



Chargesheet: Not a Public Document

For Prelims: Chargesheet, First Information Report (FIR), Criminal Code of Procedure (CrPC).

For Mains: Difference Between Chargesheet and FIR, Why Chargesheet is not a Public Document.

Why in News?

Recently, the [Supreme Court](#) (SC) ruled that **chargesheets are not 'public documents'** and enabling their **free public access violates the provisions of the [Criminal Code of Procedure \(CrPC\)](#)** as it compromises the rights of the accused, victim, and the investigation agencies.

What is a Chargesheet?

▪ About:

- A chargesheet, as **defined under Section 173 CrPC**, is the final report prepared by a police officer or investigative agency after completing their investigation of a case.
 - In the ***K Veeraswami vs Union of India & Others (1991)* case**, the SC ruled that the chargesheet is a **final report of the police officer under section 173(2) of the 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.

▪ 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, these are **all important questions answered in the chargesheet**.

▪ Procedure after Filing the Chargesheet:

- 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 **so that the charges can be framed**.

How is a Chargesheet Different from an FIR?

▪ Provision:

- The term, 'chargesheet' is defined under Section 173 of the CrPC but **[First Information Report \(FIR\)](#)**, has **not been defined in either the [Indian Penal Code \(IPC\)](#) or the CrPC**. Instead, it finds a place **under the police regulations/ rules under Section 154 of CrPC**, which deals with '**Information in Cognizable Cases**'.

▪ Time of Filing:

- While the **chargesheet is the final report** filed towards the end of an investigation, an **FIR is filed at the 'first' instance that the police are informed** of a cognizable offense (offence for which one **can be arrested without a warrant**; such as rape, murder, kidnapping).

▪ Determination of Guilt:

- An **FIR does not decide a person's guilt** but a chargesheet is complete with evidence

and is often used **during the trial to prove the offenses the accused is charged with.**

▪ **Terms & Conditions:**

- After filing an FIR, the investigation takes place. Under Section 169 of the CrPC, the **police can only forward the case to the Magistrate if they have sufficient evidence, otherwise, the accused is released from custody.**
 - According to Section 154 (3) of the CrPC, if any person is aggrieved by the **refusal of authorities to file an FIR, they can send the complaint to the Superintendent of Police**, who will either investigate himself or direct it to their subordinate.
- 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.**

What is a FIR?

- It is a report of information **that reaches the police first in point of time** and that is why it is called the First Information Report.
- It is **generally a complaint lodged with the police by the victim of a cognizable offence** or by someone on his/her behalf. Anyone can report the commission of a cognizable offence either orally or in writing.

Why is a Chargesheet not a Public Document?

- According to the Court, a chargesheet cannot be made publicly available as it's not a 'public document' **under Sections 74 and 76 of the Evidence Act, 1872.**
 - **Section 74:** It 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. **It also includes public records "kept in any State of private documents".**
 - Documents mentioned in this section **are only public documents**, and certified copies of them **must be provided by the public authority having custody of them.**
 - Copy of chargesheets along with necessary public documents **cannot be said to be public documents under this section.**
 - **Section 76:** Any public officer having custody of such documents must provide a copy upon demand and payment of a legal fee, **along with a certificate of attestation that states the date, seal, name, and designation of the officer.**
- As per Section 75 of the Evidence Act, **all documents other than those listed under Section 74 are private documents.**
- The Supreme Court in the **Youth Bar Association of India vs Union of India case (2016)** **directed all police stations in the country to publish copies of FIRs online within 24 hours** of registration, except in cases where offenses were of sensitive nature.
 - Only **FIRs were covered by this ruling, and chargesheets were not included.**

Source: IE