



**RAMA
UNIVERSITY**

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FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. 1st Semester

SUBJECT: ADVANCE LEGAL WRITING SKILL-I

SUBJECT CODE: BAL 108

LECTURE: 19

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Lecture-19



HIERARCHY OF CRIMINAL COURTS

The hierarchy of the Criminal Courts in India is as follows

- The Supreme Court of India – The Supreme Court Of India, being the apex court of India, was established under Article 124 of Part V and Chapter IV of the Constitution of India.
- The High Courts of India– The high courts are at the second level of the hierarchy. They are governed by Article 141 of the Constitution Of India and are bound by the judgement of the Apex Court.
- Lower Courts of India have been classified as follows.
 - Metropolitan Courts
 - Sessions Court
 - Chief Metropolitan Magistrate
 - First Class Metropolitan Magistrate
 - District Courts
 - Sessions Court
 - First Class Judicial Magistrate
 - Second Class Judicial Magistrate
 - Executive Magistrate
 - Constitution of Criminal Courts in India
 - The Sessions Judge– Section 9 of the CrPc talks about the establishment of the Sessions Court. The State Government establishes the Sessions Court which has to be presided by a Judge appointed by the High Court. The High Court appoints

Additional as well as Assistant Sessions Judges. The Court of Sessions ordinarily sits at such place or places as ordered by the High Court. But in any particular case, if the Court of Session is of the opinion that it will have to cater to the convenience of the parties and witnesses, it shall preside its sittings at any other place, after the consent of the prosecution and the accused. According to section

10 of the CrPC, the assistant sessions judges are answerable to the sessions judge.

- The Additional/ Assistant Sessions Judge- These are appointed by the High Court of a particular state. They are responsible for cases relating to murders, theft, dacoity, pick-pocketing and other such cases in case of absence of the Sessions Judge.
- The Judicial Magistrate– In every district, which is not a metropolitan area, there shall be as many as Judicial Magistrates of first class and of second class. The presiding officers shall be appointed by the High Courts. Every Judicial Magistrate shall be subordinate to the Sessions Judge.
- Chief Judicial Magistrate- Except for the Metropolitan area, the Judicial Magistrate of the first class shall be appointed as the Chief Judicial Magistrate. Only the Judicial Magistrate of First Class may be designated as Additional Chief Judicial Magistrate.
- Metropolitan Magistrate- They are established in Metropolitan areas. The High Courts have the power to appoint the presiding officers. The Metropolitan Magistrate shall be appointed as the Chief Metropolitan Magistrate. The Metropolitan Magistrate shall work under the instructions of the Sessions Judge.

- Executive Magistrate- According to section 20 in every district and in every metropolitan area, an Executive Magistrate shall be appointed by the State Government and one of them becomes District Magistrate.
- Powers of Criminal Courts
- 1. The Apex Court
- The Supreme Court is the ultimate court, at the top of the Judicial system. It has the supreme judicial authority in our country.
- Federal Court– Article 131 gives the power of original jurisdiction to the Supreme Court, to resolve the dispute arising between the Centre and the States or between two States.
- Interpretation of the Constitution- Only the Apex Court has the power to settle a question based on any issue related to the Constitution.
- Power Of Judicial Review (Article 137)- All the laws enacted are subjected to scrutiny by the Judiciary.
- Court of Appeal – The apex court is the highest court for appeal in India. It has the power to hear appeals from all the cases lying in the various High Courts and subordinate courts of our country. A certificate of the grant is to be provided according to Article 132(1), 133(1) and 134 of the Constitution with respect to any judgment, decree or final order of all cases of the High Court involving the question of law. Appeals to the Supreme Court can be made under the following categories:-
 - Constitutional Matters
 - Civil Matters
 - Criminal Matters

- Special Leave Petition
- 2. The High Courts

- Original Jurisdiction – In some issues, the case can be directly filed in the High Courts. This is known as the original jurisdiction of the High Court. E.g., In matters related to fundamental rights, Marriage and Divorce cases.
- Appellate Jurisdiction- The High Court is the Appellate Court for the cases coming up from the trial court.
- Supervisory Jurisdiction- This refers to the power of general superintendence of the High Court over the matters of all the subordinate courts.
- The powers of the various courts have been highlighted in the Constitution of India. Apart from these courts, the power and functions of the subordinate criminal courts have been provided under the Code Of Criminal Procedure, 1973, as mentioned under section 6.
- Court of Session
- First Class Judicial Magistrate and, a metropolitan magistrate in any metropolitan area
- Second Class Judicial Magistrate
- Executive Magistrates
- The power of the various subordinate courts is mentioned from section 26-35, under the Code of Criminal Procedure, which has been described below.
- Section 26 mentions the list of Courts which are eligible to try offences – According to Section 26, any offence mentioned under the Indian Penal Code may be tried by:
 - the High Court

- the Court of Session
- any other Court as specified in the First Schedule of the Code of Criminal Procedure
- Although it has to be ensured that any offence committed under section 376, section 376A, section 376B, section 376C, section 376D and also section 376E of the Indian Penal Code, be tried by a woman judge.
- 3. The Sessions Court
 - The State Government establishes the Sessions Court which has to be presided by a Judge appointed by the High Court. The High Court appoints Additional as well as Assistant Sessions Judges. The Court of Sessions ordinarily sits at such place or places as ordered by the High Court.
- 4. The Magistrate Court
 - The Magistrate judges are usually appointed by the High Court.
 - The jurisdiction in case of Juveniles (Section 27)– Any person who is below the age of sixteen years, who is a juvenile is exempted from the death penalty and punishment for imprisonment for life. The Chief Judicial Magistrate, or any other Court specially empowered under the Children Act, 1960 (60 of 1960) or any other law for the time being in force which provides for the treatment, training and rehabilitation of youthful offenders, are eligible for trying such cases.
- Miscellaneous Powers
 - Mode of Conferring Powers – Section 32 states that the High Court or the State Governments have the power by virtue of an order to empower people by their titles.
 - Withdrawal of Powers- According to Section 33, the High Court or the State Government, have the power to withdraw the powers conferred by them under this code.

- Powers of Judges and Magistrate exercisable by their successors-in-office- According to Section 35, subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by their successors-in-chief.
- Sentences which can be passed by the various courts
- Sentences which the High Courts and Sessions Judges (Section 28) can pass the following sentences.
- Any sentence authorised by law can be passed by the High Court.
- A sessions or additional sessions Judge has the authority to pass any sentence authorised by law. But, while passing death sentence prior permission from High Court is required.
- An Assistant Sessions Judge has the authority to pass any sentence which has been authorised by law. Such judge cannot pass a death sentence, life imprisonment or imprisonment for more than 10 years.
- Sentences passed by the Magistrates (Section 29) – The Court of Chief Judicial Magistrate is authorised to pass any sentence approved by law except for death sentence, life imprisonment or imprisonment for more than seven years.
- The first class Magistrate is eligible to pass a sentence of imprisonment for a term of not more than three years, or fine not exceeding ten thousand rupees or both.
- The Second Class Magistrate may pass a sentence of imprisonment for a term not more than one year, or fine or both. The fine imposed cannot exceed five thousand rupees.
- The Chief Metropolitan Magistrate has the powers of that of a Chief Judicial Magistrate as well as that of a Metropolitan Magistrate, in addition to the powers of the First Class Magistrate.

- 3. The sentence for default of fine (Section 30)– According to this section, the Magistrate has the power to pass imprisonment for default of payment of fine as specified by law. But the following conditions need to be satisfied.
- The term should not go beyond the ambit of the powers of the Magistrate (under section 29).
- The term should not exceed one-fourth of the term of imprisonment which the Magistrate is competent to award only if imprisonment awarded, is a part of the substantive sentence as punishment for the offence.
- The imprisonment sentenced under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 29.
- The sentence in cases of conviction of several offences at one trial (Section 31)– According to this section, when a person is convicted for two or more offences, at one trial, the Court may sentence him for such offence in one trial, subject to the provisions of section 71.
- The court also has the power to award several punishments. Such sentences of imprisonment may commence after the expiration of other punishments. Unless courts direct such punishments run simultaneously with each other. In the case of succeeding sentences, it is not necessary for the Court to send the offender before High court. If the aggregate punishment for several offences exceeds the power of the court to inflict the punishment for a single offence. Provided that.
- The imprisonment should not exceed a term of fourteen years.
- the aggregate punishment also shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.
- For appeal, the aggregate punishment passed against him under this section is normally assumed as a single sentence.

- Changes to be made in the existing distribution of power among the courts
- Currently, in India, there are no specific guidelines on the issuance of Death sentence in criminal cases. Moreover, either the maximum or the minimum punishment have only been mentioned in most of the offences. It has been left upon the judge to decide, what should be the exact term of punishment in any particular circumstance.
- There is no uniform procedure or performa for the judges to give a particular sentence in cases of similar circumstances. The quantum of punishment varies even in cases having similar facts. Therefore a structured layout should be given to the Judges mentioning the criteria on which they should base their judgements.

MCQ

1. Police file a charge sheet in the court &

- a. If police arrest a person
- b. If a person is suspected for anything
- c. If a person commit a crime
- d. If investigation proved the person is accused.

2. Who decided the guilty or innocence of victim?

- a. Judge
- b. Police
- c. Neighbor
- d. None of these

3. Right not to be ill treated or tortured during arrest or in custody written under :-

- a. Act 22
- b. Act 52
- c. Act 43
- d. Act 67

4. Act 22 contains :-

- a. police has the Right to arrest any person without compliant
- b. A boy under 15 years of age & women can't be used as evidence against the accused c. Both (a) & (b)
- d. None of these

5. D. K. Basu guideline include :-

- a. The police official should wear, accurate & visible name tags with their identifications
- b. A memo of arrest should be prepared at the time of arrest
- c. Both (a) & (b)
- d. None of these

12. FIR means :-

- a. Formal Identification report
- b. first information report

c. First Indian region

d. All of these