

The its being lodged
at a wrong



**ASSIGN
BUSTER**

The kith and kin who have witnessed the occurrence cannot be expected to act mechanically with the entire promptitude in giving the report to the police.

At times being grief stricken because of calamity it may not immediately occur to them that they should give a report. After all it is but natural circumstances for them to take some time to go to the police station to give a report. Whether the delay is so long as to throw a cloud of suspicion on the deeds of the prosecution case must depend upon a variety of factors.

Where the delay in filing F. I. R. is due to its being lodged at a wrong police station, it was held to be reasonably explained. In view of distance of police station and ignorance of parties, delay held not fatal. Where place of occurrence was sixteen miles away from the police station, witness terrorized by the accused, could not have courage to lodge F.

I. R., delay held sufficiently explained, delay was held not fatal to prosecution. In *Jagat Singh v. State of U. P.*, the occurrence of murder took place at about 8.

30 p. m. near village in which the accused already fired gunshots at deceased and F. I. R. of occurrence was lodged at about 6. 15 a.

m. on the following morning at Police Station which is situated at a distance of about 15 km. from the place of occurrence. The father of deceased has given explanation that due to fear from the accused and non-availability of conveyance to go to police station, he could not promptly go to the police station to lodge FIR of the occurrence. He stated that after the murder of

deceased, he, with the help of his co-villagers took the dead body of his son from the place of occurrence to his house and since they were all wailing and grief stricken he got the report of the occurrence scribed by his second son at about 3.

00 a. m. on the following morning and then at about 4. 00 a. m.

he proceeded to the police station, and handed over the written report to the police official present there. It was held that, in these circumstances, the explanation offered by the informant for not lodging the FIR after the occurrence, was quite satisfactory, and convincing and there was no deliberate delay on his part in reporting the crime to police and, therefore, FIR would not be liable to be rejected on ground of delay in lodging. In *Gurdev Raj v. The State of Punjab*, the accused/appellant Gurdev Raj has no good and cordial relations with his wife Rajani Bala. Rajani Bala went to the house of her parents at Amritsar.

After receiving the news of ill health of Gurdev, his wife along with her mother and brother's wife came to Taran Taran. It is said that in evening of that day, a quarrel ensued between Rajani Bala and her mother Bhushan Lata on the one side and the appellant Gurdev Raj on the other side. The appellant got angry and picked up an iron mungli lying inside the room and administered blows on the head of Bhushan Lata. As a result of those injuries, Bhushan Lata died. None from locality came to their rescue on hearing hue and cry. Ladies getting frightened went to father's place to inform him.

As father came late at night, FIR was lodged on next day. The Court held that there was no unexplained delay. If lodging F.

I. R. in a rape case was delayed for two days, the delay will be deemed to have been reasonably explained where the honour of the family was involved and its members had to decide whether to take the matter to the Court or not. Two days delay is not fatal to prosecution when rape committed on minor girl and her father is illiterate villager. Delay stands well explained if it is due to anxiety of the relatives for providing medical aid. In case of gruesome murder in the family, the family members must take some time to reconcile to what happened and the delay in lodging F. I.

R. is held not fatal. The delay in transmission of the copy of the F. I. R. to the magistrate if not properly explained may also make the prosecution story suspicious that the report was recorded much later than the stated date.

Mere omission to mention the time of dispatch of the F. I. R. to Court is, however, immaterial. If the dead body is sent for post-mortem examination within a reasonable time, it gives an assurance that the case was registered at the time alleged in the F. I. R. Where accused alleges that original F.

I. R. has been substituted by another one, in spite of Court's order, F. I. R.

book and General Diary of Police Station are not produced before Court Court can draw inference that original F. I. R. has been replaced by another F.

I. R., rendering the prosecution story suspicious. An F.

I. R. or charge-sheet against the accused is not violative of constitutional mandate under Article 21 of the Constitution. The High Court exercising inherent powers under Section 482 of the Code of Criminal Procedure cannot quash F. I. R.

, more so when even investigation has not yet commenced. Quashing of F. I. R.

under Article 226 of the Constitution of India shall be used only in rarest of rare cases. Writ petition for quashing F. I. R. was found not maintainable.