

GOOD MORNING

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INTRODUCTION

PROCEDURAL CODES

1. CIVIL PROCEDURE CODE, 1908

2. CRIMINAL PROCEDURE CODE, 1963

CIVIL PROCEDURE CODE, 1908

Law of Procedure in civil Cases is called the Code of Civil Procedure. The Civil Procedure Code, 1908, being an adjective law, lays down the procedure which the civil Courts should follow. It deals with the means and instruments by which justice can be secured through the civil Courts. The ultimate aim of the code is to do Justice fairly and expeditiously. It is framed to provide the said Courts with in a uniform and unquestionable procedure. So as to avoid diversity in the manner of dealing with cases before the said Courts. The said code came into force on the 1st day of January, 1909.

In 1873, the Judicature Act introduced a system of pleadings which were precise in character. Some rules of pleadings were added in the Civil Procedure Code, 1908. These rules are contained in orders 6 to 8 of the Code of Civil Procedure.

The Code of Civil Procedure has been thoroughly amended by the Code of Civil Procedure (Amendment) Act, 1976 (No. 104 of 1976). The amended Act came into force with effect from 1st February, 1977 (except Sections 12, 13 and 50 of the said Act). Section 12 and 50 of the amended Act came into force w.e.f. 1-5-1977 vide Notification No : GSR 15 (E) dt. 14-6-1977 published in Gazette of India, Extraordinary dt. 14-1-1977.

The Code of the Civil Procedure is the general law, so in the case of conflict between the code and the special law, the latter prevails over the former. When the special law is silent on a particular matter, the code applies, but it must be applied consistent with the special enactment.

Scheme of the Code

The Code has been divided mainly in two parts. The first part which is called the body of the code contains 158 Sections which can be amended only by the Legislature. The second part contains 51 Orders and each Order contains a set of rules. The second part may be adapted or may be modified by a High Court to suit the local conditions. The modification of the second part if any are followed by the Courts subordinate to a particular High Court. Such modifications should not be inconsistent with the provisions contained in the first part of the code. "The body of the code creates Jurisdiction while the rules indicate the mode in which it is to be exercised. It follows that the body of the code is expressed in general terms and it has to be heard in conjunction with the more particular provisions of the rules.

IMPORTANT SECTIONS [C.P.C.]

Section 2	Definitions.
Section 9	Jurisdiction of Civil Courts.
Section 11	<i>Res judicata</i>
Ss. 15 to 20	Place of suing.
Section 47	Questions relating to execution to be determined by the Court executing decree.
Section 50	Legal representatives.
Section 52	Enforcement of decree against legal representative.
Section 60	Property liable to attachment or sale in execution of a decree.
Section 73	Procedure of execution sale to be ratably distributed among decree holders.
Ss. 79 to 80	Procedure in case of suit by Government or Public Servants.
Ss. 91 to 103	Suits relating to public nuisance.
Ss. 104 to 106	Orders from which appeal lies and other orders.
Section 107	Powers of appellate Court.
Section 108	Procedure in appeals from appellate decrees and orders
Section 109	When the appeals allowed to Supreme Court.
Section 112	Savings
Section 113	Reference to High Court
Section 114	Review
Section 115	Revision
Section 144.	Application for restitution when lies.
Section 151	Saving of inherent powers of Court.

IMPORTANT ORDERS [C.P.C.]

Order I

Section 151

- Rule 1 : Who may be joined as plaintiff.
- Rr.3 & 3-A : Who may be joined as defendants and power to order separate trials, where Joinder of defendants may embarras or delay trial.
- Rule 8 : One person may sue or defend on behalf of all in same interest.
- Rule 8-A : Power of Court to permit a person or body of persons to present opinions or to take part in the proceedings.

Order II

Rule 2 : Suit to include the whole claim.

Orders VI, VII and VIII

Rules relating to pleadings, plaints and written statements.

Order IX

Dismissal of suits on merits and *ex parte* and remedies in such cases.

Order XI

Discovery and inspection.

Order XIV

Rule 1 : Framing of issues, legal issues to be decided as preliminary issues.

Order XV-A

C.P.C. New Amendment

Order XIX

Affidavits.

Order XXI

Execution of decrees and orders payment under decree.

Order XXII

Rules 3 & 4 : Procedure in case of death of one of several plaintiffs and defendant and several defendants and sole defendant.

Order XXIV

Suits by or against corporation.

Order XXX

Suits by or against firms and persons carrying on business in names other than their own.

Order XLI

Appeals from original decrees

Order XLII

Appeals from appellate decrees

CIVIL PROCEEDINGS

SUIT

PLAINT



WRITTEN STATEMENT



ISSUES



EVIDENCE OF PLAINTIFF/S



EVIDENCE OF DEFENDANT/S



ARGUMENTS



DECREE & JUDGMENT

1. Decree
2. Judgment
3. Mesne Profits
4. Difference between Order and Judgment
5. Locus Standi
6. Appeal
7. Review
8. Revision
9. Caveat

(1) "Code" includes rules;

Decree: " means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final.

Explanation:- A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final;

"decree-holder means any person in whose favour a decree has been passed or an order capable of execution has been made.

"Judge" means the presiding officer of a Civil Court;

"Judgment" means the statement given by the Judge on the grounds of a decree or order;

"judgment-debtor" means any person «against whom a decree has been passed or an order capable of execution has been made;

order" means the formal expression of any decision of a Civil court

JUDGMENT :

Sub-section (9) of Section 2 of C.P.C defines 'Judgment'. Judgment means the Statement given by the Judge on the grounds of a decree or order. Rules 1 to 5 of order 20 deal with Judgment. Rule 1 provides that the Court, after the case has been heard, shall pronounce Judgment in open Court. Some times, the Judgment may be pronounced after some future day, which the Court shall fix a day for that purpose, and notice shall be given to the parties thereon. pronounced by his predecessor. open Court at the time of pronouncing it.

Clauses shall contain- Rule 2 provides that a Judge shall pronounce a Judgment written but not

Rule 3 provides that the Judgment shall be dated and signed by the Judge in

Rule 4 provides that the Judgment of the Courts (except a Court of Small

(i) Concise statement of the case;

(ii) The points for determination;

(ii) the Decision therein; and

(iv) the reasons for such decision. Judgment of a Court of small causes need not contain more than the points for determination and the decision thereon.

"Decree“:

Decree means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties. It shall be deemed to include the rejection of a plaint and the determination of any question with in Section 144, but shall not include- (a) any adjudication from which an appeal lies as an appeal from an order, or (b) any order of dismissal for default. Explanation:- A decree is preliminary when further proceedings have to be taken before suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final. (See important case law on this viz:

- (1) Deepchand and others vs. Land Acquisition officer and others AIR 1994 S.C. 1901;
- (2) Poolchand and another vs. Gopal Lal AIR 1967 S.. 1470;
- (3) V.N. Sreedharan vs. Bhaskaran AIR 1986 Ker. 49.

**CODE OF CRIMINAL PROCEDURE,
1963**

CONSTITUTION OF CRIMINAL COURTS AND THEIR POWERS UNDER Cr.P.C.

Besides the High Courts and the courts constituted under any law other than the Code of Criminal Procedure, according to Sec. 6 of the Code, there are four classes of Criminal Courts in India, namely-

- (1) Courts of Session,
- (2) Judicial Magistrate of First Class and; in any metropolitan area, Metropolitan Magistrate,
- (3) Judicial Magistrates of the Second Class, and
- (4) Executive Magistrates.

Under the Constitution, the Supreme Court has also been vested with certain powers in criminal law matters. Article 134 confers appellate jurisdiction on the Supreme Court in regard to Criminal Law matters and an appeal lies to it from a judgment in a criminal proceeding of a High Court.

Every State shall be a sessions division, or shall consist of sessions divisions, and every sessions division shall, for the purpose of the Code, be a district or consist of districts, provided that every metropolitan area shall for the said purposes, be a separate sessions division and district.

The State Government may, after consultation with the High Court alter the limits or the number of such divisions and districts or divide any district into sub-divisions and may alter the limits or the number of such sub-divisions.

Metropolitan areas-The State Government may by notification, declare that, as from the date as may be specified in the notification, any area in the State comprising & City or town whose population exceeds 1 million shall be metropolitan area for the purposes of the Code.

(1) Sessions Courts-Under Section 9 of the Code the State Government is required to establish a Court of Session for every session division, which shall be presided over by a Judge to be appointed by the High Court. The High Court may also appoint .Sessions Judges and Asst. Sessions Judges to exercise Jurisdiction in a Court of Session.

It is also provided that all Asst. Sessions Judges are subordinate to the Sessions Judge in whose court they exercise jurisdiction. It is for the Sessions Judge to make rules from time to time, as to the distribution of business amongst the Asst. Sessions Judge.

(2) Judicial Magistrates Courts-In every district which is not a metropolitan area, there are courts of Judicial Magistrates of the first and second class. The presiding officer of such courts are appointed by the High Courts.

In every district, a Judicial Magistrate of 1st class is appointed by the High Court to be the Chief Judicial Magistrate. The High Court may also appoint an Addl. Chief Judicial Magistrate

For any sub-division of a district, any Judicial Magistrate of the 1st class may appoint by the High Court as the Sub-divisional Magistrate, who shall have the powers of supervision and control over the work of the Judicial Magistrates in the sub-division. Special Judicial Magistrates may also be appointed by the High Court, if a request to this effect is received from the Central or State Government. Such an appointment can however, be made for term not exceeding one year at a time.

(3) Metropolitan Magistrates Courts In every metropolitan area, the State Government may after consultation with the High Court, establish Courts of Metropolitan magistrates, in as many places and in such number as it thinks necessary. The presiding officers of such courts shall be appointed by the High Court. In every metropolitan area, the High Court shall appoint a Metropolitan Magistrate as Chief Metropolitan Magistrate. It may also appoint Addl. Chief Metropolitan Magistrates. If requested by the Central or State Government, the High Court may confer on any person who holds any post under the Government, all or any of the powers conferred on a Metropolitan Magistrate in respect of particular class of cases. Such Magistrates are known as Special Metropolitan Magistrates and can be appointed for a maximum of one year at a time.

(4) Executive Magistrates :-In every district and every metropolitan area, the State Government is empowered to appoint as many persons as it think fit it to be Executive Magistrates. One of them is also appointed as the District Magistrate. Similarly, it may also appoint any Executive Magistrate to be an Addl. District Magistrate. The State Government may also appoint Special Executive Magistrates, for performing particular functions of Executive Magistrates. It is also provided that all Executive Magistrates, other than the Addl. DIS Magistrates are subordinate to the District Magistrates. Similarly, every Executive Magistrate is subordinate to the control of the District Magistrate.

Powers of the Courts:

1. Supreme Court: Any sentence authorised by law.
2. Sessions Judge or Addl. Sessions Judge: Any sentence authorised by law. However, a sentence of death is subject to confirmation by the High Court.
3. High Court: Any sentence authorised by law.
4. Asst. Sessions Judge : Imprisonment upto 10 years or fine or both.
5. Chief Judicial Magistrate or Chief Metropolitan Magistrate: Imprisonment upto 7 years or fine or both.
6. First Class Magistrate or Metropolitan Magistrate: Imprisonment upto 3 years or fine not exceeding Rs. 10,000/- or both.
7. Second Class Magistrates: Imprisonment upto 1 year or fine not exceeding Rs. 5000/- or both.

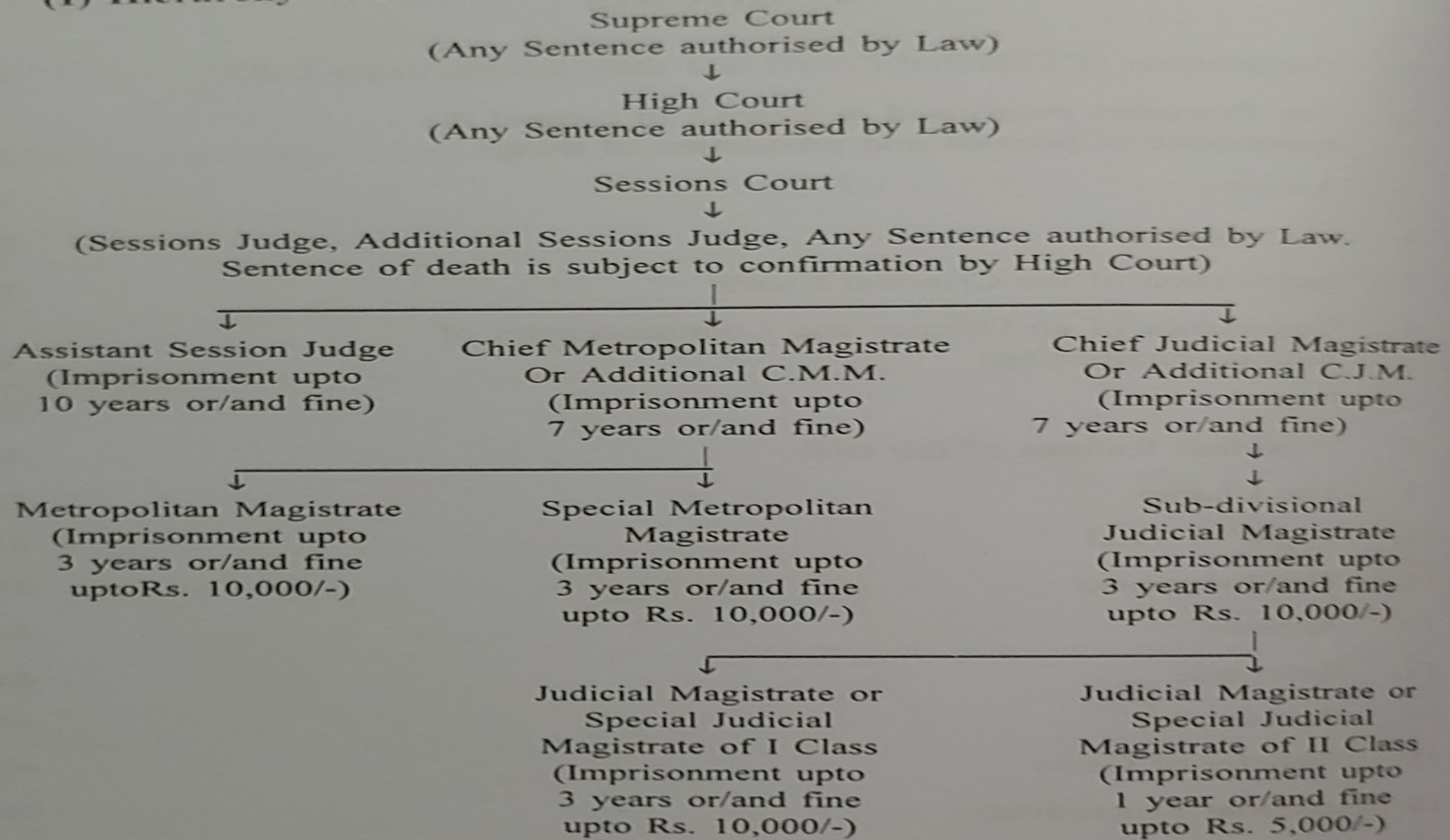
IMPORTANT SUBJECTS AND SECTIONS UNDER CODE OF CRIMINAL PROCEDURE

Chapter-I	Section 2	Definitions
Chapter-II	Secs. 6 to 25	Constitution of Criminal Courts and offices.
Chapter-III	Secs. 26 to 35	Powers of Courts.
	Secs. 36	Powers of Superior officers of Police.
Chapter-IV	Secs. 37 to 40	Aid to the Magistrates and the police.
Chapter-V	Secs. 41 to 60	Arrest of persons.
Chapter-VI	Secs. 82 to 86	Proclamation and attachment.
Chapter-VII	Secs. 93	When Search warrant may be issued.
Chapter-VIII	Secs. 106 & 107	Security for keeping the peace on conviction and in other cases.
Chapter-IX	Secs. 125 to 128	Order of maintenance of wives, Children, and parents, and its procedure.
Chapter-X	Sec. 129	Dispersal of assembly by use of civil force.
	Sec. 133	Conditional order for removal of nuisance.
	Sec. 144	Power to issue orders in urgent cases of nuisance or apprehension of danger.
	Sec. 145 & 146	Disputes as to immovable property.
Chapter-XI	Secs. 149 to 153	Preventive action of the police.
Chapter-XII	Secs. 154 to 176	Information to the police and their powers to investigate.
Chapter-XIII	Secs. 177 to 189	Jurisdiction of Criminal Courts in Inquiries and trials.

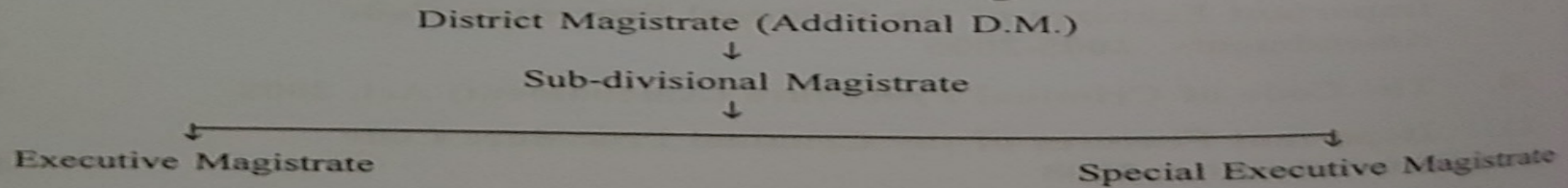
Chapter-XIV	Sec. 190	Cognizance of offence by Magistrates.
	Secs. 195 to 199	Condition requisites for initiation of proceedings.
Chapter--XVI	Secs. 207, 208 & 209	Proceedings before Magistrates.
Chapter-XVII	Secs. 211 to 224	Relating to charge.
Chapter-XVIII	Sec. 235	Judgment of acquittal or Conviction by sessions Court.
Chapter-XIX	Secs. 238 to 250	Relating to trial of cases instituted upon a police report and private complaints.
Chapter-XX	Sec. 259	Power of Court to convert summons cases into warrant cases.
Chapter-XXI	Sec. 260	Power to try summarily.
Chapter-XXII	Secs. 266 to 271	Attendance of persons confined or detained in prisons.
Chapter-XXIV	Sec. 300	Person once convicted or acquitted not to be tried for same offence.
	Sec. 306	Tender of Pardon.
	Sec. 310	Local Inspection.
	Sec. 315	Accused person to be competent witness.
	Sec. 317	Provisions for inquiries and trial being held in the absence of accused in certain cases.
Chapter-XXIV	Sec. 320	Compounding of offences under Indian Penal Code.
Chapter-XXV	Secs. 328 & 329	Provision as to accused persons of unsound mind.

Chapter-XXVI	Secs. 340, 341 & 344	Procedure in cases mentioned in Section 195 and appeal thereon and summary procedure for trial for giving false evidence.
Chapter-XXIX & XXX	Secs. 372 to 405	Dealing with appeals, reference and revision.
Chapter-XXXIII	Secs. 436 to 438	Provisions dealing with bails and anticipatory bails.
Chapter-XXXV	Sec. 461	Irregularities which vitiate proceedings.
Chapter-XXXVI	Secs. 467 to 473	Limitation for taking cognizance of certain offences.

(1) Hierarchy of Criminal Courts with their powers to pass Sentences



(ii) Hierarchy of Executive Magistrate



1. FIR
2. Charge-Sheet
3. Warrant
4. Arrest
5. Cognizable Offence
6. Non Cognizable Offence
7. Jurisdiction
8. Limitation
9. Bail
10. Anticipatory Bail.