

RTI in Criminal Cases: FIR, Police Complaint & Charge sheet

1. RTI application for seeking the copy of FIR:

Through this template, an attempt is made to give an insight to the readers about how RTI can act as a mechanism for seeking copies of FIRs, police complaints and Charge sheets. It is well within the public domain that the Right to Information Act, 2005 has helped citizens in accessing information from public authorities, which was way out of their reach, but with RTI, now you can procure these copies.

The legislative intent behind the enactment of the RTI Act was to make information accessible and hold public authorities accountable for their actions, which is why RTI is vouched for bringing transparency in the working of public authorities.

Coming back to the question of assessing FIR, Police complaint, and Charge sheet, **it has been held by various judicial bodies that a copy of FIR, Police complaint and Charge sheet can be sought by filing an RTI application.**

It has been noticed that applicants tend to file RTI applications to seek a copy of FIR since an FIR has the primary evidentiary value. The First Information Report commonly referred to as FIR falls well within the definition of information under the RTI Act since it is the first document that records the commission of an offence and is the instance of police being acquainted with the very fact of any such commission. Since, an FIR consists of crucial information regarding the victim, accused and witnesses, the Central Information Commission, through a division bench of Information Commissioners *Wajahat Habibullah* and *Shailesh Gandhi* in the case of *Shri Prashant Bhushan v Deputy Commissioner Police, Crime and Railways* ruled that an FIR can be provided after applying the severability clause i.e, after ruling out the information provided under Section 8(1)(h) and 8(1)(g).

The Hon'ble Central Information Commission (hereinafter referred to as 'CIC') also, ruled in the case of *Mr. Justice RN Mishra Rtd v CBI* that every citizen, including an accused, has the right to seek the copy of FIR under the Act. It would be arbitrary to reject the application merely on the ground that the applicant in these cases is an accused itself.

The Kerala High Court in a *Jiju Lukose v. State of Kerala* held that it is the duty of the concerned police station or the Superintendent of Police (herein referred to as 'SP') to furnish a copy of FIR within 2 days.

The Hon'ble Supreme Court (hereinafter referred to as 'SC') in the case of [Youth Bar Association of India v. Union of India](#) as decided on 07.09.2016 laid guidelines pertaining to uploading of FIR on the website on their own responsibility, subject to the guidelines with respect to sensitivity, network connectivity etc. The objective of the Court was to assist the parties and their relatives by ensuring easy procuring of FIR.

The Delhi High Court's ruling in [WP\(CRL\) NO 468/2010](#) also issue guidelines for the police department of the respective states for uploading FIR's online.

The Maharashtra Information Commission directed the Director-General of Police to upload all the copies of FIRs on the website so that they can be easily accessed. The copies of an FIR registered within the State of Maharashtra can be accessed on this [portal](#).

In the State of Punjab, for seeking a copy of FIR, the Punjab State Police Department in the year 2016 issued directives for providing copies of the First Information Report (FIR) and General Diary Record through RTI. It stated that any copy of FIR could be provided to the applicant if it does not come under the definition of 'Secret Document'. The power to decide upon what comes under this ambit has been given exclusively to the PIO. However, an FIR pertaining to the following classes of crimes under which the name of the victim is to be kept confidential has been excluded from providing the above-mentioned copies. This includes offences mentioned under the Protection of Children from Sexual Offences Act, Unlawful Activities Prevention Act, and Official Secrets Act. Further, cases involving communal disturbances, terrorist activities, those influencing national security and juvenile justice cases involving children have also been excluded from providing copies.

An exhaustive table regarding the offences under the Indian Penal Code (herein referred to as IPC) which have been exclusively barred from proving copied of FIR has been illustrated below for the convenience of readers has -

S. No.	Section	Title
1.	376	Punishment for Rape
2.	376 A	Punishment for causing death or resulting in persistent vegetative state of victim
3.	376 B	Sexual intercourse by husband upon his wife during separation
4.	376 C	Sexual intercourse by a person of authority
5.	376 D	Gang rape
6.	376 E	Punishment for repeat offenders

7.	377	Unnatural offences
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These rulings and actions are evident proof that copies of FIR can be sought through the RTI mechanism.

The judiciary as well as the semi-judicial bodies, here, the Information Commissions have tried to analyse the law through wide interpretations. They have also tried to implement the essence of the Right to Information Act in the truest possible way. These instances strengthen the position of an RTI applicant.

2. RTI application for seeking a copy of the Charge sheet:

As per Section 173 of the Code of Criminal Procedure (herein referred to as 'CrPC'), a charge sheet is a document submitted by the police on completion of an investigation.

Let's analyse what is the extent to which one can obtain a copy of the charge sheet through an RTI application with the help of the following sub-points-

- It has been affirmatively held by Central Information Commission that a charge sheet is a public document. It was backed by the reasoning that since an FIR, a trial and judgements are in the public domain; a charge sheet must also be brought to the public domain to ensure openness of the criminal justice mechanism. This is also based on a judgement of the High Court of Kerala in the case of *V.J.Thomas Vs. State of Kerala*.
- In the case of *Usha Kant Asiwai v Directorate of Vigilance*, it was held that any person who has an interest in a criminal proceeding has a right to inspect under section 76 of the Indian Evidence Act.
- It has also been frequently noticed that PIO's tend to deny information under the protection of Section 8(1)(j) but in order to override this practice, CIC Mr Shailesh Gandhi ordered disclosure of Charge sheet ruling out the contention of exemption under Section 8(1)(j). It was held that:

"As per the RTI Act, any information held by the public authority can be accessed by the citizen subject to the exceptions provided under Section 8. Because the charge sheet contains the evidence which need to be adduced in the court of law, there is a possibility of opening up many details which could be personal or private or confidential. If the allegation requires to be proved by call data, the charge sheet refers to sheets of call data, which surely contain call details unrelated to allegation. That could be private information need to be protected. Hence each charge sheet has to be separately examined and only after separating unnecessary and unrelated details of evidence, and only required and permissible information out of charge sheet should be disclosed. Thus Charge sheet can neither be prohibited enbloc from

disclosure nor disclosed totally. Charge sheet is a document held by concerned authority, which has to examine disclosable aspects vis a vis section 8 and 9 of the RTI Act and then decide the case."

3. RTI application for seeking a copy of Complaint:

The term complaint has been defined under Section 2(d) of CrPC as follows-

"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 offence, but does not include a police report"

Generally, a Police Complaint has the following essential ingredients-

- A police report is an initial report given to the police regarding the commission of an offence.
- It is a prerequisite to an FIR.
- It is a mere narration of facts/ incidents related to the offence.
- It must be filed in the police station under whose jurisdiction the offence has been committed.
- It can either be filed online or offline.

The CIC, in the case of *Shri Rahul Kumar Goyal v. Delhi Police* specifically held that the PIO in the Police department is required to furnish the information with respect to the Police complaint. The PIO is duty-bound to provide a copy of the complaint. In case, if the copy of the Complaint has been lost by the department then the PIO has required the furnish the steps that have been taken against the same.

With respect to a complaint of marital dispute registered in a police station, a copy of the complaint can be sought by either of the parties. The CIC in the case of *Shri V. Ayyappan v. UT of Pondicherry in police station at Pondicherry* made this ruling on the ground that the applicant has not sought any personal information about her wife, but only the copy of the complaint under which details of charges against him are located.

Hence, it is a settled position that a copy of the police complaint can be procured under the RTI Act.

4. Tips and Tricks

The following points must be remembered while filing an RTI application-

- Try to provide as many particulars as you can while applying for a copy of the FIR, Charge sheet, or Complaint.
- In case you are related with the party to the criminal case, then mention the relation. This may help in deteriorating the chances of dismissal in the name of third party information.

- In case the information is urgently required, then do show the impact of information on the life and liberty of the party to the case. This will bound the PIO to furnish the information within 48 hours of filing of information.
- If possible, then wait for the investigation to get over. This will prevent the dismissal of the application on the ground of the matter under investigation

SAMPLE APPLICATION

October 20, 2020

To,
The Public Information Officer,
Police Control Room, Shivpuri
Shivpuri, Madhya Pradesh
PIN: 473551

Subject: Request for information under Section-6(1) of RTI Act

Sir/ Ma'am,

On date 20.09.2020, my wife, Mrs. XYZ Jain filed a police complaint in this police station. Please provide me with the copies of the following with respect to the abovementioned:

1. Copy of the written Complaint submitted by her for the lodging of FIR;
2. Copy of the FIR dated 20.09.2021 filed by my wife.
3. Copy of the Police Complaint registered by the police, if any;
4. Copy of the Charge sheet prepared by the police, if any;

Please send the information to my below-mentioned address by Registered post or speed post.

Yours faithfully,

Signature

Mr. ABC Jain

House No. 01, P/Q Colony, Shivpuri

Pin Code: 473551

PLEASE CONSIDER BEFORE DISPOSING OF THE APPLICATION:

1. If required then, please '*render reasonable assistance*' for the purpose of obtaining the information **u/s 5(3)** of the Right to Information Act, 2005.
2. If the information, wholly or partially is available with any other particular department then as per the provision **u/s 6(3)**, please transfer the application, wholly or partially, to the concerned department.