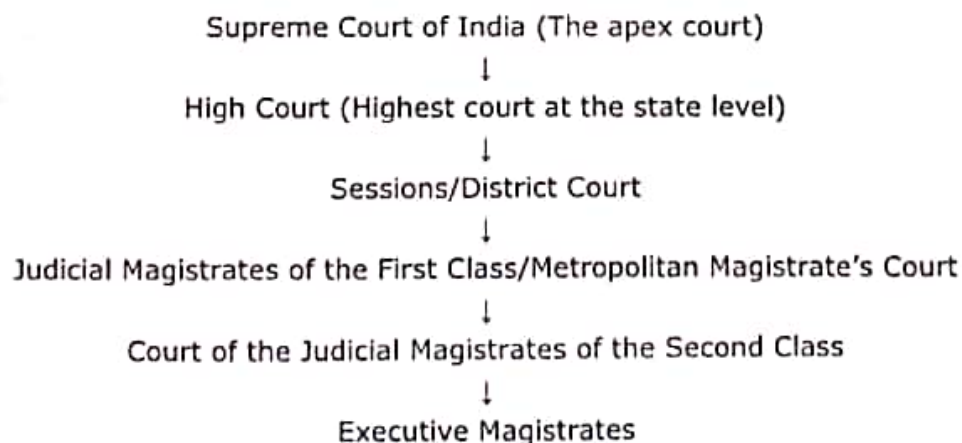


Courts in India:

The Judiciary has the Supreme Court (S.C) at the apex having three-fold jurisdiction namely,

- **Original:** Original jurisdiction of the S.C is over disputes between the centre and states and between two or more states, provided the dispute involves any question on which the existence or extent of a legal right depends. Article 32 of the Constitution gives it the power to issue directions/ orders / writs for the enforcement of fundamental rights.
- **Appellate:** The appellate jurisdiction of the S.C. covers constitutional, civil and criminal cases. In criminal matters, an appeal lies to the Supreme Court from any judgement or order of the High Court if the latter
 - a) has on appeal reversed an order of acquittal and sentenced the accused to death or imprisonment for life or for a period of not less than 10 years; or
 - b) has withdrawn for trial before itself any case and has in such trial sentenced the accused person to death;
 - c) certified that the case is fit for appeal. In any case, the Supreme Court, under Article 136 of the Constitution, can grant special leave to appeal from any judgement, decree, determination, sentence or order in any matter passed or made by any court or tribunal in the territory of India.
- **Advisory:** The consultative jurisdiction of the S.C. is in respect of matters, which are referred for its opinion and advice by the President of India under Article 143 of the Constitution.

Below the S.C are the High Courts at state level, followed by subordinate courts in the districts. The judiciary in the state functions under the supervision of the High Court. The Constitution empowers the High Courts to issue directions, orders or writs for the enforcement of fundamental rights and for any other purpose.



Mohamed Eeman

One of the Directive Principles of the State Policy laid down in the Constitution required the State to separate judiciary from the executive.

Constitution of India, Article 50: Separation of the judiciary from the executive: The State shall take steps to separate the judiciary from the executive in the public services of the State.

This separation was effected through the revised Code of Criminal Procedure in 1974 with regard to criminal justice. It also effected the separation of the prosecuting agency from the police. Prior to this the prosecuting officers at the district level used to function more or less as part and parcel of the district police set-up.

Past Paper Question:

22. What are various types of courts present in India? Mention the powers of them and write a note on their jurisdiction?

There are various levels of judiciary in India – different types of courts, each with varying powers depending on the tier and jurisdiction bestowed upon them. They form a strict hierarchy of importance, in line with the order of the courts in which they sit, with the Supreme Court of India at the top, followed by High Courts of respective states with district judges sitting in District Courts and Magistrates of Second Class and Civil Judge (Junior Division) at the bottom.

Supreme Court: *The Supreme Court of India in Delhi is the highest or the apex judicial forum and final court of appeal.*

- *The Supreme Court enjoys writ, appellate, **original and advisory jurisdiction**. In addition to this, the Supreme Court and High Courts also enjoy the power of judicial review.*
- *Primarily, it is an appellate court which takes up appeals against judgments of the High Courts of the states and territories.*
- *However, it also takes writ petitions in cases of serious human rights violations or any petition filed under Article 32 which is the right to constitutional remedies or if a case involves a serious issue that needs immediate resolution.*
- *The Supreme Court comprises the Chief Justice and 30 other Judges.*
- *Every judge of Supreme Court shall be appointed by the President.*
- *The Supreme Court can pass any punishment from simple imprisonment to death sentence.*

High Court: *High Courts are situated and are the highest courts at the every States and Union Territories level. There are 24 high courts at present. These courts have jurisdiction over a State, a Union Territory or a group of States and Union Territories.*

- The High Courts in India enjoys writ, appellate and **revisional jurisdiction**, whereas the High Courts at Calcutta, Mumbai, Delhi and Chennai also enjoy original jurisdiction.
- The High Courts are the principal civil courts of original jurisdiction in the state along with District Courts which are subordinate to the High courts. However, High courts exercise their original civil and criminal jurisdiction only if the courts subordinate to the high court in the state are not competent (not authorised by law) to try such matters for lack of pecuniary, territorial jurisdiction.
- It is highest courts of Appeal in very state that is it can take cases after judgment from session courts or District Courts.
- High courts may also enjoy original jurisdiction in certain matters if so designated specifically in a state or Federal law. e.g.: Company law cases are instituted only in a high court.
- Judges in a High Court are appointed by the President of India in consultation with the Chief Justice of India and the governor of the state. High Courts are headed by a Chief Justice.
- Every high court shall consist of Chief Justice and other such judges as President of India may determine from time to time.
- It can pass punishments ranging from simple imprisonment to death sentence.

District and Session Courts: The highest court in each district is that of the District and Sessions Judge.

- Generally, each state is divided into judicial districts presided over by a 'District and Sessions Judge'.
- He is the highest judicial authority at district level and is appointed by the state Governor with on the advice of state chief justice.
- It is known as District Court and Judge is known as a District Judge when he presides over a civil case, and a Sessions Court and Session Judge when he presides over a criminal case.
- In addition to the district judge there may be number of Additional District Judges and Assistant District Judges depending on the workload. The Additional District Judge and the court presided have equivalent jurisdiction as the District Judge and his district court. However, the district judge has supervisory control over Additional and Assistant District Judges, including decisions on allocation of work among them.
- The District Court or Additional District court exercises jurisdiction both on original side and appellate side in civil and criminal matters arising in the District.
- The district court has appellate jurisdiction over all subordinate courts situated in the district on both civil and criminal matters.
- They can pass punishments from simple imprisonment to death, but must approve by high court.

Constitution of courts below this level varies from state to state. The subordinate courts, at the level of districts and lower levels, have almost similar structure all over the country with slight variation. They deal with civil and criminal cases in accordance with their respective jurisdictions. At the lowest stage, the two branches of judicial system, civil and criminal, are bifurcated.

- Subordinate courts, on the criminal side (in ascending order) are, Second Class Judicial Magistrate Court, First Class Judicial Magistrate Court, Chief Judicial Magistrate Court.
- Subordinate courts, on the civil side (in ascending order) are, Junior Civil Judge (JCJ) Court,[4] Principal Junior Civil Judge Court, Senior Civil Judge Court (also called sub-court).

Courts of Judicial Magistrates: It is a subordinate courts presiding on criminal matters and are known as Criminal courts. Subordinate courts, on the criminal side (in ascending order) are, Second Class Judicial Magistrate Court, First Class Judicial Magistrate Court, Chief Judicial Magistrate Court.

Courts of Judicial Magistrate of First Class:

- Courts of Judicial Magistrate of First Class are at the second lowest level of the Criminal Court structure in India.
- A judicial magistrate of First Class is under the general control of the Sessions Judge and is subordinate to the Chief Judicial Magistrate.
- A Judicial Magistrate of 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.

Courts of Judicial Magistrate of Second Class:

- Courts of Judicial Magistrate of Second Class are at the lowest hierarchy of the Criminal Court structure in India.
- A Judicial Magistrate of Second Class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding Five thousand rupees, or of both.

Courts of Metropolitan Magistrates:

If population of the area exceeds one million or more than that area is designated a metropolitan area by the concerned state Government. The district judge is also called "Metropolitan session judge" when he is presiding over a district court in a city which is designated "Metropolitan area" by the state. Other courts subordinated to district court in the Metropolitan area are also referred to with "metropolitan" prefixed to the usual designation.

- Courts of Metropolitan Magistrate are at the second lowest level of the Criminal Court structure in India

- A Metropolitan Magistrate is a first class magistrate under the general control of the Sessions Judge and is subordinate to the Chief Metropolitan Magistrate.
- A Metropolitan Magistrate may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding ten thousand rupees.

District Munsiff Court: is the court of the lowest order handling matters pertaining to civil matters and criminal matters in the district.

- Usually it is controlled by the District Courts of the respective district.
- The Munsiff's Courts which are the lowest civil courts have jurisdiction over claims from Rs. 1,000 upto Rs. 5,000 (in case of some specially empowered cases).
- Above the Munsiffs are Subordinate Judges. The District Judge hears first appeals from the decisions of Subordinate Judges and also from the Munsiffs (unless they are transferred to a Subordinate Judge) and he possesses unlimited original jurisdiction, both civil and criminal. Suits of a small value are tried by the Provincial Small Causes Courts.
- It is under the charge of a munsiff magistrate/judicial collector. He is incharge or administrative head of entire district and is appointed by State government. They are not from Judicial background.
- The appeal against these courts lies before the Subordinate Courts which are one rank superior to the District Munsiff Courts but are inferior to the District court.
- The district is further divided into subdivisions; each subdivision has an in-charge tax inspector and Registrar magistrate.
- The munsiff magistrate is the judge and presiding officer of the District who keep charge of all tax inspectors (tehsildars).

First Information Report (FIR) and Procedure:

It is a written document the police, when they receive the information about the commission of a cognizable offence. It is a report of information that reaches to the police first in point of time and that is why it is called FIR.

Cognizable offence: It is a type of crime in which the police can arrest a person without the warrant. He is authorized to start investigation into such an offence. Ex - Rape, Murder, Robbery, etc. It is not necessary that only the victim of the crime should file the FIR. Anyone who has knowledge or witnessed the crime the commission of the cognizable offence can file FIR. This could be a friend or relative. Even the police who came to know the commission of the cognizable crime can file a FIR himself.

Procedure of Filing an FIR:

- The procedure of filing a FIR is prescribed in section 14 of CrPc (Criminal Procedure Code, 1973).
- When an information about the commission of cognizable offence is given orally, the police must write it down.
- Such written statement must be read out to them (The complainant) by the police and then it has to be signed.
- Once the information has been recorded by the police, it must be signed by the individual.
- Copy of the FIR has to be collected free of cost by individual.
- People who cannot read and write must report their thumb impression in that statement.
- Significance: FIR is an important aspect of criminal Investigation. FIR is necessary to start investigation in any cognizable crime or offence. As soon as FIR is filed, the actual process of investigation of crime starts.

Past Paper Question:

24. Explain the First Information Report (FIR) and Procedure:

Past Paper Question:

25. What do you mean by Modus Operandi and how does it signify in the criminal identification?

Definition: Modus operandi (MO) is a Latin term that means 'a method of operating'. It is used by law enforcement agencies to refer to a criminal's pattern of behavior, or his or her way of committing crime.

Modus operandi has been defined as the actions taken by a criminal to perpetrate a crime successfully. A criminal's MO is comprised of learned behaviors that can evolve and develop, as they become more sophisticated and more confident. It is through analyzing MO behaviors that law enforcement agencies most commonly investigate and link crimes to a specific offender.

More precisely the MO is a habitual and unvarying method or procedure followed by a criminal during the execution of the crime. It is a profile of an offender or a criminal with which the commission of crime and the criminal can be elucidated.

- It is useful to find clues to perpetrator or criminal's psychology or a methodology. It largely consists of methods used to execute the crime, prevent detection and facilitated escape.*
- A perpetrator or a criminal or suspect MO help in identification, apprehension, and repression. And*
- A MO is an ordinary method of recording and coding information designed to reveal habits, traits or practices of the crime suspect.*
- This is more useful of apprehension of the criminal or suspect.*
- It is more commonly used in criminal cases, by identifying and establishing MO of a crime can help the prosecution to prove that it was the defendant who has committed the crime.*
- MO evidence is helpful to the prosecution, if the prosecution has evidence of crime being committed by defendant that are similar to the crime charged.*
- To establish a satisfactory ending in any criminal investigation that is the prosecution of criminal (Punishment), Investigator must realize that outcome depend on their inside into dynamic of human behavior, speech pattern, writing style, verbal and non-verbal gestures, and other traits and patterns that give shade to human behavior.*
- This individual characteristics work in concert to cause each person to act, react, perform in a unique and specific manner*
- The individualistic behavior usually remain consistent regardless of the activity being performed.*
- Since the commission of a violent crime involves all the dynamics of normal human behavior, learning to recognize crime scene manifestation of behavioral patterns enables investigator to discover much about the offender.*
- It also provide means to investigator by which he can differentiate offenders committing same type of crime or offences.*

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