

CRIMINAL INVESTIGATION: LAW AND PRACTICE (2023). By S. K. Pathak, Eastern Law House, Kolkata. Pp. [42] + 517, Price INR 1695/-.

Criminal investigation occupies a pivotal position within the criminal justice system, as it forms the foundational link between the commission of an alleged offence and the adjudicatory process. The manner in which investigation is conducted not only determines the fate of the accused and the victim but also shapes public confidence in the rule of law. In India, investigative powers are primarily exercised under statutory authority, yet their legitimacy is continually tested against constitutional guarantees of personal liberty, fairness, and due process. It is within this complex legal and institutional framework that *Criminal Investigation: Law and Practice* by S. K. Pathak seeks to offer a comprehensive and practice-oriented examination of investigative law.

The book undertakes the ambitious task of presenting criminal investigation as a legally regulated process rather than a purely executive function. By integrating statutory provisions of criminal procedure with judicial interpretations and practical insights, the author attempts to bridge the persistent gap between doctrinal exposition and everyday investigative practice. The work is particularly significant in a legal environment marked by recurring concerns over arbitrary arrest, defective investigation, custodial violence, investigative delay, and the growing role of courts in supervising investigative processes. Instead of treating these concerns in isolation, the book situates them within a coherent framework that emphasises legality, accountability, and constitutional restraint.

Spread across eleven chapters, the book is structured in an issue-based manner that allows readers to engage with specific aspects of investigation while retaining a sense of procedural continuity. This design makes the work accessible to a diverse audience, including LL.B. students, beginners at the Bar, judicial aspirants, and practitioners seeking a systematic understanding of investigative law. At the same time, the depth of judicial engagement ensures that the book also holds value for advanced readers interested in the evolving jurisprudence on criminal investigation.

This review undertakes a chapter-wise analytical engagement with the book, examining how each part contributes to the author's overarching thesis that investigation must operate within constitutional limits and judicial oversight. Rather than offering a descriptive summary, the review evaluates the doctrinal clarity, practical relevance, and contemporary significance of the work, while also identifying areas where future editions could further strengthen its contribution to criminal procedure scholarship.

The book commences with Chapter 1, which performs the essential task of placing criminal investigation within the larger architecture of criminal law and the administration of justice. Rather than treating investigation as a mere procedural function of the police, the author conceptualises it as a legally regulated and constitutionally constrained process that directly impacts personal liberty, fair trial, and public confidence in the justice system. The discussion traces the emergence of law as a mechanism of social control, explains the nature of crime, and delineates the institutional roles of the police and the magistracy. This foundational approach is significant because it frames investigation as a process embedded within constitutional guarantees, particularly Articles 20, 21, and 22 of the Constitution. The author's engagement with scientific developments in investigation, including forensic techniques and technological advancements, reflects an awareness of contemporary investigative realities.¹ Equally important is the emphasis placed on monitoring of investigation by courts and superior authorities, thereby reinforcing the principle that investigative discretion must remain subject to judicial oversight. The treatment of time-bound investigation, especially in cases involving sexual offences, aligns with legislative amendments and judicial pronouncements that seek to balance expeditious justice with procedural fairness. Chapter 1 thus succeeds in establishing the normative framework within which the subsequent doctrinal analysis unfolds, making it particularly useful for students and beginners who require conceptual clarity before engaging with procedural detail.

Chapter 2, which deals with the manner in which criminal law is set in motion, constitutes one of the most doctrinally dense and practically significant parts of the book. The author undertakes a detailed examination of locus standi in criminal law², clarifying who may initiate the criminal process and under what circumstances. The discussion on the First Information Report is comprehensive, covering its meaning, scope, evidentiary value, and legal consequences.³ Importantly, the chapter does not treat the FIR as a mechanical formality but as a foundational document that shapes the trajectory of the entire investigation. Judicially evolved principles governing non-registration of FIRs, delayed FIRs, and the duty of the police are carefully analysed, making the discussion highly relevant for trial courts and practitioners. The author's treatment of remedies available to an aggrieved informant, including recourse to superior police officers and the jurisdiction of the Magistrate under

¹ S. K. Pathak, *Criminal Investigation: Law and Practice* 9 (Eastern Law House, Kolkata, 2023).

² *Id.* at 25.

³ *Id.* at 32

section 156(3) of the CrPC, reflects a nuanced understanding of access to justice.⁴ Equally significant is the discussion on second FIRs, preliminary enquiry, and counter-complaints, where the author navigates complex and often conflicting judicial precedents.⁵ By doing so, the book addresses a recurring area of procedural abuse while also acknowledging genuine situations that require judicial flexibility. The examination of the Magistrate's power to take cognizance under section 190 of the CrPC further reinforces the centrality of judicial supervision at the threshold stage of criminal proceedings.⁶ Overall, Chapters 1 and 2 together lay a strong conceptual and procedural foundation, ensuring that readers understand not only how the criminal process begins but also the constitutional and institutional safeguards that must govern its initiation. This makes the opening portion of the book particularly valuable for LL.B. students, judicial aspirants, and beginners seeking a structured entry into the law of criminal investigation.

The discussion in Chapter 3 marks a decisive shift from initiation of the criminal process to its most coercive aspect, arrest. The author treats arrest not as a routine administrative step but as a serious legal intervention that directly implicates personal liberty under Article 21 of the Constitution. This chapter is particularly significant because it foregrounds the constitutional and human rights dimensions of arrest, rather than confining the analysis to statutory provisions alone. The author carefully examines the meaning, object, and necessity of arrest, drawing attention to the judicial insistence that arrest should not be made merely because it is lawful, but because it is justified.⁷ The discussion gains further depth through a detailed engagement with procedural safeguards, including the duty to inform grounds of arrest, production before the Magistrate, and the consequences of illegal arrest.⁸ Special attention is devoted to categories of persons requiring heightened protection, such as women, juveniles, public servants, members of the armed forces, and medical professionals.⁹ By analysing these categories separately, the author highlights how arrest jurisprudence has evolved to accommodate both functional necessity and vulnerability. The treatment of custodial violence, handcuffing, and illegal detention is supported by judicial pronouncements that reinforce accountability of the police and the obligation of the State to protect bodily integrity and dignity.¹⁰ This chapter thus performs an important pedagogical

⁴ *Id.* at 34-35.

⁵ *Id.* at 40.

⁶ *Id.* at 37.

⁷ *Id.* at 83.

⁸ *Id.* at 88.

⁹ *Id.* at 98-108.

¹⁰ *Id.* at 109-135.

function by demonstrating how constitutional values operate within everyday police practice, making it particularly useful for beginners and students who often encounter arrest law in fragmented form.

Chapter 4 moves from the act of arrest to a broader conceptual understanding of investigation itself. The author examines investigation as a composite process involving collection of evidence, examination of witnesses, and formation of an opinion by the investigating agency.¹¹ Rather than presenting investigation as a neutral fact-finding exercise, the chapter critically interrogates its fairness, legality, and structural limitations. A notable strength of this chapter lies in its discussion of defective investigation and the legal consequences that follow.¹² By engaging with judicial decisions on lapses, omissions, and deliberate manipulation of investigation, the author underscores that fairness in investigation is an integral component of the right to fair trial. The analysis of media interference in investigation is particularly relevant in the contemporary context, where parallel media trials often compromise the presumption of innocence and influence investigative discretion. The author's treatment of this issue reflects a careful balancing of freedom of expression with the need to preserve the integrity of the criminal justice process. The chapter further addresses the often-confused distinction between further investigation, fresh investigation, and reinvestigation, clarifying the legal thresholds and judicial permissions required for each. This clarification is crucial, given the increasing tendency of parties to seek reinvestigation as a corrective mechanism for investigative failure. By situating these distinctions within established jurisprudence, the author prevents conceptual conflation and procedural misuse. Together, Chapters 3 and 4 deepen the reader's understanding of investigation as a constitutionally bounded process in which coercive power must be exercised with restraint, accountability, and judicial oversight. They also reinforce the book's central thesis that effective investigation cannot be divorced from legality and fairness, thereby strengthening its value as a doctrinal and practical guide.

Chapter 5 addresses the statutory scope of investigation¹³ by examining the distinction between cognizable and non-cognizable offences¹⁴, a classification that lies at the core of investigative authority under the criminal procedure framework. The author explains this distinction not merely as a technical categorisation but as a decisive factor that determines the autonomy of the police and the extent of judicial supervision at the pre-trial stage. By

¹¹ *Id.* at 140-148.

¹² *Id.* at 156.

¹³ *Id.* at 169.

¹⁴ *Id.* at 170.

analysing the legal consequences that flow from this distinction, including the requirement of prior judicial permission in non-cognizable cases, the chapter clarifies a procedural area that frequently gives rise to litigation. The discussion on the role of the Magistrate in authorising investigation, taking cognizance, and correcting procedural irregularities is particularly instructive.¹⁵ The author carefully examines the impact of unauthorised or irregular investigation and emphasises the judicial position that procedural lapses do not automatically vitiate the trial unless prejudice is demonstrated. This nuanced approach reflects an understanding of the balance courts must strike between procedural compliance and substantive justice. The chapter also engages with issues of territorial jurisdiction and the consequences of investigation conducted beyond jurisdictional limits, thereby addressing practical difficulties faced by investigating officers and trial courts alike. By situating these procedural questions within judicial precedent, the author ensures that the discussion remains grounded in applied law rather than abstract doctrine.

Chapter 6 significantly broadens the analytical scope of the book by turning to the agencies entrusted with criminal investigation. Recognising the increasing complexity of crime and the corresponding institutional response, the author examines the jurisdiction, powers, and limitations of specialised investigative bodies such as the Central Bureau of Investigation, National Investigation Agency, Enforcement Directorate, Securities and Exchange Board of India, and Special Investigation Teams. This chapter is particularly valuable in capturing the shift from a police-centric model of investigation to a multi-agency framework governed by specialised statutes. The author engages with the legal basis of these agencies, including consent requirements, federal considerations, and judicial supervision, thereby highlighting the constitutional tensions that often arise in their functioning.¹⁶ The discussion on the role of courts in directing investigations by specialised agencies reflects a careful reading of Supreme Court jurisprudence, which has repeatedly emphasised that such directions must be exercised sparingly and in exceptional circumstances. By analysing these principles, the author cautions against the routine invocation of specialised agencies as a substitute for effective local policing. At the same time, the chapter acknowledges the necessity of specialised investigation in cases involving terrorism, economic offences, and complex financial crimes.¹⁷ The author also addresses concerns relating to overlap of jurisdiction, forum shopping, and accountability of investigative agencies, issues that have

¹⁵ *Id.* at 187.

¹⁶ *Ibid*

¹⁷ *Id.* at 189-203.

assumed heightened significance in recent years. Through this discussion, the chapter reinforces the idea that institutional design and statutory control are as important as investigative competence. Taken together, Chapters 5 and 6 provide a comprehensive understanding of both the legal scope and the institutional framework of criminal investigation, enabling readers to appreciate how statutory classification and agency structure shape the investigative process. This part of the book is particularly useful for advanced students and practitioners seeking clarity on jurisdictional and institutional complexities in modern criminal law enforcement.

Chapter 7 constitutes the doctrinal and practical core of the book, as it is devoted to investigation by the police in its operational detail. The author undertakes an exhaustive examination of the powers and duties of the investigating officer, presenting investigation as a structured process governed by statutory limits and judicially evolved safeguards.¹⁸ The discussion on examination of witnesses, recording of statements, and collection of evidence is grounded in procedural law while simultaneously engaging with concerns of fairness and voluntariness.¹⁹ The author's treatment of search and seizure reflects a careful balance between investigative necessity and protection against arbitrary intrusion, with due emphasis on compliance with statutory requirements and constitutional standards.²⁰ The inclusion of forensic and medical examination, test identification parade, and scientific evidence highlights the growing reliance on technical methods in criminal investigation. By addressing these aspects, the chapter moves beyond traditional doctrinal exposition and responds to contemporary evidentiary challenges. Particular attention is paid to remand proceedings, police custody, and judicial oversight, underscoring the Magistrate's role in preventing abuse of investigative power. The discussion on transfer of investigation and court-monitored investigation further reflects the evolving jurisprudence that recognises the need for institutional correction in cases of investigative failure or bias.²¹ This chapter stands out for its breadth and depth, making it a comprehensive reference for understanding day-to-day investigative practice.

Chapter 8 shifts the focus from police autonomy to judicial control by examining the power of the Magistrate to order and supervise investigation. The author analyses the legal framework governing applications under sections 156(3) and 202 of the CrPC, clarifying the circumstances in which judicial intervention is warranted at the pre-cognizance and post-

¹⁸ *Id.* at 229-234.

¹⁹ *Id.* at 238-239.

²⁰ *Supra* note 18.

²¹ *Id.* at 309-310.

cognizance stages.²² The emphasis on the requirement of application of mind by the Magistrate, supported by affidavit and reasons, reflects settled Supreme Court jurisprudence aimed at preventing mechanical exercise of power. By discussing the limits of judicial interference in ongoing investigation, the author avoids portraying the Magistrate as an alternative investigating authority and instead reinforces the supervisory nature of judicial control. The chapter also addresses the delicate balance between ensuring fairness and preserving investigative autonomy, cautioning against excessive intervention that may undermine the efficacy of investigation. The author's engagement with judicial precedents on monitoring investigation, directing registration of FIR, and ordering specialised investigation demonstrates a nuanced understanding of the institutional relationship between courts and investigating agencies. Together, Chapters 7 and 8 illustrate how investigation operates within a system of checks and balances, where police powers are exercised subject to continuous judicial scrutiny. This portion of the book is particularly valuable for readers seeking to understand how procedural law translates into institutional practice and how judicial oversight functions as a safeguard against arbitrariness. The integrated treatment of police investigation and Magistrate's supervision reinforces the book's central thesis that effective investigation must be both efficient and constitutionally compliant.

Chapter 9²³ addresses bail and remand, an area where the tension between personal liberty and societal interest is most visibly negotiated.²⁴ The author undertakes a comprehensive examination of bail jurisprudence by analysing regular bail, anticipatory bail, default bail, and bail under special statutes.²⁵ The discussion reflects a clear awareness of the judicial principle that bail is the rule and jail the exception, while simultaneously acknowledging statutory departures in cases involving serious and economic offences. By engaging with the rationale of remand, police custody, and judicial custody, the author situates deprivation of liberty within a framework of legality and necessity.²⁶ The chapter's strength lies in its integration of constitutional principles with procedural mechanics, making it particularly useful for understanding how judicial discretion is structured and constrained. The treatment of default bail is especially noteworthy, as it highlights the consequences of investigative delay and reinforces accountability within the investigative process. This chapter thus

²² *Id.* at 340-347.

²³ *Id.* at 355.

²⁴ *Id.* at 355-361.

²⁵ *Id.* at 367-417.

²⁶ *Id.* at 363-367.

functions as a critical bridge between investigation and trial, emphasising that procedural safeguards do not diminish investigative efficacy but rather legitimise it.

Chapter 10 turns to further investigation, a subject that has generated substantial litigation and doctrinal confusion. The author carefully analyses the scope of section 173(8) of the CrPC and clarifies the distinction between further investigation and reinvestigation.²⁷ By examining the respective roles of the investigating agency, Magistrate, accused, victim, and public prosecutor, the chapter offers a structured understanding of how supplementary investigation operates within the existing procedural framework. The author's emphasis on judicial permission and oversight underscores the principle that further investigation cannot be employed as a tool to circumvent judicial scrutiny or to fill deliberate investigative gaps. This discussion is particularly relevant in light of the increasing tendency to seek multiple investigations in high-profile cases. The chapter successfully balances the need to correct investigative deficiencies with the imperative of procedural finality.

The concluding Chapter 11 deals with completion of investigation and the submission of the police report. The author examines the legal consequences of filing a charge-sheet or final report, the rights of the informant, the supply of documents, and the role of the Magistrate at this stage. By emphasising that investigation must culminate in a formal report subject to judicial scrutiny, the chapter reinforces procedural discipline and institutional accountability. The discussion also engages with constitutional guarantees that operate at the threshold of trial, thereby completing the investigative narrative traced throughout the book.²⁸

Viewed as a whole, the book covers issue-based structure allows readers to approach the subject both sequentially and selectively, enhancing its utility for seeking doctrinal clarity. The author's consistent reliance on statutory provisions and judicial precedents lends the work both authority and practical relevance. However, given that the book was published in 2023, the absence of corresponding references to the *Bharatiya Nagarik Suraksha Sanhita*, *Bharatiya Nyaya Sanhita*, and *Bharatiya Sakshya Adhinyam* is a noticeable limitation. Cross-referencing the provisions of the new criminal law framework with the existing jurisprudence would have significantly enhanced the book's contemporary relevance and pedagogical value, particularly for students preparing for the transition to the new statutory regime. That said, the foundational principles governing investigation—fairness, legality, judicial supervision, and protection of personal liberty—remain largely consistent across the old and new frameworks. Consequently, the analytical value of the book is not diminished by the

²⁷ *Id.* at 473.

²⁸ *Id.* at 484-507.

impending statutory shift. Instead, it continues to offer a strong doctrinal base upon which future editions can build. In sum, the book succeeds in presenting criminal investigation as a constitutionally anchored process and stands as a valuable contribution to Indian criminal procedure literature.

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