5. **Relevant Laws and Provisions.**

FIR is registered u/s 154 Cr.P.C. and complaint before Magistrate is filed u/s 200 Cr.P.C.

6. **Section 154--------Re-produced.**

Every information relating to the commission of a cognizable offence if given orally to an officer incharge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid shall be signed by the person giving it, and the Substance thereof shall be entered in a book to be kept by such officer in such form as the Provisional Government may prescribe in this behalf.

7. **Two modes to set Criminal Law in Motion.**

In order to set the criminal law in motion two modes are provided, one by way of lodging of report with the police under this section in respect of commission of cognizable offence and other by filing of a complaint before a Magistrate as provided by section 190 Cr.P.C Requirement of law is that Police Officer has to record the FIR of commission of a cognizable offence but if it is non cognizable case then substance of such information is to be entered in the relevant register and in each case the refusal is out of question. (2002 MLD 280). The Code also provides remedy of having lodged a private complaint. U/S 200, Cr.P.C. which is equally effective, practical and adequate remedy. There is case law, which suggests that, the High Court in exercise of its jurisdiction under Art. 199 of the Constitution is not obliged to issue direction for registration of FIR in each case. (1999 P.Cr.L.J. 781; PLD 1997 Kar 600).

8. **Lodging of FIR----Procedure.**

Section 154, Cr.P.C. deals with the recording of information of cognizable cases and ordains that every information relating to the commission of a cognizable offence, given to the Incharge of a Police Station, shall be reduced into

writing by him and its substance entered in a book to be kept in such form, as prescribed by the Provincial Government.

Prior to registration of FIR, a report in daily diary of the police station is recorded. Number, time and date of such report is specifically mentioned in column No.1 of the FIR. Another report is entered after the FIR is recorded and is allocated an independent number in the register. (2000 YLR 2294).

9. Who can lodge an FIR?

A person may set the criminal law in motion, by making a report u/s 154. The information so given is called the first information. (PLD 1994 Lah 485). Machinery of law can be set in motion by any person who need not necessarily be a resident of the locality where an offence takes place. (PLD 2000 Lah 364; 1997 P.Cr.L.J. 376).

Police officials are under statutory obligation to enter the information relating to the commission of a cognizable offence in the prescribed register. Refusal, violates mandatory provision of Chapter XIV, Cr.P.C. and section 23 Police Act. (PLD 1997 Lah 135; 2000 YLR 47).

When maker of FIR has died it cannot be used as corroboration of testimony (1979 SCMR 579). FIR lodged not on the basis of direct knowledge does not transmit correct information. (PLD 1980 S.C. 109).

10. Evidentiary value of FIR.

First information report is not a sacrosanct or substantive piece of evidence and is only information to put machinery of law into motion. (2002 P.Cr.L.J. 1902). Its primary purpose is to inform the police about the commission of a cognizable offence. (2002 P.Cr.L.J. 668, 2002 MLD 83). To move the concerned agency. Is is not essential to given all details regarding the commission of an offence. (2000 P.Cr.L.J. 602 (Sh. C. AJ & K)) Such information, irrespective of its brevity or length, has to convey the relevant information pertaining to the nature and place of occurrence, including the description of the victim of

violence. FIR promptly lodged, without consultation of police or tutoring by any one. (1985 P.Cr.L.J. 1712 may be treated as genuine document.(1997 P.Cr.L.J. 1865; 1985 P.Cr.L.J. 2074) excluding possibility of fabrication.(NLR 1997 Cr. 554). However, it is not gospel truth. (PLJ 1996 Lah 1139) and is not a guarantee of truthfulness of its contents. (2002 YLR 1523).

A first information report cannot be treated as substantive piece of evidence, it is not at all mandatory that each and every detail must be given, (1998 P.Cr.L.J. 1730, 1795, PLD 1965 S.C. 111+ 1991 P.Cr.L.J. 1117 + 1991 KLR (Crl) 471 + 1992 MLD 1522) and that it can be used for contradicting the maker of the same if he appears at the trial as a witness. However, at the same time it certainly furnishes a clue to the possible truth of the allegation against the accused, as it is the earliest version of the prosecution case. (1991 SCMR 1608) Its importance cannot be ignored because it depicts the initial version set up by the prosecution and if prosecution does not stick to the version set up by FIR and introduces a new version during investigation or during the trial or at a later stage Courts always search deviation with doubt unless and until prosecution brings on record strong circumstances justifying the same. (2003 P.Cr.L.J. 1778).

FIR itself is not a substantive piece of evidence unless its contents are affirmed on oath and subjected to the test of cross-examination. In view of provisions of Art. 140 and 143 Qanun-e-Shahadat FIR is a previous statement, which can be used for the purpose of contradicting and corroborating its maker. So far as FIR is not proved in accordance with law it cannot be taken as a proof of anything stated therein. (PLD 2001 Pesh 132).

If FIR cancelled no further investigation can be conducted. (1996 Law Notes 917 = 1997 P.Cr.L.J. 56) When it is made on the way to police station, presumption is that the FIR is drawn up at the spot. (1996 P.Cr.L.J. 1237).

The guarantee of the correctness of the first information is ensured by section 182 of the Pakistan Penal Code under which if any person gives the first information statement to a police

officer which is recorded under section 154 of the Code of Criminal Procedure, and if it ultimately turns out to be false, the informant shall be liable to punishment with imprisonment of either description for a term which may extend to six months, or with the fine which may extend to one thousand rupees, or with both. (PLD 1994 Lah 485).

11. FIR and Supplementary statement.

FIR and supplementary statement are distinct, FIR is a document which is entered in a book maintained at the police station and thumb marked or signed by the first informant, while the supplementary statement is recorded u/s 161 Cr.P.C. and is not signed or thumb marked. Supplementary statement cannot be considered at part or read as part of the FIR. (PLD 2002 Lah 110). Object of further statement is to enable complainant to clarify facts, which required some explanation, but if complexion of case is changed as regard identity of culprits, then onus would be on prosecution to cast away the same at trial. (PLD 2002 Kar. 402).

No provision exists in the Criminal Procedure Code about the supplementary statement, which is always recorded in order to fill the lacunas in the prosecution case. (2003 P.Cr.L.J. 986).

Subsequent statement recorded during investigation is neither equated with FIR nor read as part of the same so as to be treated as a corroborative piece of evidence. (2000 YLR 80).

Second statement of the first information is not FIR. Same can at best be treated as statement u/s 161 Cr.P.C. (1991 P.cr.L.J. 247 + PLD 1979 Lah [illegible] Any statement or further statement of the first information recorded during investigation by police would neither be equated with FIR nor read as part of it. (1995 SCMR 1350).

12. Not FIRs.

The following held not FIRs:

(i) Entry in Roznamcha of police. (PLD 1979 Kar 677).

(ii) Report of inculpatory nature made by the accused (PLD 1965 S.C. 366).

(iii) Second statement. (1991 P.Cr.L.J. 247) Any statement or further statement recorded during investigation would not equate with FIR nor can be read as part of it. (1965 SCMR 1350).

13. Limitation and Laches.

No time limit can be prescribed by the High Court under the concept of section 154 Cr.P.C. for the appearance of the complainant and making of his statement before police functionaries, because limitation is totally foreign to the doctrine of initiation of criminal proceedings, though delay, if any may ultimately reflect on merits. (1975 MLD 372). Laches no ground to refuse relief against void, unjust and illegal order. (1978 SCMR 367). Delay in lodging FIR under this section is never considered sufficient to disbelieve prosecution case. If the evidence recorded in the Court appears to be trustworthy and convincing then delay can be ignored. (NLR 2001 (Cr.) S.C. 342).

Generally there is no limitation for preferring a complaint of a criminal offence. However, the court will be justified in case of a delayed complaint in holding that the complainant was not very serious about instituting the criminal proceedings.(AIR 1956 Bom 247).

14. Delay in FIR.

One view is that delay per se in lodging the FIR is generally not sufficient to cast a doubt on the prosecution case (1996 P.Cr.L.J. 668, 1992 P.Cr.L.J. 201, 1978 SCMR 136, PLD 1978 S.C. 1, PLD 1987 S.C. 1, 1979 SCMR 230) nor to disbelieve prosecution witnesses, (1997 P.Cr.L.J. 1646) nor give rise to an adverse presumption (1968 P.Cr.L.J. 1597). No formula or any hard and fast rule can be laid down to decide the weight to be attached to such delay, such matter has to be left for the Trial Court to evaluate on the basis of the overall evidence on record

in the given case. (PLD 1994 Lah. 485) If eye-witness account coupled with medical evidence inspires confidence, delay in registration of case would become a secondary factor. (1992 P.cr.L.J. 478). FIR being true delay in sending same to Magistrate would not a ground to doubt its genuineness. (1993 SCMR 2209.

However, Courts should subject evidence as well as contents of FIR to careful and close scrutiny. (1982 PSC Crl 844) Delay is of no significance when occurrence admitted by some of the accused person. (1985 P.Cr.L.J. 2630) or the evidence is otherwise fully entitled to credit. (AIR 1973 S.C. 1) Delay of 7/8 days in lodging of FIR relating to offence of zina-bil-jabr cannot be considered fatal in view of positive medico legal report. (PLJ 2003 S.C. 921). When explanation for delay in giving the first information report is satisfactory, the delay is not a material significance. (AIR 1974 S.C. 1118).

15. Second FIR.

After a critical survey of the statutory law laid down in section 154, Cr.P.C analysis of the case law and the consensus of the authorities reveals that second FIR is not barred in appropriate cases disclosing cognizable offence, particularly the cases of counter version. (1996 P.Cr.L.J. 489 (AJ & K); 1998 P.Cr.L.J. 170; 2003 YLR 1834) Recording of second FIR or a direction to that effect therefore, depends upon the circumstances of each case. Counter cases are often recorded and tried. No hard and fast rules or principles can be laid down as to when a second FIR can or should be recorded. The matter has to be seen in the context of the totality of the circumstances and the allegations. (PLD 1987 Lah 300, 1993 MLD 2059) Registration of second FIR embodying the counter version of a case is neither legally barred nor can such an FIR be refused to be registered. (PLD 1998 Lah 111, 1996 P.Cr.L.J. 489).

commence after the registration of the FIR. Object of which obviously is collection of evidence. (PLD 2003 Kar 309).

17. Quashment of FIR.

Judiciary should not interfere with the police in matters, which are within their domain and into which the law imposes upon them the duty of inquiry. Functions of the judiciary and the

police are complementary not overlapping and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function. Functions of the Court begin when a charge is preferred before it and not until then. (PLD 1996 Lah 598) Investigation stage is outside the purview of the Court. High court have earlier refused to quash FIR under its constitutional jurisdiction in some other case, keeping in view the principle of consistency, the Court cannot deviate from its own judgment. (PLD 2001 Lah 22).

18. Instances where FIRs were quashed.

In the flowing cases FIR quashed.

Lawful marriage. Accused girl attaining puberty and conducting marriage with her co-accused five months prior to the lodging of FIR. State under Art. 35 of the Constitution being duty bound to safeguard the fundamental right of marriage, no Court on such evidence can convict the accused on the charge leveled against accused persons and the continuance of proceedings shall cause unnecessary harassment. FIR quashed (1995 P.Cr.L.J. 401, 1990 P.Cr.L.j. 1198, 1989 P.cr.L.j. 192 Accused's marriage with her co-accused being valid, FI registered against her liable to be quashed. (1995 P.Cr.L.J. 797).

Matter of civil nature. Matter purely of civil nature an prima facie no offence was made out upon bare reading of t

FIR. Registration whereof was a clear misuse of process of law quashed. (1995 P.Cr.L.J. 980).

Evidence not sufficient. Reading of FIR and other evidence so far recorded not inspiring any confidence and no legal justification available for registration of case. (1994 P.Cr.L.J. 367).

Registration of case against persons subject to Pakistan Army Act, 1952. High Court as well as subordinate Court created under the general or local law has no jurisdiction to try and punish the persons subject to the Pakistan Army Act, 1952 as the same is barred by sections 2 and 7 of Act, 1952 and section 139 PPC. (2001 P.Cr.L.J. 465).

19. Remedy against false FIR.

Accused falsely involved in the commission of an offence after registration of FIR has remedies open to him at every step and at every stage during the course of investigation and

during the course of the trial under sections 169, 551, 63, 190, 249-A and 265-K Cr.P.C. as well as under R. 24.7 of the Police rules, 1934 and in the presence of these remedies it cannot be said that he does not have adequate remedies available to him under the law. (2001 P.Cr.L.J. 157).