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Final Report

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ABSTRACT

This research paper examines the procedural nuances under Section 173 of the Code of Criminal Procedure (CrPC) in India, focusing on the submission and scrutiny of chargesheets and supplementary chargesheets. A chargesheet is filed when the police gather sufficient evidence to prosecute the accused, whereas a supplementary chargesheet is presented if new evidence emerges during the investigation. Section 173(8) permits further investigation, ensuring that the evolving nature of a case is considered and procedural fairness is maintained. The judiciary's oversight in assessing both reports is crucial, as magistrates are responsible for balancing the rights of the accused with the need for justice, requiring a reasoned and impartial review.

The paper explores the significant distinction between a chargesheet and a closure report, with the latter indicating insufficient evidence to proceed. Magistrates retain discretion to accept or reject closure reports, and they can even order further investigation or take cognizance independently of the police's findings. This judicial discretion ensures that incomplete or flawed investigations do not result in a miscarriage of justice. The roles of B-Summary and C-Summary reports are also discussed, emphasizing the need for magistrates to carefully assess whether a case should proceed, often requiring the complainant to be heard through protest petitions.

Additionally, the paper addresses the difference between preliminary reports under Section 157 and supplementary chargesheets, highlighting the legislative intent to allow flexibility in incorporating new evidence without compromising procedural integrity. Judicial oversight in ordering further investigation, while respecting the separation of powers between the judiciary and law enforcement, is emphasized. Ultimately, the research underscores the judiciary's role in safeguarding fairness and transparency in the criminal justice process, ensuring that decisions are made based on comprehensive and evolving evidence rather than being constrained by initial investigative findings.

Keywords: Final Report, Law, Police Report, FIR.

I. INTRODUCTION

A police report is a general term and can be used to refer to a variety of reports submitted by the police during different stages of an investigation and they all serve different purposes. A

¹ Author is a student at National Law University, Delhi, India.

narrow definition is given under section 2(r), it is a report prepared by the police under sub-section (2) of section 173 and submitted to a magistrate who can take cognizance of it. A final report is a collective opinion of the investigating officer and cannot be termed as a piece of substantive evidence². The police report is used as evidence for corroborating and contradicting the witnesses. The investigating officer's failure to appear in court or provide full cooperation does not grant the accused an acquittal, particularly where there is more incriminating evidence in the case. There are three different kinds of reports at three different stages of investigation. Firstly, under Section 157, the officer in charge of a police station is required to submit a preliminary report to the Magistrate. Secondly, by Section 168, subordinate police officers are required to provide reports to the officer in charge of the police station. It keeps the officer in charge of the police station informed about the various aspects of the investigation. This report is known as a forwarding report. Thirdly, section 173 requires the police officer must submit a final report to the magistrate once the investigation is completed.

Section 173(2)(ii) of CrPC directs the officer-in-charge of a police station to inform the informant about the action taken by him. In the way that the State Government specifies. If the State Government does not specify a procedure, there will undoubtedly be unfavourable consequences and inadequacies in the implementation of Section 173(2) provision (ii). In the case of *P v The State of NCT of Delhi and another*, where the Delhi High Court directed the Delhi Government to issue a notification prescribing how the officer-in-charge of a police station forwards the final report to the informant under section 173(2)(ii). Justice Swarana Kanta Sharma instructed that the notification may be issued within three months. Although the Code of Criminal Procedure was passed in 1973, no rules regarding this matter have been officially announced to date. This omission raises concerns goes against the legislative intent behind the provision and the potential jeopardization of the rights of complainants and first informants in criminal proceedings due to the absence of such notifications. It pointed out that if the second part, which deals with the way of communication, cannot be enforced, the mandatory aspect of the provision, requiring the officer to inform the complainant about the completion of the investigation, would lose its effectiveness. Hence, Justice Sharma directed that communication is to be done by “electronic means” and informed timely.³ Before the court makes a decision

² Network LN, ‘Final Report Not Substantive Piece of Evidence but a Collective Opinion of Investigating Officer: Supreme Court’ (*Live Law*, 8 February 2022) <<https://www.livelaw.in/top-stories/supreme-court-final-report-not-substantive-piece-evidence-investigating-officer-opinion-rajesh-yadav-vs-state-of-up-191474>> accessed 27 October 2023

³Thapliyal, N. (2023) [s.173(2) CRPC] prescribe mode for police to inform complainant about completion of probe, filing of Final report: High court to delhi govt, *Live Law*. Available at: <https://www.livelaw.in/high-court/delhi-high-court/delhi-high-court-delhi-government-notification-complainant-investigation-final-report-delhi-police-238692?infinite-scroll=1> (Accessed: 25 October 2023).

based on the report, the complainant must be informed and, must entitled to get copies of statements of witnesses along with other relevant documents and the investigation report.⁴

II. CONSIDERATION OF THE INITIAL REPORT AND SUPPLEMENTARY REPORT UNDER SECTION 173 OF THE CRPC

A supplementary chargesheet is generally submitted after the receipt of the Forensic Science Laboratory. The supplementary report is filed when further investigation is conducted by the police and both the final report and the supplementary report have to be read conjointly and the court has to apply its mind judiciously in determining the ground for the presumption of the offense committed by the accused.⁵ To conduct further investigation there has to be a reason for the furtherance of investigation and if some new evidence is found then it has to be considered and submitted to the magistrate.⁶ The magistrate can decide whether the evidence supports the elements of the alleged offense and if it meets the conditions for prosecution by evaluating both the original and supplemental reports. By safeguarding the accused's rights and advancing the interests of justice, this strategy preserves the fundamental values of fairness, justice, and due process in the judicial system.⁷

The Judicial Magistrate should consider the final report and supplementary report under section 173(8) to decide whether there are any grounds for deciding accused has committed the offense. When a supplementary report is filed it is filed after further investigation and uncovering new evidence related to the case. In this scenario studying both supplementary and final reports together would be helpful to get a comprehensive and holistic view of the case⁸. The court then extends to a thorough examination of these reports and must apply its discretion judiciously to conclude. The Court believed that the provision indicates that the investigation should continue if there is a belief that there is some important evidence that could support the case of any party involved. The importance of supplementary reports in criminal proceedings, emphasizing that they can provide additional information and evidence necessary for a fair trial.⁹ It aids the court's decision-making process.¹⁰

⁴ *Jakia Nasim Ahesan v. State of Gujarat*, (2011) 12 SCC 302

⁵ *Vinay Tyagi v. Irshad Ali*, (2013) 5 SCC 762

⁶ *surender @ tannu @ tanva v. state of nct of delhi*

⁷ *Kakkar, S.* (2022) Section 173 CRPC - magistrate should consider Initial Report & Supplementary Report conjointly to decide whether to proceed against accused: Supreme Court, Live Law. Available at: <https://www.livelaw.in/top-stories/supreme-court-initial-and-supplementary-investigation-report-magistrate-section-173-crpc-193141> (Accessed: 25 October 2023).

⁸ *State of Karnataka vs. Dr. Praveen B.* (2018) 4 SCC 469

⁹ *Rajendra Singh vs. State of U.P.* (2006) 4 SCC 423

¹⁰ *Sudhir Sharma vs. Shyam Sunder Aggarwal* (2009) 6 SCC 194

III. DIFFERENCE BETWEEN CHARGESHEET AND CLOSURE REPORT

The charge sheet contains the opinion of the police based on the investigation and collecting evidence. This report has to be submitted by the officer in charge to the competent magistrate who can take cognizance of the case based upon the report submitted without any unnecessary delay.¹¹ It is a report that informs the magistrate that the allegations made against the accused are fair which is supported by the evidence.

The closure Report is not binding on the trial court and it is expected that the trial courts use their discretion judiciously and take into account the presented circumstances.¹² If the report states that there is no case made out then also magistrate can reject it and take cognizance of the case.¹³ The high court held that if the magistrate wants to take cognizance of the closure report he must direct the police for further investigation beforehand.

Issuing a closure report solely due to the informant's inability to provide information related to the crime would contradict the principles of a fair and thorough investigation.¹⁴

When the reports are sent under section 169, referred to as "refer reports," "final reports," "referred charges," or summaries do not contain enough evidence to support the accused's transportation for trial.¹⁵

In a Madras High Court case, several guidelines were established for filing a closure report in cases involving unnatural or suspicious deaths.¹⁶ The court also held that before filing the closure report the victim or his relatives has the right to receive a charge sheet.¹⁷ The court must provide notice to the complainant and copies of the statements of witnesses.¹⁸ This chargesheet allows them to submit a protest petition before the judge, opposing the closure report.

The chargesheet is nothing but a final report of a legal case, made under a specific section of the law called 173(2) of the CrPC. It's a way of telling the judge that, after looking into a serious crime, the investigating officer has gathered enough evidence for the court to start looking into the case. The report is considered complete when it includes all the necessary documents and statements from witnesses, as required by section 175(5) of the law.¹⁹

¹¹ RP Kapoor v state of Punjab

¹² **N.K. Rai Vs. Central Bureau of Investigation, 2018, Delhi High Court**

¹³ Shri Indranil Mukherjee v the state of west Bengal

¹⁴ Amar Nath Chaubey Vs. Union of India, 2020, Supreme Court

¹⁵ Para 16 of Minu Kumari v. State of Bihar (2006) 4 SCC 359

¹⁶ Manohari & Ors. Vs. District Superintendent of Police & Anr., 2018, Madras High Court

¹⁷ Balwant Singh v. Commr. of Police, (2015) 4 SCC 801

¹⁸ Paras 21 to 26 of Vasanti Dubey v. State of M.P. (2012) 2 SCC 731.

¹⁹ K. Veeraswami v. Union of India, (1991) 3 SCC 655

IV. HANDLING OF 'B-SUMMARY' AND 'C-SUMMARY' REPORTS IN CRIMINAL CASES UNDER CR.P.C.

A summary report where police conclude that the case is true but no evidence is found against the accused or the accused is absent. When the magistrate accepts the A-Summary report, it means that there is an offense but no evidence was found during the investigation. The A-summary report is incomplete while the B and C-summary reports are complete. B-Summary Report, also known as a "Case to be Closed" Summary Report, is submitted by the investigating officer when they believe that the case should be closed because, after a thorough investigation, they have found that the false case was registered.²⁰ The Superintendent of Police or the Sub-Divisional Police Officer while dealing with the complainant who has lodged a false complaint. They can either prosecute the informant under section 211 of IPC and for that, they first have to submit the B-Summary report after a trial and, make a separate report to the magistrate of that jurisdiction stating the nature of the false complaint and evidence which shows the falsity of the complaint.²¹

The options available to the court when dealing with a 'B' Summary Report and a protest petition. The court can either accept or reject the 'B' Summary Report. In case of rejecting the B-Summary report magistrate has to provide the reasons for the same. Reasons need not be in an elaborate manner but bear the application of mind.²² If the 'B' Summary Report is rejected, the court should then assess the contents of the private complaint or protest petition to determine if they constitute a cognizable offense. If so, the court can take cognizance of those offenses and proceed accordingly.²³ The same was cited in *Shri H D Kumaraswamy v State of Karnataka*. The court has observed that unless there are specific and substantive allegations in the objections to a 'B' Summary report, the Magistrate is not empowered to take cognizance and proceed with the matter.²⁴ The magistrate can also reject B's summary report if the Investigation officer's interpretation of this case law was flawed.²⁵ The notice needs to be served to the complainant, which is to provide an opportunity to present their case against the acceptance of

²⁰ Sebastian M, '[Arnab Goswami Case] What Is "a Summary", "B Summary" & "C Summary"? Amit Desai Explains to Bombay High Court' (*Live Law*, 8 November 2020) <<https://www.livelaw.in/top-stories/arnab-goswami-case-what-is-a-summary-b-summary-c-summary-amit-desai-explains-to-bombay-high-court-165656#:~:text=On%20the%20other%20hand%2C%20%20B,on%20a%20mistake%20of%20fact.>> accessed 2 November 2023

²¹ (*The Bombay Police Manual 1959*) https://www.mahapolice.gov.in/uploads/acts_rules/MumbaiPoliceManualPartIII.pdf accessed 2 November 2023

²² Nagaraj Rao C.H. v. State, 2021 SCC OnLine Kar 14698

²³ Sri A Alam Pasha v Sri Murugesh R Nirani MANU/KA/0841/2021

²⁴ G.H.Shiakh v The State Of Karnataka MANU/KA/0013/1987

²⁵ Mr Rehman Roshan Baig v State Of Karnataka

the B summary report.²⁶ Although the magistrate is not bound to accept the protest petition.

In cases where a criminal complaint is based on a factual error or if the alleged offense pertains to a civil matter, the police submit a 'C-Summary' Report to the relevant court. It's important to understand that, according to the law, the Investigating Officer is not allowed to record a second primary statement from the victim. The law permits the recording of a supplementary statement, and the initial or primary statement can be documented only once.

The police submitted a report under Section 173(2) of the Code of Criminal Procedure (Cr.P.C.) recommending the acceptance of a "C" summary. A "C" summary report typically suggests that no further action should be taken against the accused, as there is insufficient evidence to proceed with the case. Magistrate has the obligation of proper application of mind when deciding whether to accept or reject the police report.²⁷

V. PRINCIPLES GOVERNING THE DISTINCTION BETWEEN PRELIMINARY REPORTS AND SUPPLEMENTARY CHARGESHEETS

A preliminary report is given under section 157 of Cr.P.C. A preliminary investigation is an initial fact-finding process conducted by law enforcement agencies to gather information and evidence related to a potential crime or incident. The primary purpose of a preliminary investigation is to determine whether there is enough evidence to warrant a more in-depth and formal criminal investigation. During this phase, law enforcement officers or investigators collect information, conduct interviews, gather physical evidence, and review available documentation to assess the situation. This process helps them determine if there is reasonable suspicion or probable cause to believe that a crime has occurred and to identify potential suspects. Preliminary investigations are often conducted promptly after an incident is reported to law enforcement to preserve evidence and assess the situation while it is still fresh. These investigations are typically less formal than full-fledged criminal investigations and are intended to provide a broad overview of the situation and assess whether a more extensive investigation is warranted. The findings of the preliminary investigation can lead to decisions regarding whether to proceed with a formal investigation and potentially file criminal charges, depending on the local laws and regulations in a given jurisdiction. A preliminary report and supplementary chargesheet are two distinct legal documents used in criminal cases. They serve different purposes and come with different standards and requirements.

A preliminary report, often prepared by law enforcement or investigators early in an

²⁶ C.M.N. Shastry S/O Late v State By Honnavara Police Station MANU/SCOR/68585/2019

²⁷ Shriram Vinyl and chemical v Bisil Plast Ltd and org.

investigation, serves to document initial findings and evidence objectively. Its purpose is to provide a foundation for further investigation, and the standard applied is that it should present factual information without drawing conclusions or formal charges. It is done to figure out whether the offense is cognizable or non-cognizable. An investigation is the organized process of gathering information to understand what happened and why. Investigators need to collect details about the incident. It's worth noting that information is just data and may not always be entirely true.²⁸

The earlier CrPC of 1898 did not allow the police to do a further investigation after the chargesheet was filed however, to overcome this loophole and allow the justice system to get a holistic view of the scenario not allowing the further investigation is unfair to the prosecution. Section 173(8) allows further investigation by police and the word “nothing” is used to show that no one can prevent the police from doing further investigation even after the filing of a chargesheet.²⁹ the “touch me not” restriction on further investigation after the filing of the chargesheet was questioned by the Law Commission in 1969. The 41st Report of Law Commission recommended that it would be unfair on the part of the prosecution and accused if some facts were left during the investigation that cannot be added later. To avoid the situation where a new person involvement comes into the scene but they not accused earlier. Not allowing further investigation is a “travesty of justice” as denial of it can lead an innocent in jail³⁰ Further investigation is different from re-investigation.³¹ The argument against further investigation that it would lead to the delay in trial is also answered by the SC by stating the overarching effect of fundamental rights under Article 21 of the constitution through which it can be inferred that the court cannot reduce itself to being a resigned and helpless spectator.³² In contrast, a charge sheet, created by the prosecuting authority after completing an investigation, outlines specific charges against individuals involved in a case. The standard for a charge sheet is higher; it must contain enough evidence to establish a prima facie case, demonstrating that there's sufficient evidence to support the charges and proceed to trial.

The key difference between a preliminary report and a charge sheet lies in their purposes and the standard of proof. A preliminary report is an initial document for documenting early findings, while a charge sheet is a formal document that specifies charges based on a higher

²⁸ Mohan Lal v. State of Punjab, (2018) 17 SCC 627

²⁹ Pinto S, ‘Supplementary Chargesheets Help Finding the Whole Truth’ (*The Asian Age*, 19 January 2020) <<https://www.asianage.com/india/all-india/200120/supplementary-chargesheets-help-finding-the-whole-truth.html>> accessed 31 October 2023

³⁰ Vinubhai Haribhai Malaviya v. State of Gujarat, (2019) 17 SCC 1

³¹ Babubhai v. State of Gujarat, (2010) 12 SCC 254

³² Pooja Pal v. Union of India, (2016) 3 SCC 135

standard of proof, indicating an intent to move forward with a trial.

Section 167(2) does not apply to supplementary reports submitted for additional evidence. This section is applicable only when a chargesheet is submitted and it starts operative when the accused is arrested during the investigation. According to this section, an accused can be detained only for 60/90 days in case of non-submission of the chargesheet but the same does not apply on the supplementary report, if a person is released after submission of the chargesheet he cannot be detained under section 167(2) only on the basis of non-submission of the supplementary report.³³ The Delhi High Court held that when there is no new evidence is found during further investigation then the magistrate cannot take cognizance otherwise it would be in contravention of section 173 of the Cr.P.C. The supplementary chargesheet gives only additional material collected during further investigation against the accused persons and it cannot be a basis for grant of default bail.³⁴

The preliminary report is the initial document that sets the legal process in motion, while the supplementary chargesheet builds upon it with additional evidence and details as the investigation progresses. The decision to file a supplementary chargesheet is made based on the ongoing investigation and the need to present a stronger case in court. The preliminary report is preceded by a supplementary chargesheet. Therefore, if any new evidence comes up during the investigation then it must be brought before the court in the form of a supplementary chargesheet.

VI. MAGISTERIAL AUTHORITY TO PROCEED IN CRIMINAL CASES: NECESSITY OF AWAITING BOTH INITIAL AND SUPPLEMENTARY REPORTS

Magistrates can direct investigation in different forms at different stages. The court can direct the investigation following section 156(1) in the exercise of its powers under section 156(3) of the code. There are three kinds of investigation and all lead to the filiation of different types of reports.

- 1) Initial investigation – Police are empowered to carry out this after registration of FIR. This is preceded by the filing of the final report under section 173(2).
- 2) Further investigation- It is conducted on the finding of new evidence or allegations of

³³ Editor_4 and others, 'Kar HC: "Supplementary Charge Sheet Is Only an Additional Material Collected against the Accused Persons"; s. 167(2) CRPC Not Applicable on Supplementary Charge Sheets Filed' (*SCC Blog*, 25 August 2021) <<https://www.sconline.com/blog/post/2021/08/25/supplementary-charge-sheet/>> accessed 1 November 2023

³⁴ Migrator, 'Non-Filing of Supplementary Charge Sheet in Time No Ground for Bail: HC' (*Deccan Herald*) <<https://www.deccanherald.com/india/karnataka/non-filing-of-supplementary-charge-sheet-in-time-no-ground-for-bail-hc-1023140.html>> accessed 31 October 2023

new evidence by the police after the filing of the final report. It is a continuation of the previous investigation. The scope of this is restricted to documentary evidence. A supplementary report is filed after the completion of this investigation. Further investigation cannot completely negate the initial investigation.

The magistrate is empowered to direct the police to carry out further investigation and require the police to submit a supplementary report.³⁵ Magistrate need not wait for the supplementary report to take cognizance as it is not submitted in every case it varies due to the circumstances of the case. However, it could be added later for further proceedings.

VII. MAGISTRATE'S AUTHORITY TO DIRECT POLICE REPORT AND ITS BINDING NATURE

A magistrate has powers under section 153(1) to direct the police to investigate following the registration FIR. But at the same time, there is no power in the hands of the magistrate to direct the police to file a certain kind of report.

Judicial Authority in Directing the Preparation and Submission of Police Reports

Police alone have discretion over investigation and there is no power in the hands of the magistrate either implied or explicit wherein he can direct the police to submit a report that the accused need not be proceeded against on the ground that there was not sufficient ground.³⁶ This limitation is rooted in the separation of powers between the judiciary and law enforcement agencies. The responsibility of the court is to interpret and apply the law and the law enforcement agency's function is to ensure a fair and unbiased investigation.

Binding Effect of Police Reports on Magisterial Decision-Making

The report concludes that a specific person may have committed an offense. In such a case, the magistrate has three options. The conclusion reached by the Police is not binding on the magistrate's decision. If a charge sheet has been filed before the Magistrate, he has 3 options, namely,

- 1) Either he accepts the report, acknowledges the offense, and initiates the problem process, or
- 2) He can reject the report and end the proceedings, or
- 3) He may order further investigation under Section 156 (3) Cr.P.C. and require the Police

³⁵ Bhagwant Singh v. Commr. of Police, (1985) 2 SCC 537

³⁶ Abhinandan Jha v. Dinesh Mishra AIR 1968 SC 117

to make a further report.³⁷

The Magistrate has the following three options if the file that was submitted to her is a closure report, refer report, refer charge, or final report.

- 1) He can accept the report and end the proceedings
- 2) He can disagree with the report and reject the police's conclusions, he can also independently consider the information gleaned from the investigation, recognize the offense that is documented in the record, and initiate legal action. or
- 3) Under Section 156(3) of the Criminal Procedure Code (Cr.P.C.), the Magistrate may order an additional investigation and direct the police to provide a supplemental report.³⁸

On the other hand, if the police report suggests that no offense has been committed, the magistrate also has three options. They can accept the report, drop the proceedings, or agree with it and take action if there are sufficient grounds for processing the case. This decision may involve issuing legal processes or directing the police to investigate further, as per Section 156(4).³⁹ The magistrate can take whichever option on submission of the final report and not be bound by the opinion of the police report and exercise his power to take cognizance under section 190.⁴⁰ Police reports, while important in the investigative process, are generally not binding on the court. The magistrate or judge is not bound by the conclusions or recommendations in a police report and may exercise their discretion in making legal determinations. Magistrates often have discretion to make decisions in the interest of justice. They can instruct the police to conduct further investigations, gather specific evidence, or amend the report if they believe it is necessary to ensure a fair and just legal process.

In cases where the magistrate does not concur with the police report, they can independently initiate proceedings under Section 190(1)(a) or (c) to take cognizance of the offense. However, it's essential to note that the magistrate cannot compel the police to adopt a specific opinion during the investigation process or require them to submit a report based on a predetermined opinion. The decision not to proceed against an accused due to insufficient grounds or evidence is typically made during the initial stages of the investigation by the police and the prosecuting authority. The magistrate's role is to ensure that the legal standards are followed, the evidence is presented, and the accused's rights are protected during the legal proceedings, rather than to

³⁷ Ramswaroop Soni v. State of M.P., (2020) 18 SCC 327

³⁸ Abhinandan Jha v. Dinesh Mishra AIR 1968 SC 117

³⁹ Bhagwant Singh versus Commissioner of Police (1985) SC 1285

⁴⁰ Kishore Kumar Gyanchandani v. G.D. Mehrotra, (2011) 15 SCC 513

instruct the police on the outcome of their investigation.

VIII. CONCLUSION

Police reports play a very crucial role in the criminal justice system. It plays a primary in shaping the course of legal proceedings. These reports are of many types such as preliminary reports, chargesheet, closure reports, Supplementary reports, B-Summary reports, and C-Summary reports. These reports have their importance at various stages. The distinction between a preliminary report and a supplementary report is pivotal. The preliminary report is filed after the initial investigation. Instead of making judgments or filing official accusations, the preliminary report's goal is to offer a factual basis for more investigation. A supplementary report is filed after further investigation it was done by the police by exercising his power vested in section 173(8) of Cr.P.C. or the magistrate can also order this in case of a protest petition. More evidence is added to preliminary findings in supplementary chargesheets The magistrate need not wait for both reports to proceed further in case as the submission of the latter depends upon the circumstances of the case.

Moreover, the magistrate does not possess the power to direct the police to submit a particular type of report. However, the magistrate can accept or reject the report submitted by the police. magistrate can think independently and decide on whether he wants to proceed with legal action or order further investigation. The magistrate's role is to ensure justice and maintain fairness throughout the legal proceedings.

The maintenance of justice is the main objective of these procedures. All parties involved in judicial processes have their rights protected by the magistrate's impartial and fair decision-making, which is made possible by their independence. Magistrates serve as gatekeepers, making sure that the accused's rights are maintained throughout the judicial process, evidence is given, and the law is obeyed.
