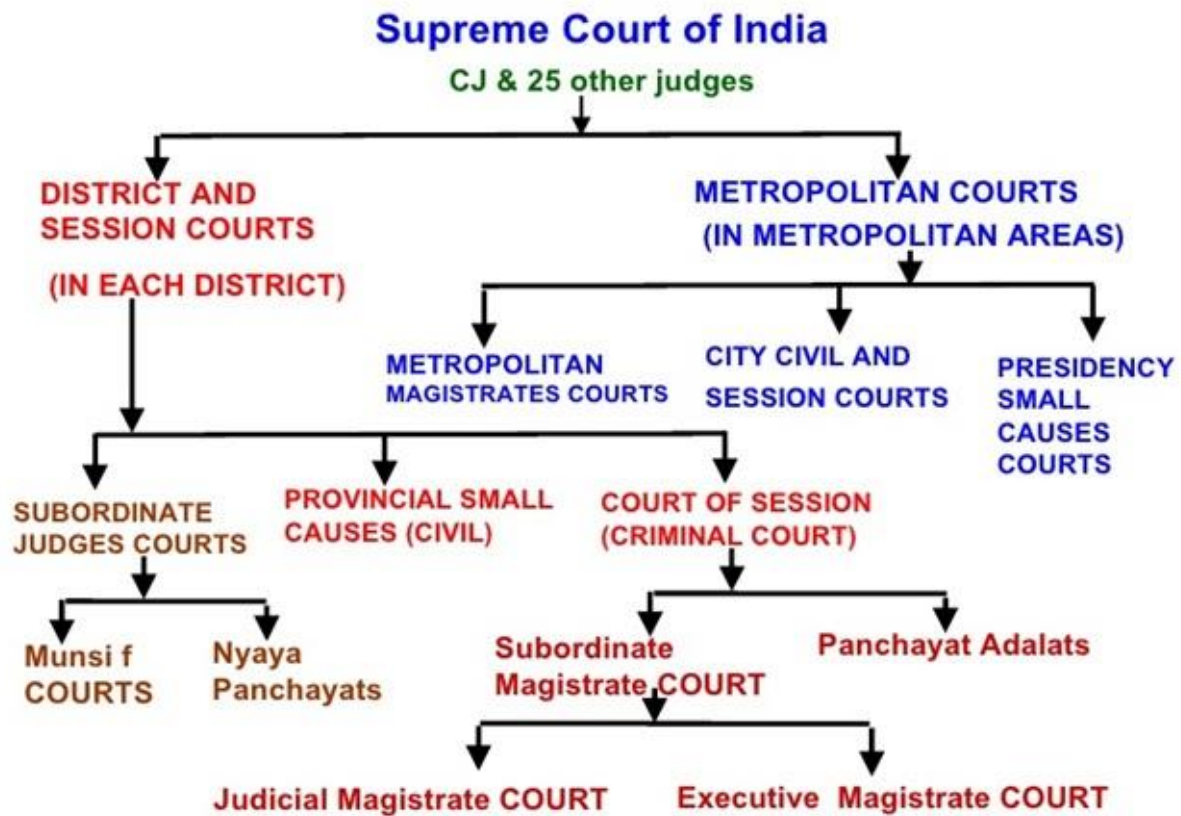


Administration of justice is the most important function of the State. For this purpose, our Constitution has set up a hierarchy of courts. The Supreme Court of India is the highest court and is a body constituted by the Constitution itself. The High Courts of respective states are also provided by the Constitution. The other criminal courts their power and functions are provided by the Cr. P. C.



Supreme Court of India:

The Supreme Court is the apex Court of India. It is established by Part V, Chapter IV of the Constitution. Articles 124 to 147 of the Constitution of India lay down the composition and jurisdiction of the Supreme Court of India.

The Supreme Court of India comprises the Chief Justice and 30 other Judges appointed by the President of India. Supreme Court Judges retire upon attaining the age of 65 years. In order to be appointed as a Judge of the Supreme Court, a person must be a citizen of India and must have been, for at least five years, a Judge of a High Court or of two or more such Courts in succession, or an Advocate of a High Court or of two or more such Courts in succession for at least 10 years or he must be, in the opinion of the President, a distinguished jurist. Provisions exist for the appointment of a

Judge of a High Court as an Ad hoc Judge of the Supreme Court and for retired Judges of the Supreme Court or High Courts to sit and act as Judges of that Court.

The Supreme Court has original, appellate and advisory jurisdiction. Its exclusive original jurisdiction extends to any dispute between the Government of India and one or more States or between the Government of India and any State or States on one side and one or more States on the other or between two or more States, if and insofar as the dispute involves any question (whether of law or of fact) on which the existence or extent of a legal right depends. In addition, Article 32 of the Constitution gives an extensive original jurisdiction to the Supreme Court in regard to enforcement of Fundamental Rights. It is empowered to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto and certiorari to enforce them.

The Supreme Court has been conferred with power to direct transfer of any civil or criminal case from one State High Court to another State High Court or from a Court subordinate to another State High Court. The Supreme Court, if satisfied that cases involving the same or substantially the same questions of law are pending before it and one or more High Courts or before two or more High Courts and that such questions are substantial questions of general importance, may withdraw a case or cases pending before the High Court or High Courts and dispose of all such cases itself. Under the Arbitration and Conciliation Act, 1996, International Commercial Arbitration can also be initiated in the Supreme Court.

The appellate jurisdiction of the Supreme Court can be invoked by a certificate granted by the High Court concerned under Article 132(1), 133(1) or 134 of the Constitution in respect of any judgment, decree or final order of a High Court in both civil and criminal cases, involving substantial questions of law as to the interpretation of the Constitution.

Appeals also lie to the Supreme Court in civil matters if the High Court concerned certifies: that the case involves a substantial question of law of general importance, and that, in the opinion of the High Court, the said question needs to be decided by the Supreme Court. In criminal cases, an appeal lies to the Supreme Court if the High Court has on appeal reversed an order of acquittal of an accused person and sentenced him to death or to imprisonment for life or for a period of not less than 10 years, or has withdrawn for trial before itself any case from any Court subordinate to its authority and has in such trial convicted the accused and sentenced him to death or to imprisonment for life or for a period of not less than 10 years, or certified that the case is a fit one for appeal to the Supreme Court. Parliament is authorised to confer on the Supreme Court any

further powers to entertain and hear appeals from any judgement, final order or sentence in a criminal proceeding of a High Court.

High Court:

The High Court stands at the head of a State's judicial administration. Each High Court comprises of a Chief Justice and such other Judges as the President may, from time to time, appoint. The Chief Justice of a High Court is appointed by the President in consultation with the Chief Justice of India and the Governor of the State.

The procedure for appointing Judges is the same except that the Chief Justice of the High Court concerned is also consulted. They hold office until the age of 62 years and are removable in the same manner as a Judge of the Supreme Court. To be eligible for appointment as a Judge one must be a citizen of India and have held a judicial office in India for ten years or must have practised as an Advocate of a High Court or two or more such Courts in succession for a similar period. Each High Court has power to issue to any person within its jurisdiction directions, orders, or writs including writs which are in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for enforcement of Fundamental Rights and for any other purpose. This power may also be exercised by any High Court exercising jurisdiction in relation to territories within which the cause of action, wholly or in part, arises for exercise of such power, notwithstanding that the seat of such Government or authority or residence of such person is not within those territories.

Each High Court has powers of superintendence over all Courts within its jurisdiction. It can call for returns from such Courts, make general rules and prescribe forms to regulate their practice and proceedings and determine the manner and form in which book entries and accounts shall be kept.

Constitution Of Criminal Courts and Their Territorial Jurisdiction:

The criminal courts are constituted according to the Criminal Procedure Code (Cr.P.C) 1973. Section 6 of the Cr.P.C. provides that Besides the High Courts and the Courts constituted under any law, other than this Code, there shall be, in every State, the following classes of Criminal Courts, namely:

Courts of Session;

Judicial Magistrates of the first class and, in any metropolitan area, Metropolitan Magistrates;

Judicial Magistrates of the second class;

and Executive Magistrates.

The Sessions Judge:

Section 9 of the Cr.P.C. 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.

Power Of Courts To Try Offences:

Chapter III of Cr.P.C. deals with powers of Courts. One of such power is to try offences. Offences are divided into two categories: Those under IPC; and Those under any other law.

According to section 26 any offence under IPC 1860 may be tried by the HC or the Court of Session or any other Court by which such offence is shown in the first schedule to be triable, whereas any offence under any other law shall be tried by the Court mentioned in that law and if not mentioned, it may be tried by the HC or any other Court by which such offence is shown in the First Schedule to be triable. This section is a general section and is subject to the other provisions of the Code.

Power of the Court to Pass Sentences:

Sentences which may be passed by the courts have been mentioned under section 28 and 29 of criminal procedure code.

Sentences which High Courts and Sessions Judges may pass: According to section 28, A High Court may pass any sentence authorised by law. A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court. An Assistant Sessions Judge may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding ten years. Thus, section 26 enumerates the types of Courts in which different offences can be tried and then under section 28, it spells out the limits of sentences which such Courts are authorised to pass.

Sentences which Magistrates may pass: Section 29 lays down the quantum of sentence which different categories of Magistrates are empowered to impose. The powers of individual categories of Magistrates to pass the sentence are as under:

The Court of a Chief Judicial Magistrate may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years.

The Court of a Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding five thousand rupees, or of both.

The Court of a Magistrate of the second class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding one thousand rupees, or of both.

The Court of a Chief Metropolitan Magistrate shall have the powers of the Court of a Chief Judicial Magistrate and that of a Metropolitan Magistrate, the powers of the Court of a Magistrate of the first class.

Sentence of imprisonment in default of fine:

When a fine is imposed on an accused and it is not paid, the law provides that he can be imprisoned for a term in addition to a substantive imprisonment awarded to him, if any. Section 30 defines the limits of Magistrates powers to award imprisonment in default of payment of fine.

It provides that the Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law: Provided that the term is not in excess of the powers of the Magistrate under section 29 Shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one-fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Sentences in cases of conviction of several offences at one trial: Section 31 relates to the quantum of punishment which the Court is authorised to impose where the accused is convicted of two or more offences at one trial.

When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code (45 of 1860 ), sentence him for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court: Provided that in no case shall such person be sentenced to imprisonment for longer period than fourteen years. The aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.

For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.

Conclusion:

The hierarchy of the Courts has been developed in such a manner that it becomes easy for everyone who is living in this country to knock the doors of the courts whenever a dispute arises. It provides a platform for the citizens for appealing to higher courts, in case they feel that justice has been denied to them by the lower courts. India is a country with a huge population in it. Therefore, it needs this existing system of Judiciary to prosper and makes its process easier, so that people can approach it easily so that Justice is given to all citizens of this country.