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Introduction

The functionaries vested with powers and responsibilities under the Criminal Procedure Code, specifically Section 173 (CrPC), encompass:

1) The police

2) The prosecutors

3) Defence counsels

4) Magistrates, as well as judges of higher courts

5) The prison authorities and Correctional Services Personnel

Among these, the role of Magistrates and courts is deemed pivotal, while the other functionaries serve as auxiliary components. Hence, it is prudent to initially examine the constitution and hierarchy of the criminal courts, their territorial jurisdictions, and the extent of their powers.

Territorial Divisions

Territorial divisions play a crucial role in the effective administration, whether judicial or otherwise. The size and number of these units are tailored to suit the administrative needs.

In India, the entire territory is organised into States, with the basic territorial divisions within a State being the districts and the Sessions Divisions.

According to Section 7 of the Code, each State either constitutes a Sessions Division or comprises Sessions Divisions, with each Sessions Division serving as a district or containing districts.

Moreover, upon consultation with the High Court, the State Government holds the authority to subdivide any district and modify the limits or number of Sessions Divisions, districts, or district subdivisions.

Recognizing the distinct requirements of major cities like Bombay, Calcutta, and Madras, the Code designates them as metropolitan areas, treating each as a separate Sessions Division and district.

For these metropolitan areas, the Code prescribes a unique court setup tailored to their specific needs.

It is acknowledged that administering criminal justice in large cities necessitates specialised handling, with magistrates requiring enhanced qualifications and competence to efficiently address sophisticated crimes prevalent in urban settings, especially those of a socio-economic nature.

Previously, in the Presidency towns of Bombay, Calcutta, and Madras, magisterial duties were entrusted to a specialised category known as Presidency Magistrates.

These individuals typically possessed specialised qualifications or experience and received higher remuneration.

The procedures adopted by these magistrates were streamlined, resulting in expedited processes. Recognizing the effectiveness of this system in major cities, it was later extended to Ahmedabad through local legislation.

Subsequently, the Code adopted a similar framework for metropolitan areas.

Section 8 of the Code designates each Presidency town of Bombay, Calcutta, and Madras, along with the city of Ahmedabad, as a metropolitan area.

Additionally, it grants the State Government the authority to declare any area within the State containing a city or town with a population exceeding one million as a metropolitan area under the Code.

The section also empowers the State to adjust the boundaries of such areas, provided the population does not fall below one million.

Should the population of a metropolitan area indeed decline below one million, it ceases to hold metropolitan status on the date specified by the respective State Government.

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Classes of Criminal Courts

The Constitution of India has established the Supreme Court and a High Court for each State, with their jurisdictions and powers, including those pertaining to criminal matters, clearly outlined within the Constitution itself. Additionally, the Code of Criminal Procedure (CrPC) provides for appeals to the Supreme Court under specific circumstances and empowers the Supreme Court to transfer cases and appeals from one High Court to another or from one subordinate criminal court to another.

Article 227 of the Constitution stipulates that every High Court shall exercise superintendence over all courts and tribunals within the territories under its jurisdiction. Furthermore, the CrPC mandates that every High Court shall exercise superintendence over Judicial Magistrates subordinate to it to ensure the prompt and proper disposal of cases by such Magistrates. The Code also vests High Courts with various powers and duties, including those related to appeals and revisions.

In addition to the Supreme Court and High Courts, Section 6 of the CrPC delineates several classes of criminal courts. These include:

1. Courts of Session
2. Judicial Magistrates of the first class, and in metropolitan areas, Metropolitan Magistrates
3. Judicial Magistrates of the second class
4. Executive Magistrates

The phrase "and the courts constituted under any law, other than this Code" encompasses courts such as Children's Courts under the Juvenile Justice (Care and Protection of Children) Act, 2000, or courts known as "Nyaya Panchayats" or "Panchayati Adalats" established under various State Panchayati Raj Acts, as well as special courts established under Criminal Law Amendment Acts.

Although Executive Magistrates are classified as a type of court, this does not imply that they function as courts when carrying out administrative duties rather than judicial functions.

Court of Session

For each Sessions Division, the State is mandated to establish a Court of Session, presided over by a judge appointed (excluding the initial appointment) by the High Court [S. 9(1), (2)]. Additionally, the High Court holds the authority to appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction within a Court of Session [S. 9(3)].

The Court of Session typically conducts its proceedings at locations designated by the High Court through notification [S. 9(6)]. Individuals appointed as Sessions Judge, Additional Sessions Judge, or Assistant Sessions Judge exercise jurisdiction within the Court of Session, and their judgments and orders are deemed as those of the Court of Session [S. 9(6)].

An Additional Sessions Judge (or Assistant Sessions Judge) possesses the powers of a Court of Session, albeit subject to statutory limitations, yet does not operate as an independent Court of Session [S. 10(1)]. All Assistant Sessions Judges are subordinate to the Sessions Judge under whose jurisdiction they operate [S. 10(1)].

When a Civil Judge or Chief Judicial Magistrate serves as an in-charge Sessions Judge, they do not possess the authority of a Sessions Court appointed under Section 9 of the Code to grant bail in serious cases.

Courts of Judicial Magistrates

Judicial Magistrates of First Class or Second Class

In every district (excluding metropolitan areas), the State Government is mandated to establish Courts of Judicial Magistrates of the First Class and Second Class, at locations specified by notification after consulting with the High Court [S. 11(1)].

Additionally, the State Government, in consultation with the High Court, holds the authority to establish one or more special courts of Judicial Magistrates of either class for any local area, specifically to adjudicate particular cases or classes of cases. Once a Special Court is established, no other Magistrate within the local area has jurisdiction over the specified cases [proviso to S. 11(1)].

The State Government retains the power to determine the number and locations of Magistrates' Courts, considering various administrative and financial factors. However, this authority must be exercised in consultation with the High Court to ensure the establishment of an adequate number of Magistrates' Courts in all districts and at appropriate locations. To ensure the efficacy of the judiciary's separation, the High Court is entrusted with the appointment of presiding officers for these courts [S. 11(2)].

Furthermore, the High Court is empowered to confer the powers of a Judicial Magistrate of either class upon any member of the Judicial Service of the State, serving as a judge in a civil court,

whenever deemed expedient or necessary [S. 11(3)]. This provision allows the High Court to address situations where full-time Judicial Magistrates may not be necessary or feasible.

Chief Judicial Magistrate

In every district (excluding metropolitan areas), the High Court is mandated to appoint a Judicial Magistrate of the First Class as the Chief Judicial Magistrate [S. 12(1)]. The Chief Judicial Magistrate serves as the head of the Magistracy within the district and is primarily responsible for guiding, supervising, and controlling other judicial Magistrates in the district, as well as adjudicating important cases.

Additionally, the High Court has the authority to appoint any Judicial Magistrate of the First Class as an Additional Chief Judicial Magistrate, who may be conferred with some or all of the powers of a Chief Judicial Magistrate as directed by the High Court [S. 12(a)].

Furthermore, the High Court has the discretion to designate any Judicial Magistrate of the First Class within a sub-division as the Sub-Divisional Judicial Magistrate. This Sub-Divisional Magistrate, subject to the general control of the Chief Judicial Magistrate, exercises supervision and control over the work of judicial Magistrates (excluding Additional Chief Judicial Magistrates) in the sub-division, as specified by the High Court [S. 12(d)].

Metropolitan Magistrate

In every metropolitan area, a parallel framework of Judicial Magistrates akin to that in a district is established. The State Government, in consultation with the High Court, is empowered to establish courts of Metropolitan Magistrates at designated locations and in specified numbers [S. 16(1)].

The High Court appoints the presiding officers of these courts, and the jurisdiction and powers of each Metropolitan Magistrate extend across the entire metropolitan area [S. 16(2), (3)].

Similarly, in every metropolitan area, the High Court appoints a Metropolitan Magistrate to serve as the Chief Metropolitan Magistrate. The High Court may also appoint an Additional Chief Metropolitan Magistrate, who may be vested with some or all of the powers of a Chief Metropolitan Magistrate as directed by the High Court [S. 17].

It is noteworthy that while the Code contains a specific provision for the establishment of special courts of Judicial Magistrates in districts (excluding metropolitan areas) to adjudicate particular cases or classes of cases, it does not provide for the establishment of special courts of Metropolitan Magistrates.



Executive Magistrates

Executive Magistrates are appointed to execute magisterial functions assigned to the executive branch, particularly to facilitate the separation of the judiciary from the executive. In every district and metropolitan area, the State Government possesses the authority to appoint numerous individuals as Executive Magistrates, designating one among them as the District Magistrate [S. 20(1)].

Additionally, the State Government may appoint any Executive Magistrate as an Additional District Magistrate, endowed with powers directed by the State Government [S. 20(2)]. Furthermore, the State Government may designate an Executive Magistrate to oversee a sub-division, known as the Sub-Divisional Magistrate [S. 20(4)].

A recent amendment, through the inclusion of subsection 4-A, allows the State Governments to delegate the authority to deploy Executive Magistrates in charge of sub-divisions to District Magistrates, facilitating prompt deployment at the local level.

In some States, particularly in certain metropolitan areas, the Commissioner of Police may be vested with magisterial powers of an executive nature.

The Supreme Court, in A.N. Roy v. Suresh Sham Singh, ruled that the State has the power to appoint the Commissioner of Police of Mumbai, a metropolitan area, as an Executive Magistrate and further as an Additional District Magistrate, conferring upon them the powers of a District

Magistrate. This established arrangement may continue if authorised by local law, as stipulated in subsection (5) of Section 20.

However, in cases where such authorization is lacking or for the discharge of other functions of the Executive District Magistrate, each metropolitan area shall have an Executive District Magistrate as provided by subsection (1) of Section 20.

Special Executive Magistrates

Section 21 of the Code stipulates that the State Government has the authority to appoint Special Executive Magistrates, also known as Special Executive Magistrates, for specific areas or to fulfil particular functions, for a duration determined by the State Government. These Special Executive Magistrates may be vested with powers equivalent to those conferred upon Executive Magistrates under the Code, as deemed appropriate by the State Government.

