

# Zero FIR in India: Jurisdictional Flexibility and Transformative Constitutionalism

Rishabh Jadam<sup>1</sup>, Dr. Suman Paliwal<sup>2</sup>

<sup>1</sup>Student, Law (LLM), Jagannath University, Jaipur

<sup>2</sup>Associate Professor, Faculty of Law, Jagannath University, Jaipur

## Abstract

The doctrine of Zero FIR represents a transformative development in Indian criminal procedure, dismantling territorial barriers that historically impeded access to justice. Traditionally, police refusal to register First Information Reports (FIRs) on grounds of territorial jurisdiction resulted in delay, evidentiary loss, and secondary victimization. Zero FIR permits registration of a cognizable offence at any police station, irrespective of jurisdiction, with subsequent transfer to the appropriate authority. Though initially judicially evolved, the principle now finds statutory consolidation under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). This article undertakes a doctrinal and constitutional analysis of Zero FIR, situating it within access-to-justice theory, victimology, and transformative constitutionalism. It critically examines implementation deficits, institutional resistance, and normative tensions between victim rights and due process. The article argues that Zero FIR reflects a paradigmatic shift from procedural formalism toward rights-based criminal justice, yet its transformative promise depends upon sustained institutional reform.

**Keywords:** Zero FIR; BNSS 2023; criminal procedure; victimology; Article 21; access to justice; police accountability; transformative constitutionalism

## 1. Introduction

Registration of a First Information Report (FIR) is the juridical gateway through which the criminal justice system is activated in India. Section 154 of the Code of Criminal Procedure, 1973 (CrPC) mandates that information disclosing commission of a cognizable offence must be recorded by the officer in charge of a police station.<sup>1</sup> Yet for decades, police authorities frequently refused to register FIRs on the ground that the alleged offence occurred outside their territorial jurisdiction. Such refusals forced victims to traverse multiple police stations, often during moments of acute vulnerability.

The concept of Zero FIR emerged as a corrective response to this procedural rigidity. A Zero FIR refers to an FIR registered at any police station irrespective of territorial jurisdiction, to be transferred subsequently to the appropriate station for investigation. Although not expressly codified under the CrPC, its legitimacy was judicially affirmed and administratively institutionalized following public outrage after the Nirbhaya case of 2012.

The enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), replacing the CrPC, consolidates the principle by explicitly clarifying that registration cannot be refused on jurisdictional

<sup>1</sup> Code of Criminal Procedure, 1973, § 154.

grounds.<sup>2</sup> This development reflects a broader constitutional transformation emphasizing access, dignity, and accountability.

This article examines the evolution, importance, constitutional foundations, implementation challenges, and theoretical implications of Zero FIR within Indian criminal jurisprudence.

### Research Methodology

This research adopts a doctrinal methodology centered on statutory interpretation and judicial precedent. Primary sources include provisions of the CrPC and BNSS, Supreme Court and High Court judgments, Law Commission reports, and government notifications. Secondary sources include academic scholarship on victimology, constitutional law, and access-to-justice theory.

The study is qualitative and analytical, focusing on normative implications and structural dimensions rather than empirical quantification. Comparative references to international victim rights frameworks contextualize Indian developments.

## 2. Legal Framework

Section 154 CrPC mandates compulsory registration of information relating to cognizable offences.<sup>3</sup> In *Lalita Kumari v. Government of Uttar Pradesh*, the Supreme Court held that registration of FIR is mandatory and cannot be subjected to preliminary inquiry except in limited categories.<sup>4</sup> The Court emphasized that jurisdictional issues cannot justify refusal to register.

Earlier, in *Ramesh Kumari v. State (NCT of Delhi)*, the Court reiterated that police officers have no discretion to refuse registration where a cognizable offence is disclosed.<sup>5</sup> These decisions form the doctrinal foundation of Zero FIR.

Although the CrPC did not expressly mention Zero FIR, executive advisories issued by the Ministry of Home Affairs institutionalized the practice, particularly in cases involving crimes against women.

Section 173 of the BNSS replaces Section 154 CrPC and clarifies that registration of information relating to cognizable offences shall not be refused on grounds of territorial jurisdiction.<sup>6</sup> The provision mandates subsequent transfer to the appropriate police station.

This statutory articulation transforms judicial doctrine into legislative command. By codifying Zero FIR principles, the BNSS reduces ambiguity and strengthens enforceability.

## 3. Constitutional Foundations

### A. Article 21: Fair, Just, and Reasonable Procedure

Article 21 guarantees that deprivation of life or personal liberty must occur according to fair, just, and reasonable procedure.<sup>7</sup> Denial of FIR registration obstructs investigation and thereby violates procedural fairness. The Supreme Court has recognized the right to fair investigation as part of Article 21.<sup>8</sup>

### B. Article 14: Non-Arbitrariness

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<sup>2</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, § 173.

<sup>3</sup> Code of Criminal Procedure, 1973, § 154.

<sup>4</sup> *Lalita Kumari v. Gov't of U.P.*, (2014) 2 S.C.C. 1 (India).

<sup>5</sup> *Ramesh Kumari v. State (NCT of Delhi)*, (2006) 2 S.C.C. 677 (India).

<sup>6</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, § 173.

<sup>7</sup> *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

<sup>8</sup> *Pooja Pal v. Union of India*, (2016) 3 S.C.C. 135 (India).

Article 14 prohibits arbitrary state action. In *E.P. Royappa v. State of Tamil Nadu*, the Court held that arbitrariness is antithetical to equality.<sup>9</sup> Refusal to register FIR based on territorial technicalities produces unequal treatment and discretionary injustice.

#### 4. Importance of Zero FIR

##### a) Immediate Access to Criminal Law Machinery

The most fundamental importance of Zero FIR lies in its function as an access-enabling mechanism. In the architecture of Indian criminal procedure, registration of an FIR is the juridical gateway to investigation. Without registration, no formal investigation under Chapter XII of the CrPC (now BNSS) can commence. Thus, refusal to register effectively suspends the victim outside the justice system.

Territorial jurisdiction, though administratively necessary for investigation, should not operate as a precondition for access. Zero FIR dismantles this procedural barrier by ensuring that any police station must register information disclosing a cognizable offence and subsequently transfer it to the competent authority. This reform is particularly significant in cases involving sexual offences, trafficking, domestic violence, inter-state crime, and cybercrime contexts in which immediate response is crucial to evidence preservation and victim protection.

##### b) Prevention of Secondary Victimization

Secondary victimization refers to harm caused not by the original crime but by institutional response. Historically, victims particularly women were compelled to travel between police stations, recount traumatic experiences multiple times, and confront dismissive attitudes.

The Supreme Court in *Lalita Kumari v. Government of Uttar Pradesh* recognized that mandatory registration protects victims from harassment and arbitrariness.<sup>10</sup> Zero FIR operationalizes this principle by eliminating bureaucratic deflection based on territorial technicalities.

In sexual violence cases, delay in registration may result in loss of medical evidence. Therefore, Zero FIR serves not only procedural fairness but evidentiary integrity.

##### c) Strengthening Federal Coordination in Inter-State Crime

India's federal structure often complicates investigation of crimes spanning multiple states. Zero FIR facilitates early documentation of offences regardless of geographic location. Subsequent transfer under BNSS § 173 ensures procedural continuity without jurisdictional paralysis.<sup>11</sup>

In an era of increased mobility and digital crime, territorial rigidity is increasingly obsolete. Zero FIR reflects adaptation of criminal procedure to contemporary realities

#### 5. Zero FIR And Victim Compensation

Victim compensation jurisprudence complements Zero FIR. Section 357A CrPC mandated State-funded compensation schemes independent of conviction outcomes.<sup>12</sup> In *Ankush Shivaji Gaikwad v. State of Maharashtra*, the Supreme Court emphasized mandatory judicial consideration of compensation.<sup>13</sup>

The BNSS continues this framework under Section 396.<sup>14</sup> While Zero FIR ensures entry into the system, compensation ensures restorative recognition. Together they reflect evolution toward victim-centric justice.

<sup>9</sup> *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 S.C.C. 3 (India).

<sup>10</sup> *Lalita Kumari v. Gov't of U.P.*, (2014) 2 S.C.C. 1 (India).

<sup>11</sup> *Bharatiya Nagarik Suraksha Sanhita*, 2023, § 173.

<sup>12</sup> *Code of Criminal Procedure*, 1973, § 357A.

<sup>13</sup> *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 S.C.C. 770 (India).

## 6. Implementation Challenges

Despite doctrinal clarity, implementation remains uneven. The gap between judicial articulation and administrative practice reveals structural challenges.

### **Institutional Resistance and Police Culture**

Empirical studies of police functioning in India indicate strong institutional inertia and reluctance to register FIRs due to workload concerns, pressure to maintain low crime statistics, or fear of supervisory scrutiny.<sup>15</sup> Zero FIR increases reported crime figures, which may be perceived negatively within hierarchical performance metrics.

The cultural shift from discretionary filtering to mandatory registration requires structural reorientation, not merely statutory amendment.

### **Lack of Awareness Among Citizens**

Public awareness of Zero FIR remains limited, particularly in rural areas. Victims often accept refusal as final due to informational asymmetry. Without awareness campaigns and legal literacy initiatives, the right remains underutilized.

### **Digital Infrastructure Gaps**

While some states have introduced e-FIR or online complaint systems, technological disparities persist. Inadequate digital integration across states hampers seamless transfer of Zero FIRs, especially in cybercrime cases.

### **Monitoring and Accountability Deficits**

Although refusal to register FIR may attract disciplinary consequences, enforcement mechanisms are weak. There is no centralized database specifically tracking Zero FIR registrations and transfers. The absence of audit mechanisms undermines transparency. Without measurable indicators, compliance cannot be systematically evaluated.

### **Intersectional Barriers**

Marginalized communities Scheduled Castes, tribal populations, migrant workers face compounded barriers. Even where Zero FIR exists formally, discriminatory policing practices may obstruct effective access.

Thus, implementation challenges are not merely administrative but socio-structural.

## 7. Critical Evaluation

Zero FIR represents a procedural democratization of criminal justice. However, it addresses only the threshold stage. Registration alone does not guarantee effective investigation or prosecution. Balancing victim rights with accused rights remains crucial. Mandatory registration initiates investigation but does not presume guilt, preserving due process safeguards.<sup>16</sup>

From a theoretical standpoint, Zero FIR synthesizes positivist procedural clarity, victimological recognition, and transformative constitutionalism. Yet without structural reform in policing culture and accountability systems, its impact may remain symbolic.

## 8. Conclusion

Zero FIR represents one of the most significant procedural democratizations in Indian criminal law. It

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<sup>14</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, § 396.

<sup>15</sup> Commonwealth Human Rights Initiative, Police Reforms in India Report (2020).

<sup>16</sup> Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 S.C.C. 158 (India).

dismantles territorial rigidity, affirms victim dignity, and strengthens constitutional guarantees under Articles 14 and 21.

Yet its transformative promise depends upon implementation fidelity. Institutional reform, technological integration, training, and public awareness are essential for ensuring that Zero FIR operates as a substantive right rather than symbolic policy.

The transition from CrPC to BNSS reflects legislative recognition of judicial doctrine. In this sense, Zero FIR illustrates the dynamic interplay between constitutional jurisprudence and statutory reform in India's evolving criminal justice system.