



# Polity - II

Complete Course on Polity for SSC, PCS & Railways

# Judiciary System (न्यायपालिका प्रणाली)





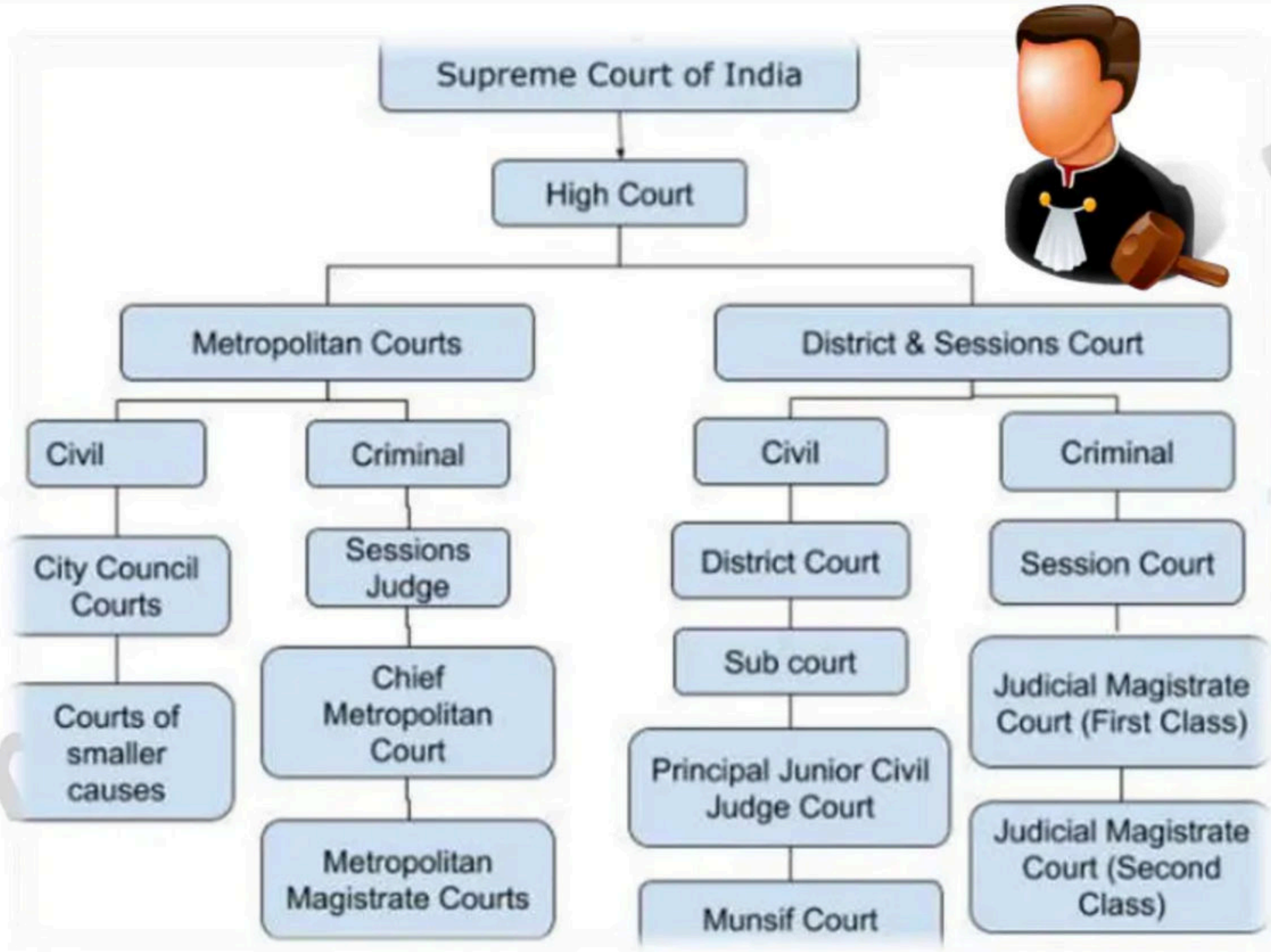
**Indian Judiciary**

**Supreme Court**

**High Courts**

**District Courts**









## SUPREME COURT (Article- 124)

- ▶ Firstly established in Calcutta in 1774 ( regulating act 1773)
- ▶ After then established in Delhi in 1935 ( governor of India act 1935)
- ▶ Supreme court judges are appointed by the President of India.
- ▶ Total no. Of Judges:

**33+1= 34** (1 Chief justice of India)

- ▶ Retirement age: 65 Years
- ▶ Removal Process: Impeachment  
He/She can remove by impeachment only.





## Qualifications to become a Judge of Supreme court

- ▶ He/She must be the Citizen of India.
  - ▶ Practice of at least 5 years as a Judge.
- OR
- ▶ Practice of at least 10 years as a lawyer.
  - ▶ He/ She must be a Jurist in the eyes of President.



### Note:

He/She can be appointed as any member of any committee, But can not practice after retirement.





## POWERS OF SUPREME COURT

- ▶ **Original jurisdiction**
- ▶ **Appealing jurisdiction**
- ▶ **Writ jurisdiction**
- ▶ **Reviewing jurisdiction**
- ▶ **Court of record**
- ▶ **Advisory jurisdiction**



# High Court (उच्च न्यायालय)

## HIGH COURT (Article- 214)

- ▶ There is only one Supreme court in India but many High courts.
- ▶ Total no. Of High courts in India: 24
- ▶ One high court can monitor multiple states.
- ▶ Total no. Of Judges: N/A
- ▶ There shall be a Chief Justice in High court.
- ▶ All judges are appointed by the President of India.





## न्यायालय द्वारा जारी रिट के प्रकार



1. बंदी प्रत्यक्षीकरण (**Habeas Corpus**)
2. परमादेश रिट (**Mandamus**)
3. प्रतिषेध रिट (**Prohibition**)
4. उत्प्रेषण लेख (**Writ of Certiorari**)
5. अधिकार पृच्छा (**Quo Warranto**)



# Habeas Corpus (बंदी प्रत्यक्षीकरण)

- ✓ यह रिट (writ) उस अधिकारी (authority) के विरुद्ध दायर किया जाता है जो किसी व्यक्ति को बंदी बनाकर (detained) रखता है. इस रिट (writ) को जारी करके कैद करने वाले अधिकारी को यह निर्देश दिया जाता है कि वह गिरफ्तार व्यक्ति को न्यायालय (court) में पेश करे.
- ✓ **The Supreme Court or High Court can issue this writ against both private and public authorities.**
- ✓ **Habeas Corpus can not be issued in the following cases:**
  - ✓ When detention is lawful
  - ✓ When the proceeding is for contempt of a legislature or a court
  - ✓ Detention is outside the jurisdiction of the court





# Mandamus (परमादेश रिट)

- ✓ Unlike Habeas Corpus, Mandamus cannot be issued against a private individual
- ✓ Mandamus can not be issued in the following cases:
  - ✓ To enforce departmental instruction that does not possess statutory force
  - ✓ To order someone to work when the kind of work is discretionary and not mandatory
  - ✓ Mandamus can't be issued against the Indian President or State Governors
  - ✓ Against the Chief Justice of a High Court acting in a judicial capacity





# Prohibition (प्रतिषेध रिट)

- ✓ यह रिट (writ) किसी उच्चतर न्यायालय द्वारा अधीनस्थ न्यायालयों के विरुद्ध जारी की जाती है। इस रिट (writ) को जारी करके अधीनस्थ न्यायालयों को अपनी अधिकारिता के बाहर कार्य करने से रोका जाता है। इस रिट के द्वारा अधीनस्थ न्यायालय को किसी मामले में तुरंत कार्रवाई करने तथा की गई कार्रवाई की सूचना उपलब्ध कराने का आदेश दिया जाता है।
- ✓ Writ of Prohibition can only be issued against judicial and quasi-judicial authorities.
- ✓ It can't be issued against administrative authorities, legislative bodies and private individuals or bodies.





# Certiorari (उत्प्रेषण लेख)

- ✓ यह रिट (writ) भी अधीनस्थ न्यायालयों (sub-ordinate courts) के विरुद्ध जारी किया जाता है. इस रिट (writ) को जारी करके अधीनस्थ न्यायालयों को यह निर्देश दिया जाता है कि वे अपने पास संचित मुकदमे के निर्णय लेने के लिए उस मुकदमे को वरिष्ठ न्यायालय अथवा उच्चतर न्यायालय को भेजें. उत्प्रेषण लेख का मतलब उच्चतर न्यायालय द्वारा अधीनस्थ न्यायालय में चल रहे किसी मुकदमे के प्रलेख (documents) की समीक्षा (review) मात्र है
- ✓ **Before 1991: The writ of Certiorari used to be issued only against judicial and quasi-judicial authorities and not against administrative authorities**
- ✓ **After 1991: The Supreme Court ruled that the certiorari can be issued even against administrative authorities affecting the rights of individuals**
- ✓ **It cannot be issued against legislative bodies and private individuals or bodies.**



# Quo Warranto (अधिकार पृच्छा)

- ✓ उस व्यक्ति के विरुद्ध जारी किया जाता है जो किसी ऐसे लोक पद (public post) को धारण करता है जिसे धारण करने का अधिकार उसे प्राप्त नहीं है
- ✓ Quo-Warranto can be issued only when the substantive public office of a permanent character created by a statute or by the Constitution is involved
- ✓ It can't be issued against private or ministerial office





# Supreme Court **VS** High Court

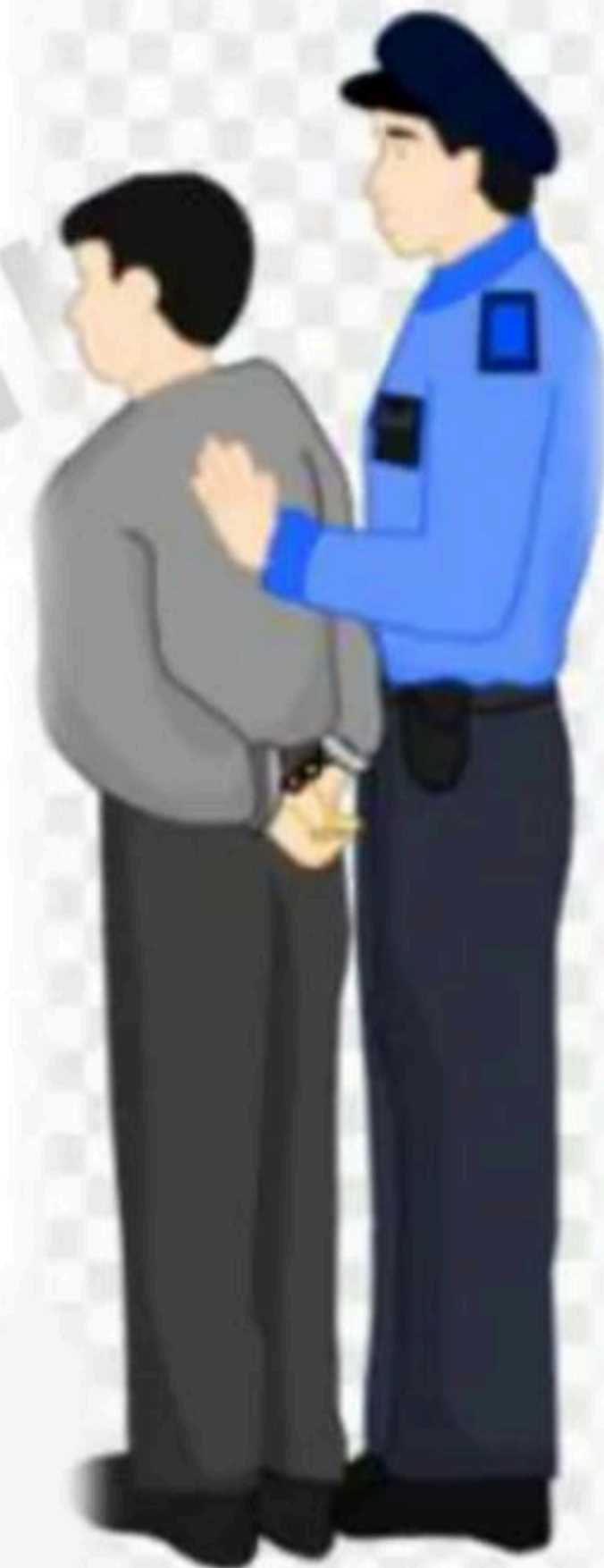
- ✓ Article 32 & 226
- ✓ Only in Fundamental Rights & Fundamental Rights + Legal Rights
- ✓ Before 1950, only the High Courts of Calcutta, Bombay and Madras had the power to issue the writs (Fact)



**Summons  
Case**

**VS**

**Warrant  
Case**





Judge

Magistrate



WHAT IS THE DIFFERENCE?

# IPC

- भारतीय दंड संहिता को Indian Penal Code, भारतीय दंड विधान और उर्दू में ताज इरात-ए-हिन्द भी कहते हैं जो कि **1860** में बना था. आपने फिल्मों में देखा होगा कि कोर्ट में जज जब सजा सुनाते हैं तो कहते हैं कि ताज इरात-ए-हिन्द दफा 302 के तहत मौत की सजा दी जाती है. ये और कुछ नहीं बल्कि भारतीय दंड संहिता ही होती है और दफा का मतलब धारा या Section से होता है.
- IPC में कुल मिलाकर **511 धाराएं** और **23 chapters** हैं.





# CrPC

- ✓ CrPC को Code of Criminal Procedure और हिन्दी में दण्ड प्रक्रिया संहिता कहते हैं. यह कानून सन **1973** में पारित हुआ और **1 अप्रैल 1974** से लागू हुआ था. किसी भी प्रकार के अपराध होने के बाद दो तरह की प्रक्रियाएं होती हैं जिसे पुलिस किसी अपराधी की जांच करने के लिए अपनाती है. एक प्रक्रिया पीड़ित के संबंध में और दूसरी आरोपी के संबंध में होती है. इन्हीं प्रक्रियाओं के बारे में CrPC में बताया गया है. दण्ड प्रक्रिया संहिता को मशीनरी के रूप में भी वर्णित किया जा सकता है जो मुख्य आपराधिक कानून (IPC) के लिए एक तंत्र प्रदान करता है. प्रक्रियाओं का विवरण इस प्रकार है:
  - ✓ - अपराध की जांच (Investigation of crime)
  - ✓ - संदिग्धों के प्रति बरताव (Treatment of the suspects)
  - ✓ - साक्ष्य संग्रह प्रक्रिया (Evidence collection process)
  - ✓ - यह निर्धारित करना कि अपराधी दोषी है या नहीं (Conclusion)



# Authorities of Indian Supreme Court

- ▶ It is limited till Union Judiciary.
- ▶ Public rights & Criminal matters included in appealing jurisdiction.
- ▶ You can appeal in any case (accept Defence matters)
- ▶ It works like an advisor.
- ▶ It protects fundamental rights.
- ▶ The powers and authorities of Supreme Court can be expend by Parliament.
- ▶ It monitors all High courts.





# Authorities of American Supreme Court

- ▶ It has authorities for Union , military as well as ambassy.
- ▶ It has appealing jurisdiction authority only for Executive matters
- ▶ It doesn't have advisory power.
- ▶ It protect rights of civilians.
- ▶ It's power can not expend it is already specified by Constitution.
- ▶ Because of Dual monitoring system it doesn't have monitoring or controlling powers over high court.





- Article No.125
- Subject matter:-Salaries, etc.,of Judges
- Article No.126
- Subject matter:-Appointment of acting Chief Justice
- Article No. 127
- Subject matter:-Appointment of ad hoc Judges
  
- Article No. 128
- Subject matter:-Attendance of retired Judges at sittings of the Supreme Court
- Article No. 129
- Subject matter:-Supreme Court to be a court of record
- Article No. 130
- Subject matter:-Seat of Supreme Court
  
- Article No.131
- Subject matter:-Original jurisdiction of the Supreme Court
- Article No.131A
- Subject matter:-Exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central Laws (Repealed)



- **Article No.132**
- **Subject matter:-Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases**
- **Article No.133**
- **Subject matter:-Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters**
- **Article No.134**
- **Subject matter:-Appellate jurisdiction of Supreme Court in regard to criminal matters**
- **Article No. 134A**
- **Subject matter:- Certificate for appeal to the Supreme Court**
- **Article No.135**
- **Subject matter:-Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court**
- **Article No.136**
- **Subject matter:-Special leave to appeal by the Supreme Court**



- **Article No.137**
- **Subject matter:-Review of judgments or orders by the Supreme Court**
- **Article No.138**
- **Subject matter:-Enlargement of the jurisdiction of the Supreme Court**
- **Article No.139**
- **Subject matter:-Conferment on the Supreme Court of powers to issue certain writs**
- **Article No.139A**
- **Subject matter:-Transfer of certain cases**



Varun

Guru)