



# INTERNATIONAL JOURNAL OF ADVANCE RESEARCH, IDEAS AND INNOVATIONS IN TECHNOLOGY

ISSN: 2454-132X

Impact factor: 4.295

(Volume 4, Issue 3)

Available online at: [www.ijarit.com](http://www.ijarit.com)

## Basics of a police complaint

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### ABSTRACT

*How to write a police complaint is very important. In everyday life, we face many difficulties and problems. Few of these can be taken care of by mediation or by talking about the problems between each other, however, few complaints cannot be redressed even after discussions as either party may either not want to resolve the problems and others further threaten dire consequences. In the latter situation, the said complaint must be redressed by filing a formal complaint with the authorities like police. Therefore it is quite important how to get a resolution of your problems by writing the police complaint which must contain every fact and everything crystal clear so that resolution is made by police immediately without any further delay. Hence this article would help people write a proper police complaint which would enable them to explain their complaint in a proper manner. This article would also help people get an idea as to what and how to write a complaint to the police and what are the basics of writing a police complaint. This article on the basis of a police complaint also discloses what are the do's and don'ts while writing a police complaint. Which things are to be kept in mind while formally jotting down your complaints and which things to avoid. Further, this article also explains the view taken by the supreme court of India while relating to the laws of marking the police complaint. The supreme court has in detail passed guidelines as to what is the procedure to be followed while filing a police complaint. These guidelines of the Hon'ble supreme court are also elucidated in this article. So, in brief, this article would help a person from A to Z of how to draft/write a police complaint.*

**Keywords:** Police, Court, Criminal, Law complaint

### 1. BASICS OF A POLICE COMPLAINT

The thumb rule of writing a police complaint is to be "precise" and "to the point" while being self-explanatory and effective at the same time. Before writing the police complaint, we must bear in mind what is the complaint all about, what is required to be done, what do we want and proceed accordingly.

Section 2(d) in Code of Criminal Procedure, 1973 explains what a complaint is. The same is reiterated herein for ready reference:-

*(d) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code that some person, whether known or unknown, has committed an offense, but does not include a police report. Explanation.- A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offense shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;*

### 2. FORMAT OF THE COMPLAINT

There is no specific format for filing a complaint however these are the points for consideration. To start with the complaint must bear a date and time on the very top, extreme right-hand side corner. This would help us later in the stage when we carry on our struggle to get an FIR registered and keep track of the communication with the Police officials as there can be more than one complaint.

The very left-hand side must disclose to whom the police complaint is to be marked i.e. Station House Officer / SHO or the higher police officials as the case may be. Later in the article, various judgments would be discussed which postulates the step by step process to be followed by a complainant. The Complaint must be presented to a Police Officer with a view to his taking action under the Criminal Procedure Code. A complaint need not necessarily be made by the person aggrieved but may be made by any person aware of the offense. This means that even a person who has knowledge that an offense has occurred to his knowledge he is duty bound to disclose the same to the police officer concerned. He need not be complainant; hence the word used is "Informant" in the First Information Report (F.I.R.). A complaint need not necessarily be made by the person injured but may be made by any person aware of the offense. In case of the violation of general law, any person, whether he has suffered any particular injury or not has a right to complain.

The complaint must have a brief heading for the police officials to determine and understand the complaint in a nutshell. The brief headline should include the name of the complainant, the name of the accused and the offenses under which act you are marking a complaint.

The complaint's body contains three levels. The first level lays out the initials of the story of the complainant i.e. complaint's body in the first level must bear the details of the incident in simple words, in a crisp manner what all happened with the complainant. The complaint body must start from the time and date from when the accused came in touch with the complaint, how the accused transacted with the complainant etc. The second level contains the series of events which transpired later on, after meeting with the complaint and what went wrong which lead to the filing of the present complaint. It is important to note that mention of a wrong section does not vitiate the character of a complaint. The third level must contain the prayer clause and the complete details of the complainant with its parentage, address and work mobile number. The prayer clause should clearly establish your prayer to the Station House Officer/ police official as to what action do you seek. Usually, it is prayed that the FIR may kindly be registered and accused be arrested and brought to the books, in the interest of justice. The purpose of giving your details and particulars is that once the police start an investigation on your complaint, the complainant must be reachable in order for the police officials to get any details of your complaint which might be missing or to inform you about the update of your complaint. The draft format for filing your complaint is as follows:-

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To, Dated:-13.06.2018  
The SHO,  
Police Station XXXX,  
New Delhi  
(Write the official Post of the Police Official – SHO (Station House Officer) ACP (Assistant Commissioner of Police)/ DCP (Deputy Commissioner of Police)/ CP (Commissioner of Police))

Complaint on behalf of Sh. XXXX Aged XXXX, S/o Sh. XXXX, R/O XXXX against Sh. XXXX, S/o Sh. XXXX, R/O XXXX for the offenses of XXXX IPC

(Subject of the complaint which must contain your details and details of the Accused and the offenses as per your knowledge and complaint)

That the complainant's name is Sh. XXXX and the present complaint is being filed as XXXX (body of the complaint which would include details of the complaint)

It is prayed that an FIR may kindly be registered and the accused be arrested and brought to the books and tried as per law. (Prayer clause)

From:-

Sh. XXXX, Aged XXXX,  
S/O Sh. XXXX,  
R/O XXXX.  
Mobile No. XXXX  
(Details of the complainant)

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### 3. MODE OF COMMUNICATION

After you finalize your complaint, take two copies of your complaint. One copy originally signed is for the Police officer and a second copy is for the complainant. The complaint in an ideal manner be sent to the concerned Police official as the case may be to SHO (Station House Officer) ACP (Assistant Commissioner of Police)/ DCP (Deputy Commissioner of Police)/ CP (Commissioner of Police). The preferred mode of communication is that the Complaint is received in person to the concerned office of the officer concerned. Any complaint given to a Police Officer is duly received in their Daily Diary (D.D.) Register and a formal receiving in the Secondary copy are given by endorsing the Stamp of the Police officer concerned and also writing the DD Number. The same will also include the name of the Investigating Officer, his mobile number and time and date of receiving the complaint. The other mode of communication is by Courier, Speed post, and email. It may be surprising to note that a call to the police station would also act as a police complaint and would be held to be valid as per law. It would not be out of place to mention that on a specific request made by me (Advocate Gurmeet Singh) to the commissioner of police vide email dated 08.09.2017 it was requested that the working email id of every official of Delhi Police be made available online in order to proceed, the said request was taken in good spirits and welcomed by the Commissioner of Police and an email id of every SHO / Station House Officer was made available online. Now easily a person can mark a complaint while sitting back at home without worrying about the hassles of going to the police station and waiting for a long time or face hardships.

The telephone numbers of every police officer are available online. Therefore it is suggested that after you file your complaint you follow up on the status of your complaint and seek regular updates on the status of the complaint filed by you.

#### DO'S:

Here are certain important points to remember and consider while drafting your complaint.

- The Complaint must be crisp, clear and legible.
- The Complaint must be dated.
- The Complaint must bear to whom it is directed to, subject and body of the complaint, prayer clause and your details.

- The Complaint must be unambiguous, direct and must bear dates and turn /series of events in detail while being self-explanatory.
- The Complaint must reveal/cull out the ingredients of an offense. This means that the offenses and ingredients as explained in the Indian Penal Code or other acts must be fulfilled.

**DONT'S:**

- The Complaint must NOT be ambiguous.
- The Complaint must NOT be exhaustive.
- The Complaint must NOT be false.
- The Complaint must NOT be vague.
- The Complaint must NOT be misleading.
- The Complaint must NOT be confusing.
- The Complaint must NOT be cryptic.

**4. IMPORTANT JUDGMENTS**

**Priyanka Srivastava & ANR VS. State OF U.P. & ORS.**

In a judgment of the Hon'ble Supreme Court of India in *Priyanka Srivastava & Anr vs. State Of U.P. & Ors.* decided on 19 March 2015, by a Bench of Hon'ble Justice Dipak Misra and Prafulla C. Pant held and described the procedure to be followed for getting an FIR registered. In a nutshell, the judgment held and explained what steps a complainant has to take to get his FIR registered. It held that *"We have already indicated that there have to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3)"*. To explain Section 154 (1) CrPC, 154 (3) CrPC and 156 (3) CrPC we must read carefully the said sections, however in a nutshell Section 154 (1) CrPC says that if a complainant has any grievance or a complaint, he/ she must report the same, either in written form or orally to the concerned Police Station/ Station House Officer/ SHO. In case the SHO refuses to register an F.I.R. or refuses to act upon the complaint of the complainant, then as per Section 154 (3) CrPC, he/she must report to his higher officials i.e. ACP (Assistant Commissioner of Police)/ DCP (Deputy Commissioner of Police)/ CP (Commissioner of Police), regarding his inaction. In case the concerned ACP/DCP/CP refuses to act upon your complaint or does not act upon your complaint, then the recourse available to the complainant is to approach the concerned magistrate Section 156 (3) Cr.P.C. seeking the intervention of the court to register an FIR and act upon the complaint.

**Amit Khera V Govt. of NCT of Delhi & ORS.**

In a judgment passed in Writ Petition (Crl.) 804 of 2008 *Amit Khera V Govt. of NCT of Delhi & Ors.* Hon'ble HIGH COURT OF DELHI vide a judgment dated August, 11th 2010 held and observed that an oral complaint made to the police officer also comes within the purview of Section 2 d, Cr.P.C. and be registered as a complaint. It also observed that there is no formal written complaint required and an oral complaint made is also quite sufficient to ledge an investigation and is well covered under the law and the contrary judgments passed by the Ld. Metropolitan Magistrate and the Ld. Sessions Judge were overruled and further, the Police Official was directed to register an FIR forthwith.

**Lalita Kumari VS Govt.of U.P. & ORS**

The Hon'ble Supreme Court of India in *Lalita Kumari vs Govt.Of U.P.& Ors* on 12 November, 2013 by a Bench of Hon'ble Judges namely P Sathasivam, B.S. Chauhan, Ranjana Prakash Desai, Ranjan Gogoi, S.A. Bobde held /observed in WRIT PETITION (CRIMINAL) NO. 68 OF 2008 the directions as to how a complaint would be entertained and disposed of. The directions are very important and the same are reiterated herein below for ready reference:-

- 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 category of cases in which preliminary inquiry may be made are as under:
  - 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 General Diary/Station Diary/Daily Diary is 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 said Diary and decision to conduct a preliminary inquiry must also be reflected, as mentioned above.