



# RAMA UNIVERSITY

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## **FACULTY OF JURIDICAL SCIENCES**

**Course : B.A LL.B/BB.A LL.B**

**Semester :IInd**

**SUBJECT: Jurisprudence**

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**LECTURE: 3**

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# Lecture-37



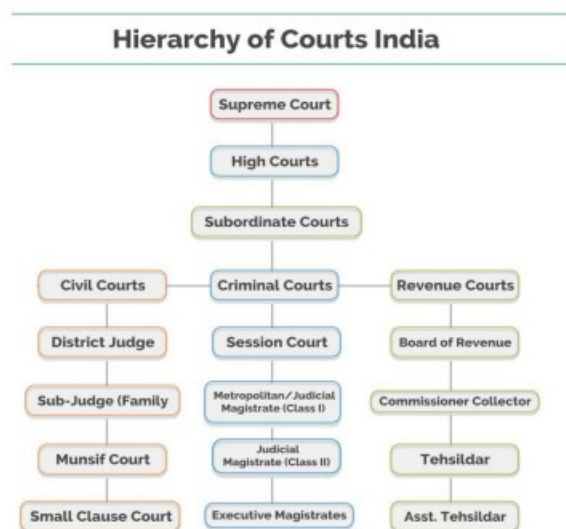
## Topic- 3

### Lecture – 37: Doctrine of Precedent Under Indian Law

#### Doctrine of Precedent Under Indian Law:-

The doctrine of precedent is established in India .All subordinate courts are bound by the decisions of the superior courts .

#### Classification Court in India: -



#### Origin and development of the precedent in India :-

1. Doctrine of precedent in dependent India.
2. Doctrine of precedent in independent India.

The Position of Precedent in Supreme Court The supreme court of India came into existence in January 1950 it is the highest court in the country. It comprises of 31 judges. The senior most judge is designated as the Chief justice. According to article 141 of the constitution ,the law declared by it shall be binding on all courts within the territory of India .The expression “all court “used in this article obviously means court other than the

supreme court .The decision of the supreme court is binding on the high court and cannot be ignored by it on the ground that relevant provisions were not brought to the notice of the supreme court ,and hence its decision is not binding . The doctrine of precedent in the supreme court of India can be better understood by reference to the following point: -

- 1) The supreme court is not bound by its own previous decisions. However, a smaller bench is bound by the decision given by a larger bench.
- 2) The supreme court is not bound by the decisions of the Privy Council and the federal court of India. They only have a persuasive value in the supreme court. However, they command great respect in the supreme court.
- 3) The supreme court is not bound by the decisions of foreign court like the supreme court of USA or UK

**Some Important Cases: -**

- 1) Bengal Immunity co ltd VS state of Bihar ,AIR 1955 SC.
- 2) Sajjan Singh VS State of Raj, AIR 1965,SC.
- 3) Golak Nath VS State of Punj, AIR 1967 SC
- 4) Kesavananda Bharati VS State of Kerala 1973 ,4 SCC.

The Position of Precedent in High Court: - There are 25 high court in India for 29 state and 7 Union Territories .Every high court is headed by a chief justice .The National Capital territory of Delhi is the only Union Territory to have a separate High court .Article 141 states ,”the law declared by the Supreme court shall be binding on all courts within the territory of India “.The term “law declared” means not only the ratio decidendi of a decision but it includes an obiter dictum also ,”provided it is upon a point raised and argued .” judicial propriety dignity and decorum demand that being the highest judicial tribunal in the country even the obiter dictum of the supreme court should be accepted as binding .

- 1) Every high court is absolutely bound by the decisions of the supreme court of India.
- 2) The subordinate courts within the jurisdiction of a high court are bound by the decisions of that high court for ex. All district courts in Punjab Haryana and Chandigarh are bound by the decisions of the Punjab and Haryana high court.
- 3) The decisions of one high court only have a persuasive value before other high court and the subordinate courts falling within the jurisdiction of other high courts.
- 4) A single judge bench of the high court is bound by the decisions of a division bench (2 judge bench) a full bench (3 judge bench) of the same high court.
- 5) The high court in India are not bound by the decisions of foreign courts.