

A Few Minutes Series

Subject - Polity & Governance

Date - 24th January 2023

Click [here](#) to watch the following topics on YouTube

Supreme Court Judgement on Chargesheet

What We Will Learn

- What is the news About
- What is a Chargesheet
- What is the difference between FIR and Chargesheet
- What is difference between complaint and FIR
- What were the arguments by the petitioners
- What Court said while rejecting them

WHY IN NEWS

- In **Saurav Das v. Union of India and ors**, The Supreme Court on Friday dismissed a plea to publish chargesheets filed by the police, the Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED) in public domain and on government websites.
- The two judge bench comprising **Justice MR Shah and Justice CT Ravikumar** held that chargesheets are **not 'public documents'** and enabling their free public access violates the provisions of the Criminal Code of Procedure as it compromises the rights of the accused, victim, and the investigation agencies.

WHAT IS A CHARGESHEET

Section 173 of CrPC

- It is defined as the final report prepared by a police officer or investigative agencies after completing their investigation of a case.
- After preparing the chargesheet the officer-in-charge of the police station forwards it to a Magistrate, who is empowered to take notice of the offences mentioned in it.

The chargesheet should contain

- Details of names,
- The nature of the information, and offences.
- Whether the accused is under arrest, in custody, or has been released.
- Whether any action was taken against him.

Section 173 of CrPC

- A chargesheet must be filed against the accused within a prescribed period of 60-90 days, otherwise the arrest is illegal and the accused is entitled to bail.

ARGUMENTS

- The bench termed as "misplaced" the reliance made by Advocate Prashant Bhushan on the Supreme Court's judgment in the Youth Bar Association Case(2016) in which directions were issued to the police to upload the FIRs in website within 24 hours except in sensitive cases like rape and sexual offences.
- The petitioner had argued that a charge-sheet, not unlike an FIR, was a 'public document', since the filing of a charge-sheet was an act of a public official in

discharge of their official duties and as such, came under the definitional ambit of 'public document' given in Section 74 of the Evidence Act, 1872.

- Thus a charge-sheet filed by a police department, or an investigative agency, Bhushan claimed, would be subject to the discipline of Section 76 of the Act that mandated public disclosure of any public document by a public officer having custody of such document to a person having a 'right to inspect'.

Difference Between Fir And Chargesheet

CHARGESHEET	FIR
Expressly Defined under Section 173 of CrpC	Not been defined in wither IPC or CrpC but defined in Police Regulations/Rules under Section 154 of CrPC that deals with Information in Cognizable offences
Final report filed towards the end of an investigation	FIR is filled in first instance that the police is informed of a cognizable offence (arrest for which one can be arrested without a warrant.
Chargesheet is complete with evidence and is often used during the trial to prove the offences the	FIR does not decide a person's guilt.

accused is charged with.	
A chargesheet is filed by the police or law-enforcement/ investigative agency only after they have gathered sufficient evidence against the accused in respect of the offenses mentioned in the FIR, otherwise, a 'cancellation report' or 'untraced report' can be filed when due to lack of evidence..	According to Section 154 (3) of the CrPC, if any person is aggrieved by the refusal of authorities to file FIR, they can send the complaint to the Superintendent of Police, who will either investigate himself or direct it to their subordinate
Complaint is defined under Section 2 of CrpC, any allegation made orally or in writing to a magistrate, with a view to his taking action under the code, that some person whether known or unknown has committed an offence.	Not been defined in wither IPC or CrpC but defined in Police Regulations/Rules under Section 154 of CrPC that deals with Information in Cognizable offences
Complaint can be filed by any person subject to certain exceptions.	Can be lodged by person such as the aggrieved party or an eye witness or police themselves.

Complaint is made to a magistrate	First information report is made to the competent police officer
A complaint may relate to a cognizable or non-cognizable offence.	First Information Report must relate to a cognizable offence on the face of it
When complaint is filed no investigation is done by the police officer until directed by the competent authority.	When a FIR is lodged, a policer officer starts with investigating the matter.
No prescribed format is given for filing a complaint. But some essential ingredients are to be satisfied.	There is prescribed format by law for FIR

- The Court also held that copies of the chargesheet and the relevant documents along with the charge-sheet do not fall within **Section 4(1)(b)** of the **RTI Act**.
- Section 74 of the Evidence Act defines '**public documents**' as those which form the acts or records of sovereign authority, official bodies, tribunals, and of public offices either legislative, judicial or executive in any part of India, Commonwealth or a foreign country.
- The Court also clarified that as per Section 75 of the Evidence Act, all documents other than those listed under Section 74' are private documents.
- In response to the reference to the 2016 judgement, "This was done so that if the innocent accused are harassed, they are able to get relief from the competent court and are not taken by surprise," the Court said in reference to its 2016 judgment.

What Court Said

- "Copy of charge sheets along with necessary public documents cannot be said to be public documents u/s 74 of the Evidence Act".
- The Court further held that the direction sought to put all chargesheets in the public domain is contrary to the scheme of the CrPC.
- "It may as such, violate the rights of the accused as well as the victim and/or even the investigation agency.
- Putting the FIR on the website cannot be equated with putting the charge sheets on public", the bench noted in the order.