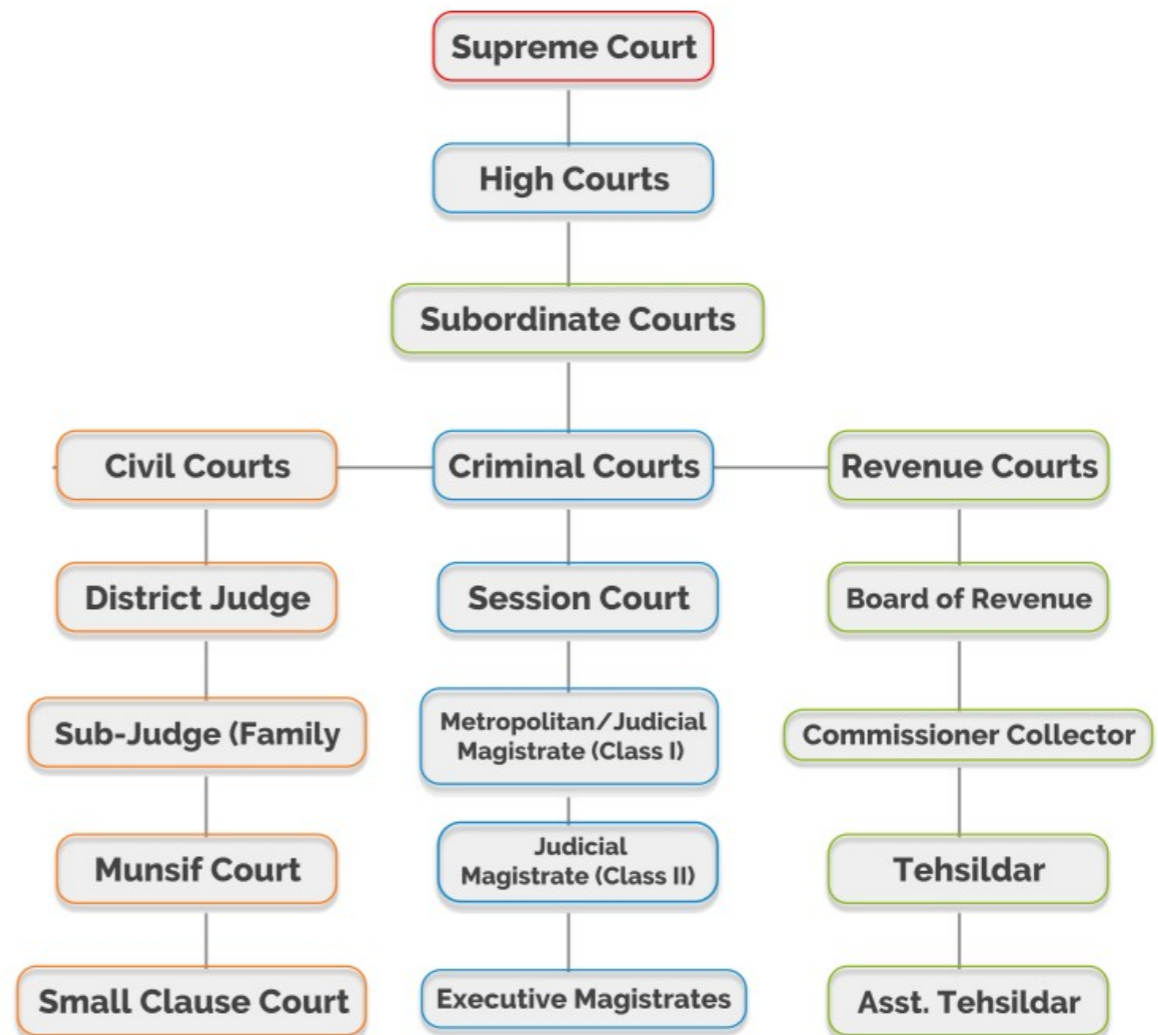


## Constitution of Indian Courts

According to the Constitution of India, India is a democratic nation with a parliamentary form of government and an independent judiciary, which is separate in terms of powers and areas of responsibility from the legislature and the executive. Even though the governance system is relatively federal in nature, the Constitution designed a unified judicial system for the entire nation.

The judicial system is in the form of a pyramid, with the Apex Court being at the top of the hierarchy. The courts have been created in such a manner that even a person from a remote area can approach the courts to get their disputes resolved.

## Hierarchy of Courts India



## Constitution of Criminal Courts

The judicial system in India is one of the most efficient judicial systems in the world and it has been established in such a way so that it caters to the need of every person in the country. The Indian Judiciary is well established with quite a lengthy and complex hierarchy of courts. The judicial system is in the form of a pyramid, with the Apex Court being at the top of the hierarchy.

## Functionaries under the CrPC

The functionaries which are empowered to exercise the powers and discharge duties under the Code of Criminal Code, 1973 are [the police](#), prosecutors, courts, Defence Council, Prison Authority and Correctional Services. Amongst these the role of Magistrates and Court is pivotal while others are in a way accessories to it.

Chapter 2nd Section 6 to 35 of Code of Criminal Procedure deals with the Constitution of Criminal Courts and their powers although section 6 of Code of Criminal Procedure deals with the classification of criminal Courts. According to section 6 there are 4 kinds of Criminal Courts i.e. Court of Session, Court of judicial Magistrate, Court of Metropolitan Magistrate and Executive Magistrate.

# Hierarchy of Criminal Courts

The hierarchy of the Criminal Courts in India is as follows:

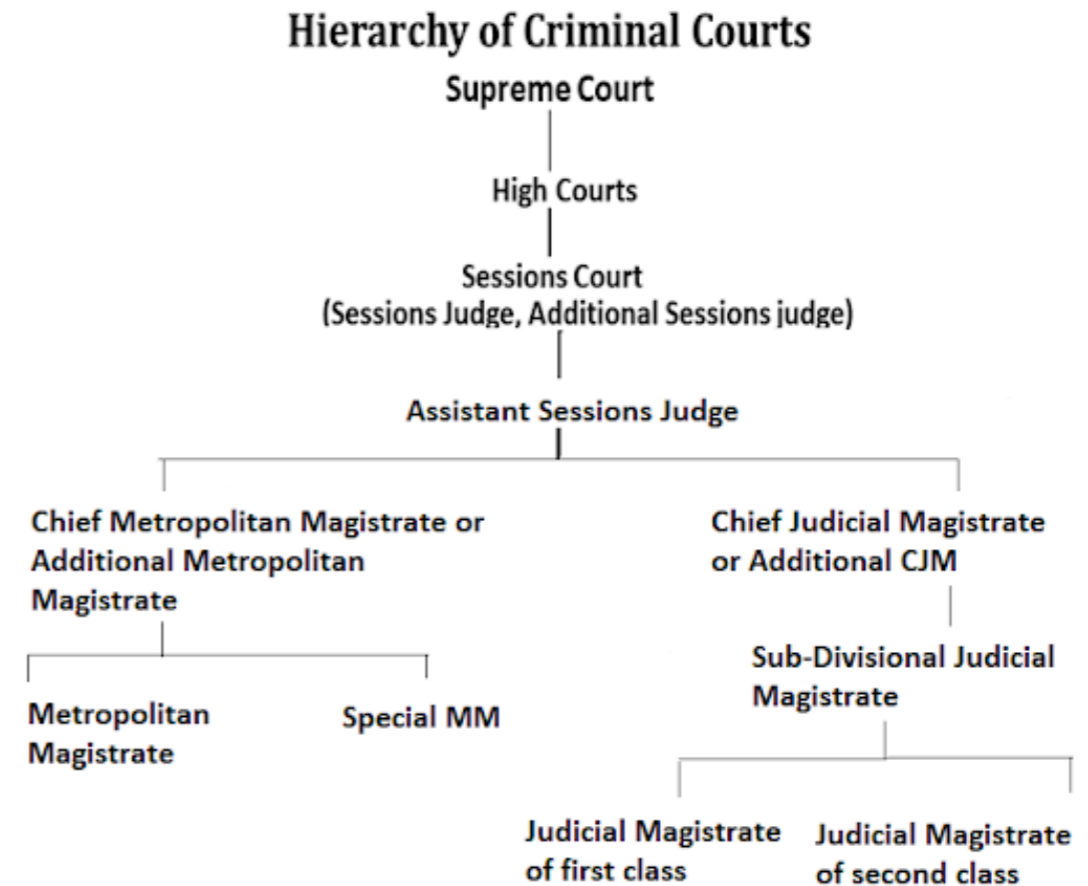
- **The Supreme Court of India** – The Supreme Court Of India, being the apex court of India, was established under Article **124** of *Part V and Chapter IV* of the **Constitution of India**.
- **The High Courts of India**– The high courts are at the second level of the hierarchy. They are governed 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

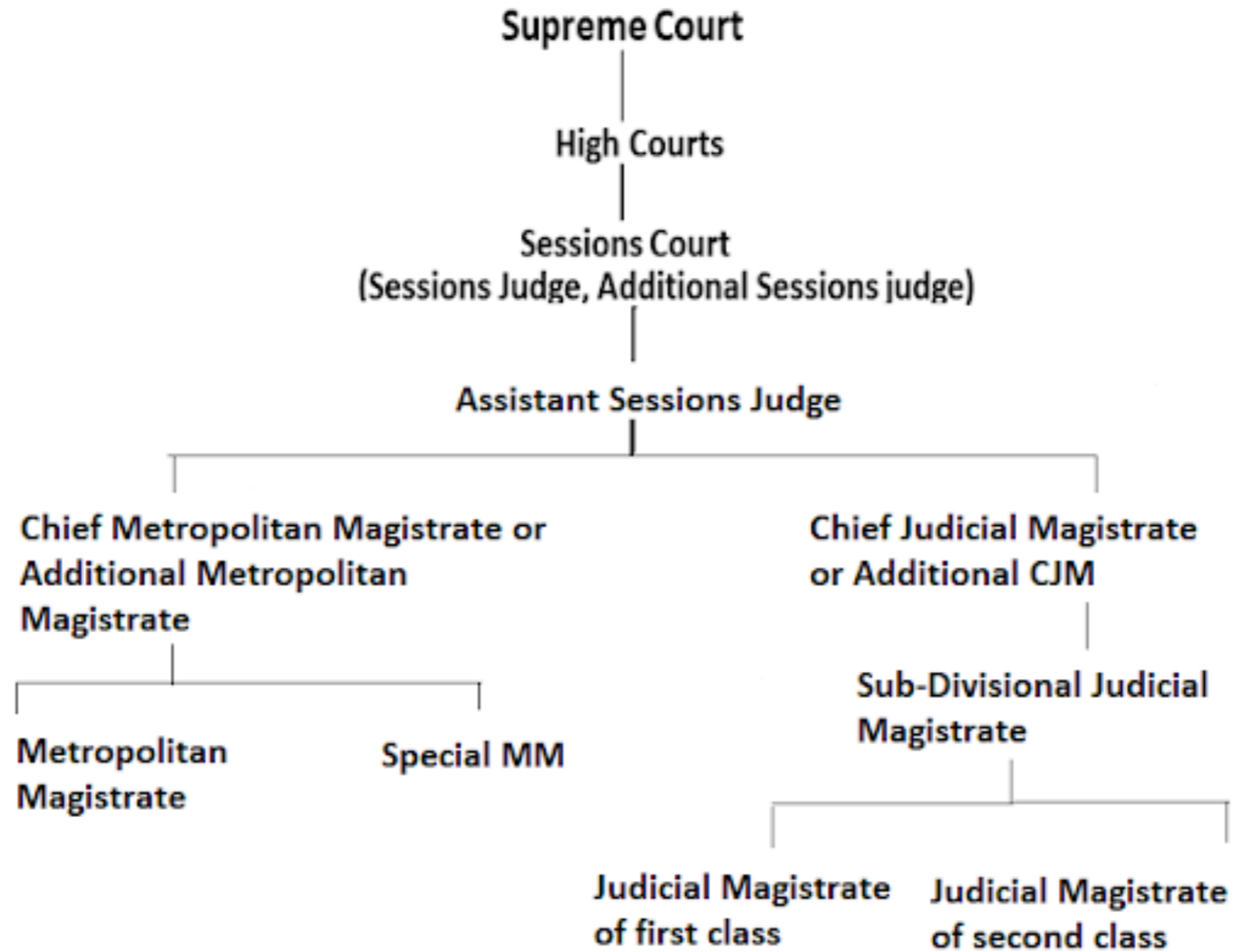
## District Courts

- Sessions Court
- First Class Judicial Magistrate
- Second Class Judicial Magistrate
- Executive Magistrate



# Courts

## Hierarchy of Criminal Courts



## Constitution of Criminal Courts in India

- 1. 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.
- 2. 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.

- 1. 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.
- 2. 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.
- 3. 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.
- 4. 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.

## **Establishment And Powers Of Supreme Court And High Court**

The establishment of Supreme Court is given under article 124 of the Constitution of India and establishment of High Court is given under article 214 of the Constitution of India. As being a Constitutional Courts there is no restrictions on the power of Supreme Court and High Court and even the powers of High Court mention in section 28(1) of Code of Criminal Procedure. According to section 28(1) High Court may pass any sentence authorized by law.

## **Establishment And Powers Of Court Of Session**

The establishment of Court of Session given under section 9 and 10 of Code of Criminal Procedure. According to section 9 Court of Session established by State government.

### **Powers of Court of Session:**

According to section 28(2) of Code of Criminal Procedure deals with Session Judge or Additional Session Judge may pass any sentence authorized by law and if Session Judge or Additional Session Judge pass sentence of death then such sentence shall be subject to confirmation of High Court.

According to section 28(3) Assistant Session Judge may pass any sentence authorized by law except the sentence of death, life imprisonment or imprisonment more than 10 years.

## **Establishment, Appointment And Powers Of Court Of Judicial Magistrate**

Section 11 of Code of Criminal Procedure deals with the establishment of Court of Judicial Magistrate. According to section 11 Court of Judicial Magistrate established by state government.

### **Powers of Court of Judicial Magistrate**

The power of Chief Judicial Magistrate given under section 29(1). According to section 29(1) Chief Judicial Magistrate may pass any sentence authorized by law except the sentence of death, life imprisonment and imprisonment more than 7 years.

Section 29(2) of Code of Criminal procedure deals with Judicial Magistrate 1st class may pass any sentence authorized by law except the sentence of death, life imprisonment and imprisonment more than 3 years and he may also impose fine upto 10,000 Rs and in Maharashtra and Rajasthan they may impose fine upto Rs.50,000/-

Section 29(3) talks about Judicial Magistrate 2nd Class may pass any sentence authorized by law except the sentence of death, life imprisonment and imprisonment more than 1 year and he may also impose fine upto 5,000 Rs and in Maharashtra he may impose fine upto Rs.10,000/-



## **Establishment, And Powers Of Court Of Metropolitan Magistrate**

The establishment of Court of Metropolitan Magistrate is given under section 16 of code of Criminal Procedure and according to section 17 any Metropolitan Magistrate shall be appointed as a Chief Metropolitan Magistrate by High Court.

### **Powers of Court of Metropolitan Magistrate**

According to section 29(4) the Chief Metropolitan Magistrate and Metropolitan Magistrate shall possess the same power of Chief Judicial Magistrate and Judicial Magistrate First Class i.e Chief Metropolitan Magistrate may pass sentence of imprisonment upto 7 years and Metropolitan Magistrate may pass sentence of imprisonment upto 3 years and fine upto 10,000 Rs and in Maharashtra and Rajasthan Rs.50,000/-

### **Power And Function Of Executive Magistrate**

Section 20 of Code of Criminal Procedure deals with Executive Magistrate. In every district and in every Metropolitan area State Government may appoint the executive Magistrate and shall appoint one of them to be District Magistrate.

The function of Executive Magistrate is given under section 129,130,131 and 144 in Code of Criminal Procedure, 1973.

## Conclusion

Now I would like to conclude that the powers of Criminal Courts are different but Chief Metropolitan Magistrate possess the same power of Chief Judicial Magistrate and Metropolitan Magistrate possess the same power of Judicial Magistrate First Class. We also see a Sessions Judge or Additional Sessions Judge may pass any sentence but in case of sentence of death it shall be subject to the confirmation of High Court under section 366 of the Code of Criminal Procedure.

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.