukesh v. State (NCT of Delhi)* (2017) and concluded: "Generally, the Court may dismiss the prosecution's case if the first information report is filed unduly late, as this heightens the risk of evidence fabrication by the prosecution. The Court will look at the case on its own merits, but it may take the delay into account if it is well-founded.

In the case of *State of H.P. v. Gian Chand* (2001), the Supreme Court said that you shouldn't let someone go just because of a delay without a full evaluation. The Court made it clear that delay cannot be used as a "ritualistic formula" to make the prosecution's case weaker. A clearly stated delay should not cause the case to be thrown out. The courts must protect against both extremes: allowing unregulated delays and using delay only as a rationale for acquittal without evaluating the complete evidence.

5.2 Examination of Judicial trends

A look at the decisions stated above shows that the courts have a consistent and logical philosophy: delays in filing a FIR are not seen as unimportant or bad by nature. Instead, they use a standard that takes the situation and the goal into account. The main factors that the court looks at are:

- (i) How long the delay lasted;
- (ii) The reason given for the delay;
- (iii) Whether or not the complainant had a reason to falsely accuse the accused; (iv) How consistent and reliable the complainant's story is; and
- (v) The overall context of the crime, including the relative power and influence of the parties involved.

The Supreme Court's decisions have changed a lot since the early 1970s, when they were based on the broad "embellishment theory." In the years thereafter, they have become more detailed and focused on the facts. The court no longer sees delay as a sign of wrongdoing; instead, it sees it as one of many important factors, but not the only one.

6. DELAY IN FILING FIRST INFORMATION REPORTS IN SPECIAL CATEGORIES OF OFFENCES

6.1 Sexual Offenses and Crimes against Women

In circumstances of sexual crimes, including rape and sexual assault, the courts have always used a more compassionate and lenient standard when looking at delays in filing a FIR. The Supreme Court has said that the social and psychological factors at play in these kinds of incidents make it strange and unreasonable to expect people to report them right away. The Supreme Court has said in various cases that it is a well-known fact that rape survivors are afraid of social stigma, family dishonor, trauma, and shame, which makes them not want to disclose the crime right once. The Supreme Court said in a well-known case that there might be many reasons for the delay in filing a FIR in sexual offense cases, but one of the main ones is that the victim or her family members don't want to go to the police. This kind of delay can't be regarded the same way as inexplicable delay in regular circumstances.

Changes to the legislation have also made it more aware. According to both the CrPC and the BNSS, a woman police officer must record information on crimes against women. If the victim is mentally or physically impaired, the recording must take place at the victim's home and may be filmed. These rules take into account the structural hurdles that can make it harder for a woman to submit a FIR (**Times of India, 2023**).

6.2 Cases Where the Powerful or Influential Accused

Another type of situation where courts have consistently understood delay is where the accused is a wealthy, powerful, or politically influential individual. The Supreme Court said that the delay in filing the FIR in *P. Rajagopal v. State of Tamil Nadu* (2019) was okay because the complainant's whole family depended on the accused for money and social status. The accused was wealthy and powerful. The accused hired people to watch over the complainant's family. In these situations, the Supreme Court said that the witness might not have wanted to file a complaint right away, and the reason for the delay was determined to be consistent with the facts (**P. Rajagopal v. State of Tamil Nadu, 2019**).

6.3 Cases of Uncommon or Complex Circumstances

In cases with severe family issues, cases where the informant was in the hospital getting treatment, or circumstances where the informant was in a rural area without a police station, judges have also been okay with delays. The Supreme Court allowed a murder case to be delayed by almost 26 hours in *State of Rajasthan v. Om Prakash*. In circumstances of mob violence or communal rioting, where the complainant's first goal is staying alive instead of filing a police report, delays of several hours have been accepted as normal.

7. CONSEQUENCES OF DELAY IN BAIL AND ANTICIPATORY BAIL

7.1 Delay as a

Basis for Anticipatory Bail

One important legal effect of putting off the filing of a FIR that may not be fully understood is how it affects bail and anticipatory bail petitions. In the case of *Sumedh Singh Saini v. State of Punjab* (2020), the Supreme Court's three-Judge Bench, which included Justice Ashok Bhushan,

Justice R. Subhash Reddy, and Justice M.R. Shah, made it very clear that a long delay in filing the FIR could be a good reason to give the accused anticipatory bail under Section 438 of the CrPC. A FIR was filed against the former Director General of Police in Punjab for a murder that happened in 1991. It took more than twenty-nine years to file. The Court said that the long wait, with no hint of attempts to launch criminal proceedings in the meanwhile, was enough reason to give anticipatory relief (**Sumedh Singh Saini v. State of Punjab, 2020**).

This idea is really important. If someone is accused of a crime and the complaint is filed years or decades after the alleged crime, they may be able to get anticipatory bail because of the delay in filing the FIR. The delay makes it seem like the person who filed the complaint might not have a good reason for doing so, or that the process could be used to scare people instead of getting justice.

7.2 Delay and Quashing of FIR

In some situations, a long and unjustified delay in filing a FIR may also be a reason to throw out the FIR and the criminal case that follows it under Section 482 of the CrPC. The High Courts have, in the exercise of their inherent jurisdiction, invalidated FIRs when the delay is too prolonged and devoid of justification, rendering the prosecution an abuse of legal process. The courts have said that the power to quash must be used carefully and with caution. However, a case of very long delay along with other suspicious circumstances may be enough to justify quashing.

7.3 Delay and the Right to a Fair Trial

A delayed FIR has effects that go beyond the issue of bail and affect the accuser's basic right to a fair trial. When a FIR is filed long after the event in question, it makes it much harder for the accused to defend him. Witnesses may have died, their memories may have faded, and there may not be any more documentary evidence. The person charged may have trouble proving that they were somewhere else at a moment or date that is now far away. In this case, courts have said that an unexplained delay in filing the FIR, along with other factors, may be enough to suggest that the prosecution is a case of false implication, which could lead to the accused being found not guilty.

8. THE BNSS, 2023—NEW DIMENSIONS IN THE LAW OF FIR DELAY **8.1 A look at**

the important changes

The Bharatiya Nagarik Suraksha Sanhita, 2023, which went into effect on July 1, 2024, replaces the CrPC with a new set of rules. The BNSS makes three important changes to the process of registering a FIR and dealing with delays: it makes Zero FIR a legal concept, allows for electronic FIRs, and adds the disputed Section 173(3) preliminary inquiry option.

8.2 Zero FIR: A Legal Solution for Delays in Jurisdiction

The phrase "irrespective of the location where the conduct is committed" in Section 173(1) of the BNSS gives statutory recognition to the idea of Zero FIR. This is a big change. The concept of Zero FIR was earlier instituted by the judiciary and the executive through circulars and instructions, albeit it lacked a robust statutory basis. The BNSS does rid of one of the most common reasons police officers don't file FIRs by making it mandatory for each police station that gets information about a cognizable offense to file it, no matter where it is in the country. This does rid of a common reason for systemic delays when the crime happened in the area of a separate police station.

8.3 Using electronic FIR technology as a way to speed things up The BNSS says in Section

173(1)(ii) that FIRs must be registered electronically. The

informant can file the FIR electronically by texting, using WhatsApp, or going to an internet portal, but they must sign it within three days. This rule is very important for victims who live far away or have trouble getting to a police station. This includes those who are in the hospital, victims of domestic violence, and the elderly or disabled. The BNSS's e-FIR project helps speed up the criminal court process by making it less necessary for people to physically go to court. This helps reduce delays caused by systemic and accessibility concerns.

Still, the provision makes legal concerns even more unclear. There are no rules or guidelines from the BNSS about what happens legally if you don't sign the e-FIR within the three-day time

restriction. Both the complainants and the defense counsel may leverage this difference, which could lead to more lawsuits about whether an unsigned e-FIR is valid.

8.4 Section 173(3): The Preliminary Inquiry Provision and the Discussion About It

The most talked-about element of the BNSS in relation to FIR delays is Section 173(3), which permits the official in charge of a police station perform a preliminary inquiry before registering a FIR for offenses that carry a prison sentence of three to seven years. The inquiry must be approved ahead of time by a Deputy Superintendent of Police and must be done in fourteen days.

The Supreme Court made it quite plain in *Lalita Kumari v. Government of U.P.* (2013) that a FIR must be filed when a cognizable offense is reported and that no preliminary inquiry is allowed as a prerequisite. This rule goes against that. The *Lalita Kumari* bench said that preliminary inquiries could only happen in a few very rare cases, like when there are marital or family problems, business crimes, medical negligence cases, corruption charges, or cases where the criminal prosecution took a long time to start. Section 173(3) of the BNSS goes even farther by enabling a preliminary investigation for any crime that can be punished by three to seven years in prison.

Legal experts and commentators have said that this provision, which is meant to cut down on frivolous FIRs and filter out false complaints, could be misused by police officers to delay the filing of real FIRs, especially when the accused is powerful or well known. The law lets the police "choose" to perform a preliminary inquiry, and without proper protections, this freedom could be utilized to protect political or economic interests. The BNSS's new regulation that those who want to go to the Magistrate under Section 175(3) must first file an affidavit after exploring all other alternatives with the police adds another step that may not be fair to people who are already at a disadvantage.

8.5 The courts' response to the BNSS provisions

The courts are just beginning to understand what the BNSS's FIR rules mean. The Supreme Court held in *Om Prakash Ambedkar v. State of Maharashtra* that Section 173 of the BNSS makes the police officer in charge of recording FIRs more accountable and needs judicial scrutiny through the Magistrate's reasoned findings. The Supreme Court said in *M. Subramaniam v. S. Janaki* that if a police officer won't file a FIR, the person who complained must first use the choices in

Sections 173(3) and 173(4) of the BNSS before moving to the Magistrate. This sequential requirement, which is designed to make it easier to go up the chain of command, adds further layers of bureaucratic delay that weren't there before when the CrPC was simpler.

9. ANALYTICAL ASSESSMENT AND RECOMMENDATIONS FOR REFORM 9.1

Critical Evaluation of the Existing Legal Status

The present legal structure for FIR filing delays, which encompasses both the modern BNSS framework and the older CrPC-era precedents, is not perfect but is typically fair. The judiciary's fact-sensitive and contextual approach to delays mitigates the risks associated with both automatic severity and leniency. It is okay to say that various crimes and different social circumstances necessitate different judgments of delays in court and in society.

But there are still some concerns. Because there is no legal deadline for filing a FIR, both the complainant and the police could take advantage of the system. The courts have made it hard to figure out delays, but these regulations only apply once a case has started. This could make the inquiry less trustworthy before that time. The BNSS's preliminary inquiry provision could be helpful in some cases, but it also opens the door for police officers and powerful defendants to use it to protect themselves from delays. Third, requiring an affidavit for Magistrate complaints puts an unfair burden on the people who are most likely to make complaints.

9.2 Recommendation for Reform

Based on the research above, the following changes is suggested for the legislative and the courts to think about:

- The National Police Commission and/or the Law Commission of India should come up with and make public Model Guidelines on how to handle delays in FIR registration. These guidelines should spell out the types of crimes and situations in which delays should be seen as harmless, suspicious, or deadly.

- The BNSS should be changed to include a clear definition of what "unsatisfactory delay" means for a police officer when they are recording information, and officers who delay FIR registration without a good reason should face required sanctions.
- Section 175(3) of the BNSS says that an affidavit is required, however this should be optional. The Magistrate should be able to waive it in some situations, especially if the complainant is from a marginalized group or doesn't have the money to write an affidavit.
- The e-FIR rule should be made stronger by making it clear what will happen if someone doesn't sign within three days and by requiring that all electronic registrations go via regular government procedures.
- The law should assume that the delay in filing a FIR is reasonable if someone is accused of a sexual crime or a crime against a child, unless the prosecution can establish that it acted in bad faith.

10. Conclusion

The problem of submitting a FIR late lies at the intersection of criminal law, evidentiary law, and the sociology of justice. This is a problem that is both legally sound and very human. The law's answer to this question, which has been worked out over more than a hundred years of Indian case law, shows a mature and context-sensitive understanding: delay, by itself, proves nothing, but delay that is long, unexplained, and surrounded by suspicious circumstances raises a presumption of fabrication that the prosecution must prove.

The Supreme Court has made it quite clear that delay is not always a bad thing. This rule achieves a fair compromise between the rights of victims (who may have good reasons to wait to file their complaints) and the rights of the accused (who have the right to be protected against old and false charges). The "satisfactory explanation" test is subjective by nature, but it affords courts a flexible standard that they can utilize with common sense and a knowledge of the circumstances of each case.

The introduction of the BNSS in 2023 has brought both opportunities and challenges in this area.

The legal recognition of Zero FIR, the introduction of e-FIR, and the emphasis on transparency and accountability in FIR registration are all positive steps forward. The preliminary investigation procedure under Section 173(3), the mandatory affidavit requirement, and the multi-tiered escalation process for denied FIRs introduce further bureaucratic complexity that may exacerbate systemic delays instead of mitigating them. To stop powerful defendants and corrupt law enforcement officers from using these terms to block justice, they will need careful judicial interpretation and, if necessary, changes to the legislation.

The problem of delayed FIR files is not only a legal one. It is a structural one that comes from the way power is distributed, the way society sees things, the way institutions work, and the way people in India engage with the government. It can't be fixed only by changing the law. We need to change the law, make it easier for the police to handle complaints, teach the public more about the law, and change the way the police think about taking complaints. The judiciary's nuanced and context-aware approach to delay is still the best way to protect the victim's right to justice and the accuser's right to a fair trial until the transition is complete.

REFERENCES

Bharatiya Nagarik Suraksha Sanhita. (2023). Act No. 46 of 2023, Government of India. Available at: <https://www.indiacode.nic.in/handle/123456789/20062> (Accessed: 4 April 2026).

Code of Criminal Procedure. (1973). Act No. 2 of 1974, Government of India. Available at: <https://www.indiacode.nic.in/handle/123456789/1616> (Accessed: 4 April 2026).

India Law Offices, n.d. *Investigation not to be quashed if delay in lodging FIR in sexual assault cases*. Available at: <https://www.indialawoffices.com/legal-articles/investigation-not-to-be-quashed-if-delay-lodging-fir-sexual-assault-cases> (Accessed: 4 April 2026).

Law Commission of India, n.d. *Reports on Criminal Procedure and Justice System Reforms*. Government of India. Available at: <https://lawcommissionofindia.nic.in> (Accessed: 4 April 2026).

Lalita Kumari v. Government of Uttar Pradesh. (2014). 2 SCC 1 (Supreme Court of India). This landmark judgment made FIR registration mandatory in cases of cognizable offences and limited

the scope of preliminary inquiry.

(Malkiat Singh v. State of Punjab, 1991). Supreme Court of India. The Court clarified that FIR is not substantive evidence and can only be used for corroboration or contradiction.

Manoj Kumar Sharma v. State of Chhattisgarh. (2016). Supreme Court of India. The Court emphasized the importance of FIR as the starting point of criminal investigation.

P. Rajagopal v. State of Tamil Nadu. (2019). Supreme Court of India. The Court elaborated on the test of satisfactory explanation in cases involving delay in FIR.

Ram Naresh v. State of Chhattisgarh. (2012). Supreme Court of India. The Court held that delay in FIR is not fatal if properly explained.

State of Himachal Pradesh v. Gian Chand. (2001) 6 SCC 71 (Supreme Court of India). The Court cautioned against treating delay as a mechanical ground for acquittal and emphasized contextual analysis.

Sumedh Singh Saini v. State of Punjab. (2020). Supreme Court of India. The Court held that long delay in lodging FIR can be a valid ground for anticipatory bail.

Thulia Kali v. State of Tamil Nadu. (1972). 3 SCC 393 (Supreme Court of India). A seminal case establishing that unexplained delay in FIR may lead to suspicion of embellishment and fabrication.

The Times of India. (2023). *SC cautions courts on cases with delayed FIRs*. Available at: <https://timesofindia.indiatimes.com/india/sc-cautions-courts-on-cases-with-delayed-firs/articleshow/103481817.cms> (Accessed: 4 April 2026). This article discusses recent judicial observations on handling delayed FIRs with caution.