

# **UNIT 4**

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## **Law**

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- Definition of
  - Law
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- Primary and sanctioning Rights
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- Object of punishment, Kinds of punishment
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- Constitution and hierarchy of criminal courts
- IPC – offences against person, Section 121A, 299, 300, 302, 304A, 304B, 307, 309, 319, 320, 324, 326, 351, 354, 359, 362. Sections 375 & 377 and their amendments
- CrPC - Cognizable and non-cognizable offences, Bailable and nonbailable offences, Sentences which the court of Chief Judicial Magistrate may pass, Sections 32, 45, 46, 47, 57, 58, 60, 73, 135, 136, 137
- IEA - Evidence and rules of relevancy in brief, Expert witness, Cross examination and re-examination of witnesses, Sections 32, 45, 46, 47, 57, 58, 60, 73, 135, 136, 137, 138, 141

# DEFINITION

## LAW

- Law is a set of rules created by state institutions which make laws through the authority of the state. The laws have sanctions which are recognized by the state and enforced by state-authorized bodies.
- In its judicial sense, 'Law' means a body of rules of conduct, action or behavior of persons, made and enforced by the state.

## COURT

- **Acc to IEA, Section 3**, “‘Court’ includes all Judges and Magistrate and all persons, except arbitrators, legally authorized to take evidence”
- **Acc to IPC, Section 20**, “Court of Justice” denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

## JUDGE

- **Acc to IPC, Section 19**, The word “Judge” denotes not only every person who is officially designated as a Judge, but also every person,— who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment

# ELEMENTS OF CRIME

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graph TD; A(ELEMENTS OF CRIME) --> B(1. HUMAN BEING); A --> C(2. MENS REA); A --> D(3. ACTUS REUS); A --> E(4. INJURY); B --- B1[Only Human being or person]; B --- B2[Person- artificial or juridical or non-human legal entity, company or association or organization]; C --- C1[Guilty intention or mind]; C --- C2[Criminal intent]; C --- C3[Fraudulently]; C --- C4[Dishonestly]; C --- C5[Knowingly]; C --- C6[Voluntarily]; D --- D1[Physical Action]; D --- D2[Voluntary]; D --- D3[Forbidden]; D --- D4[Wrongful Act]; D --- D5[Action]; D --- D6[Omission]; E --- E1[To society or a Person in]; E --- E2[Mind (Hurt)]; E --- E3[Body (Hurt)]; E --- E4[Reputation(Defamation)]; E --- E5[Property (Trespassing)];
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## 1. HUMAN BEING

- Only Human being or person
- Person- artificial or juridical or non-human legal entity, company or association or organization

## 2. MENS REA

- Guilty intention or mind
- Criminal intent
- Fraudulently
- Dishonestly
- Knowingly
- Voluntarily

## 3. ACTUS REUS

- Physical Action
- Voluntary
  - Forbidden
  - Wrongful Act
  - Action
  - Omission

## 4. INJURY

- To society or a Person in
- Mind (Hurt)
  - Body (Hurt)
  - Reputation(Defamation)
  - Property (Trespassing)

# CIVIL AND CRIMINAL JUSTICE

## Civil laws

- To enforce rights
- Civil liability is mostly remedial
- The civil rights are violated or not
- The rights and liabilities
- Less harmful
- Injure private individuals
- Private individuals are the litigants

## Criminal laws

- To punish the wrongs.
- Criminal liability is on the whole, penal
- Trial for the offence (guilty or not)
- Determines the guilt or the innocence
- More harmful or fatal
- Injure the public at large
- State constitutes itself a party

# PUNISHMENT

- **Section 53 of the I.P.C in Chapter III** deals with the kinds of punishments which can be inflicted on the offenders.
  1. Death penalty
  2. Imprisonment for life
  3. Imprisonment (Rigorous and simple)
  4. Forfeiture of property
  5. Fine
- Under the Indian Penal Code, the sentencing policy is measured on the following factors:
  - The gravity of the violation;
  - The seriousness of the crime; and
  - Its general effect upon public tranquility.

- **DEATH SENTENCE**

- Also referred as 'Capital Punishment'
- The act of carrying out such practice is called execution.
- by the method of hanging.

- **LIFE IMPRISONMENT**

- Earlier this was also known as transportation for life.
- The convicted remains in prison until his/her last breath.

- **IMPRISONMENT**

- It can be of two types
- Simple: confined to jail only and not subjected to any hard labor
- Rigorous: put to hard labor such as grinding corn, digging, cutting wood etc.

- **FORFEITURE OF PROPERTY**

- Seizes the property of a criminal
- Movable or immovable.

- **FINE**

- Monetary punishment
- Unlimited, but shall not be excessive

# IPC, Indian Penal Code, 1860

- The Indian Penal Code (IPC), 1860 is the main criminal code of India.
- A complete code intended to cover all aspects of criminal law.
- Drafted in 1860 on the recommendations of the first law commission of India established in 1834 under the Chairmanship of Lord Macaulay.
- The first penal code came into existence in the year 1860.
- The IPC in its various sections defines specific crimes and provides punishment for them.
- 23 chapters that comprise of 511 sections.



# Offences against Person, Chapter XVI

- 299 Culpable Homicide
- 300 Murder
- 302 Punishment for Murder
- 304A Causing death by negligence
- 304B Dowry Death
- 307 Attempt to murder
- 309 Attempt to commit Suicide
- 319 Hurt
- 320 Grievous Hurt
- 324 Voluntarily causing hurt by dangerous weapons or means
- 326 Voluntarily causing grievous hurt by dangerous weapons or means
- 351 Assault
- 354 Assault or criminal force to woman with intent to outrage her modesty
- 359 Kidnapping
- 362 Abduction
- 375 Rape
- 377 Unnatural Offences

# Culpable Homicide

- 299. Culpable Homicide

- Example: A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, falls in and is killed. A has committed the offence of culpable homicide.
- Example: A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence, but A has committed the offence of culpable homicide.

# Murder

- **300. Murder**
- Example: A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.
- A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause death of a person in a sound state of health.
- A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

# INGREDIENTS OF MURDER

- **Causing death**: There should be an intention of causing death,
- **Doing an act**: There should be an intention to cause such bodily injury that is likely to cause death, or
- **The act must be done**: with the knowledge that the act is likely to cause the death of another.

# Exceptions To Section 300 Of IPC Where Culpable Homicide Is Not Considered As Murder

- **Sudden and grave provocation**

- Example: A is given grave and sudden provocation by C. A fires at C as a result of this provocation. A didn't intend or have knowledge that his act is likely to kill C, who was out of A's sight. A kills C. A is not liable to murder but is liable to culpable homicide.

- **When the person exceeds his right to private defense**

- Example: X attempts to flog Y, not in a manner to cause grievous hurt to Y. A pistol is drawn out by Y, X persists the assault. Y believes that he had no way to prevent himself from being flogged by X, Y fires at X. X is liable to culpable homicide not amounting to murder.

- **Culpable homicide in case of Public Servant**

- Example: If the police officer goes to arrest a person, the person tries to run away and during that incident, if the police officer shoots the person, the police officer will not be guilty of murder.

- **Sudden Fight**

- **Consent**

- A instigated F who was under 18 years of age, to commit suicide. F was incapable of giving consent to his own death. Therefore, A is guilty of murder.

# Difference between Culpable Homicide and Murder

CULPABLE HOMICIDE	MURDER
<ul style="list-style-type: none"><li>• The intention or knowledge is not so positive or definite</li><li>• Less serious</li><li>• Probability of death</li><li>• Likelihood of death</li><li>• Punishment is less</li></ul>	<ul style="list-style-type: none"><li>• A positive intention to cause the death</li><li>• More Serious</li><li>• More probability of death</li><li>• Certainty of death</li><li>• Punishment is heavier</li></ul>

# Punishment for Murder

- 302. Punishment for murder

According to this Section whoever commits murder is punished with:

- Death;
- Life imprisonment;
- The convict shall also be liable to fine.

# Causing Death by negligence

- 304A. Causing death by negligence
- Example: A motorcyclist had pushed an old man from behind. The old man died on spot due to head injuries attained at the time of the accident. The death was a result of rash and negligent conduct.



# Dowry Death

- 304B. Dowry death.

## ESSENTIAL INGREDIENTS

- Death should be caused by burns or bodily injury or by any other circumstances.
- Death must occur within the seven years of marriage.
- It must be revealed that soon before her marriage she was exposed to cruelty or harassment by her husband or any other relative.
- The cruelty or harassment on her should be in connection with the demand for dowry.

# Attempt to Murder

- 307. Attempt to Murder
- Stages of Crime
  1. Intention
  2. Preparation
  3. Attempt
  4. Completion or Accomplishment
- Example: Mr. T is planning to murder Mr. P. He collects some toxic chemicals with an intention to mix it in Mr. P's food. Until Mr. T has served the food, he hasn't committed any offence.

# Attempt to commit suicide, Section 309

- In India, attempt to commit suicide is punishable u/s 309 of the IPC.
- To 'commit suicide' is for a person voluntarily do an act (or, as it is submitted, to refrain from taking bodily sustenance), for the purpose of destroying his own life, being conscious of that probable consequence, and having, at the time, 'sufficient mind to will the destruction of life.'
- **WHY AN OFFENCE ?**
- Right to life, which is described under Article 21 of the Constitution but suicide is an unnatural termination or extinction of life.
- Punishment to survivors is not the solution. But counseling would definitely help them.
- Suicide survivors need emotional and psychiatric support.

# Hurt

- **319. Hurt.**
- Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.
- **Bodily Pain:** the inflicting of bodily pain
- **Infirmity:** the bad state of frame of mind, or terror
- **Disease:** A communication of ailment or disease

# Grievous Hurt

- 320. Grievous hurt.

1. Emasculation,
2. Permanent injury to eyesight or either of the eye,
3. Permanent deafness or injury to either of the eye,
4. Privation of any member or joint (loss of limb),
5. Impairing of Limb,
6. Permanent disfiguration of the head or face,
7. Fracture or dislocation of a bone or tooth,
8. Any hurt which risks life or which causes the victim to be during the time of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

# Hurt or Grievous hurt by dangerous means or weapons

- 324. Voluntarily causing hurt by dangerous weapons or means
- 326. Voluntarily causing grievous hurt by dangerous weapons or means
- Voluntarily causes hurt by
  - Any instrument, weapon of offence (shooting, stabbing or cutting)
  - Fire or any heated substance
  - Poison or any corrosive substance
  - Explosive substance
  - Deleterious substance (inhale, swallow, receive into the blood)
  - Any animal

# Assault

- 351. Assault

- Example: X shakes his fist at Y, intending or knowing that may cause to believe Y that X is about to strike Y. X has committed assault.
- X loosens the muzzle of a ferocious dog knowing that the dog will cause harm to Y. So, X has committed an assault upon Y.
- A takes up a stick, says to Z, “I am going to beat you up”. Here, although the words employed by A may in no case amount to a direct assault, and although the mere gesture, unaccompanied by the other circumstances, may not amount to an assault, the gesture explained by the words might amount to an assault.

# Assault to woman

- 354. Assault or criminal force to woman with intent to outrage her modesty
- 354A. Sexual harassment and punishment for sexual harassment.
  - Physical contact
  - A demand or request for sexual favours
  - Showing pornography against the will of a woman
  - Making sexually coloured remarks
- 354B. Assault or use of criminal force to woman with intent to disrobe



# Kidnapping

- **359. Kidnapping.**

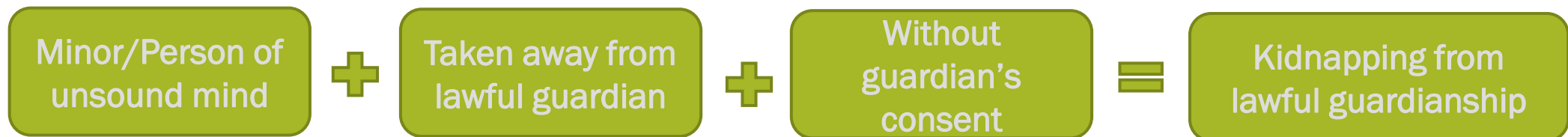
- Kidnapping is of two kinds:

1. Kidnapping from India
2. Kidnapping from lawful guardianship

- **360. Kidnapping from India**

- Example: 'A' is a woman living in New Delhi. 'B' takes 'A' to Bangladesh without her consent. 'B' committed the offence of kidnapping 'A' from India.

- **361. Kidnapping from lawful guardianship**



# Abduction

- **362. Abduction**
- Example: 'B' slaps and hurts 'A' and tells her that if she would not leave with him, he would kill her. In this case, 'B' commits the offence of abduction as he uses forceful means to take 'A' away from her house.
- **Essentials of Abduction**
  - By Force
  - Deceitful Means
  - To go from any place

# Differences Between Kidnapping And Abduction

- **Kidnapping**

1. Section 359 of IPC
2. Female- under 18 years, male- under 16 years
3. Means are irrelevant to constitute the crime.
4. It is essential that the victim is taken away from their lawful guardian
5. Consent of the person kidnapped is immaterial
6. The intention is immaterial.

- **Abduction**

1. Section 362 of IPC
2. No bar on the age of the person abducted
3. Force, deceit or compulsion
4. There is no concept of lawful guardianship
5. If consent is present, there is no offence
6. Intention is essential to determine the guilt of the accused.

# Rape

- **375. Rape.**
- Rape is said to have been committed when a man has sexual intercourse with a woman:
  - Against her will;
  - Without her express consent;
  - By obtaining her consent by force, or threatening to kill or hurt her or someone she cares about;
  - By making her believe that the man has been lawfully married to her;
  - By obtaining her consent during unsoundness of her mind, when she was intoxicated, or by providing any other substances that might affect her decision-making ability;
  - With or without her consent if she is under 16 years old, and 14 years old in case of Manipur.

# Code of Criminal Procedure, 1973

- The main legislation on procedure for administration of substantive criminal law in India.
- Enacted in 1973 and came in force in 1974.
- It Provides:
  - Machinery for investigation of crime
  - Apprehension of suspected criminals
  - Collection of evidences
  - Determination of guilt and innocence of accused
  - Determination of punishment of guilty
- 37 chapters, 484 sections, 2 schedules and 56 forms

# FIR (First Information Report)

- FIR IS NOT DEFINED IN THE CRIMINAL LAW
- According to Section 154 of Code of Criminal Procedure. Information in cognizable cases
- **Essential elements of FIR:**
  - Relate to the commission of a cognizable offence
  - Shall be reduced in writing (if given orally) and read over to the informant
  - Shall be signed by the informant
  - The substance of FIR must be recorded in a book.

# Cognizable and Non-cognizable Offences

GROUNDS	COGNIZABLE OFFENCES	NON COGNIZABLE OFFENCES
FIR registered	FIR can be registered without magistrate's permission	NCR will be registered and investigation will be started with permission of Magistrate
Arrest	a police officer may arrest without warrant for such offences	a police officer has no authority to arrest without warrant for such offences
Nature of Crime	Serious	Not much serious
Examples	Murder(IPC 302) Rape(IPC 376) Dowry death(IPC 304 B) Robbery: IPC 392	Assault(IPC 323) Cheating(IPC 315,317) False complaint to police or in court(IPC 182 & IPC 191,193,209)

# Bailable and Non-Bailable Offences

	BAILABLE OFFENCE	NON-BAILABLE OFFENCE
Meaning	A bailable Offence is one that is less serious in nature. It implies an offence in relation to which bail is available to the accused.	A non-bailable offence is an offence that is serious in nature and in relation to which bail is not available to the accused in general.
Grant of Bail	Matter of Right	Discretion of Court
Punishment	Punishment is for less than 3 years.	Punishment is for more than 3 years.
Bail Granting authority	Investigating officer or officer in charge of the police station.	Judicial Magistrate or Judge
Procedure	When the accused brings proper surety after his/her arrest, the investigating officer is bound to release the accused.	Investigating officer is required to present the accused before the magistrate within 24 hours of his/her arrest. At that time, he/she can make an application of bail to the magistrate either by himself or through a lawyer.
Examples	Bribery, Public Nuisance, Simple hurt, Negligence	Rape, Murder, Dowry Death, Kidnapping, Attempt to murder



# Sentences which Magistrates may pass

- 29. Sentences which Magistrates may pass.
- except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years
- The Court of a Magistrate I-class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding 1[ten thousand rupees], or of both.
- The Court of Magistrate of the II-class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding 2[five thousand rupees], or of both.
- The Court of a Chief Metropolitan Magistrate shall have the powers of the Court of a Chief Judicial Magistrate and that of a Metropolitan Magistrate, the powers of the Court of a Magistrate of the first class.

- 32 Mode of conferring powers.
- 45 Protection of members of the Armed Forces from arrest.
- 46 Arrest how made
- 47 Search of place entered by person sought to be arrested
- 57 Person arrested not to be detained more than twenty-four hours.
- 58 Police to report apprehensions
- 60 Power, on escape, to pursue and retake.
- 73 Warrant may be directed to any person.
- 135 Person to whom order is addressed to obey or show cause
- 136 Consequences of his failing to do so.
- 137 Procedure where existence of public right is denied.

### 32. Mode of conferring powers.

- The High Court or the State Government,
- Empower persons specially by name or in virtue of their offices

### 33. Powers of officers appointed.

- Appointed at another area
- Exercise the same powers in both areas

### 45 Protection of members of the Armed Forces from arrest.

- No member of the Armed Forces of the Union shall be arrested
- Anything done or purported to be done by him in the discharge of his official duties

# Arrests

- 46. Arrest how made.
- Explains how arrest is made.
- 46(1) The police officer or the person making the arrest shall actually touch or confine the body of the person arrested.
- In the case of women, unless the police officer is female, she shall not be touched by the police officer
- 46(2) Authorised to use reasonable amount or means of force to effect the arrest in case of evasion.
- 46(3) does not give the right to cause the death of the person who is not accused of an offence who is not accused of an offence punishable with death or with imprisonment for life.
- 46(4) says that except in certain conditions a woman cannot be arrested after sunset and before sunrise, except with the prior permission of the Judicial Magistrate.

- **47. Search of place entered by person sought to be arrested.**

- Any police officer having authority to arrest or with warrant
- Allows police officer free ingress
- All reasonable facilities for a search
- To break open any outer or inner door or window of any house or place, after notification of his authority and purpose
- Except place of female occupancy
- Break open door or windows in order to liberate himself

- **57. Person arrested not to be detained more than twenty-four hours.**

- A person arrested without warrant
- In the absence of a special order of a Magistrate
- Cannot be detained in custody exceeding 24 hours

- **58. Police to report apprehensions.**

- Officers in charge of police stations shall report to the District Magistrate
- The cases of all persons arrested without warrant
- Whether such persons have been admitted to bail or otherwise.

- **60. Power, on escape, to pursue and retake.**

- If a person in lawful custody escapes or is rescued
- The person from whose custody he escaped, may immediately pursue and arrest him in any place in India.

- **72. Warrants to whom directed.**

- A warrant of arrest shall ordinarily be directed to one or more police officers
- In absence of such officers, can be directed to another person
- It may be executed by all, or by any one or more of them.

- **135. Person to whom order is addressed to obey or show cause.**

- The person against whom such order is made shall
- Perform, within the time, and in the manner specified

- **136. Consequences of his failing to do so.**

- If such person does not perform such act
- He shall be liable to the penalty under 188, IPC
- Punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;



- **137. Procedure where existence of public right is denied.**

- Public right denied
- For use of way, river, channel or place

# Indian Evidence Act, 1872

- The Indian Evidence Act, 1872 was passed on 15 March 1872, enforced on 1 Sept 1872.
- It is divided into 3 Parts, 11 Chapters and 167 Sections
- Provides for the methodology by which the case to be conducted
- In the matter of production of evidences and witnesses
- The Indian Evidence Act deals with
  - Relevancy of facts
  - Admissions and confessions
  - Oral evidences
  - Documentary evidences
  - Matters relating to taking of evidence
  - Admissibility of evidences

## 32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.

- Statements given by **Persons**
  1. Dead
  2. Cannot be found or missing
  3. Incapable of giving evidence
  4. whose attendance cannot be procured without an amount of delay or expense
- **Clauses**
  1. When it relates to cause of death or **DYING DECLARATION**
  2. Is made in course of business
  3. Against interest of maker
  4. Gives opinion as to public right or custom, or matters of general interest.
  5. Relates to existence of relationship
  6. Is made in will or deed relating to family affairs
  7. In document relating to transaction mentioned in section 13, clause (a).
  8. Is made by several persons and expresses feelings relevant to matter in question

## 45. Opinions Of Experts.

- To form an opinion related to
  - Foreign law
  - Science
  - Art
  - Handwriting
  - Fingerprint impression
- The opinions made by such specially skilled persons are relevant facts.
- Such persons are called **EXPERTS**.

#### 46. Facts bearing upon opinions of experts.

- Facts, not otherwise relevant, are relevant
- If they support or are inconsistent with the opinions of experts, when such opinions are relevant

#### 47. Opinion as to hand-writing, when relevant.

- To form an opinion as to the person by whom any document was written or signed
- By any person acquainted with the handwriting of the person

## 57. Facts of which Court must take judicial notice.

- General facts that **NEED NOT TO BE PROVED**

1. All laws in force in the territory of India
2. All public Acts passed or hereafter to be passed by Parliament of the United Kingdom
3. Articles of War for the Indian Army, Navy or Air Force
4. The course of proceeding of Parliament of the United Kingdom, of the Constituent Assembly of India
5. The accession and the sign manual of the Sovereign
6. All seals of which English Courts, Courts in India
7. The accession to office, names, titles, functions, and signatures of the persons notified in any Official Gazette
8. The existence, title and national flag of every State or Sovereign recognized by Gol
9. The divisions of time, the geographical divisions of the world, and public festivals, fasts and holidays notified in the Official Gazette
10. The territories under the dominion of the Gol
11. The commencement, continuance and termination of hostilities of State
12. The names of the members and officers of the Court
13. The rule of the road on land or at sea.

## 60. Oral Evidence Must Be Direct.

- FACTS
- Seen
- Heard
- Perceived by senses
- Opinions
- Evidences by witness who says
- Saw it
- Heard it
- Perceived it
- Holds that opinion

- **135. Order of production and examination of witnesses**

- Primarily it is lawyer's privilege to determine the order
- In civil cases, on whom burden of proof lies examines first
- In criminal cases, the prosecution has to examine witness first
- However, Section 135 gives power to the court to command in which the witnesses may be produced.

- **136. Judge to decide as to admissibility of evidence.**

- The question of admission of evidences is to be decided by the judge.

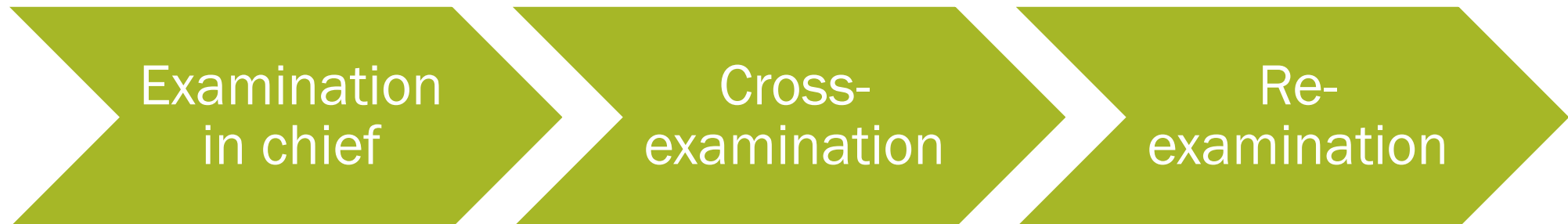


- **137. Examination-in-chief.**

The examination of witness by the party who calls him shall be called his examination-in-chief.

- **Cross-examination** : The examination of a witness by the adverse party shall be called his cross-examination.
- **Re-examination** : The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.

- **138. Order of examinations.**



### 141. Leading questions.

- Leading questions are questions which are framed in a way which evokes a specific response from the individual being questioned.
- “Where were you on the night of December 20th, 1999,”
- “You were driving to Delhi on the night of December 20th, 1999, were you not?”-  
LEADING QUESTION.

### 142. When they must not be asked.

- Examination-in-chief, or in a re-examination

### 143. When they may be asked.

- In cross-examination.

# Evidentiary Value of Statements and Articles seized or collected by Police

- **Statement recorded by the police in the course of investigation under section 162 Cr.P.C.:**
  - Not relevant
- **Evidentiary value of Confession:**
  - A confession to the police officer- not relevant
  - A confession to the Magistrate, voluntarily- relevant
- **Evidentiary Value of FIR:**
  - Used to refresh memory or state facts related
- **Evidentiary value of dying declaration:**
  - True and voluntary, undoubtedly
  - Corroborative
- **Evidentiary value of articles seized**
  - Showing probable cause that a crime has been committed. (corpus delicti)
  - A specification of a place or places to be searched.
  - A reasonable time limit within which it may be conducted.

# PRIMARY RIGHTS AND SANCTIONING RIGHTS

- Objective of civil proceedings is enforcement of rights of a person.
- 2 Kinds of Civil Rights
  1. Primary Rights
  2. Sanctioning Rights
- Example: If X and Y enter into a contract that X would supply 100 laptops to Y. Now to receive 100 laptops in good condition from X is a primary right of Y. If X breaches the contract, then Y can sue X for breach of contract. Thus, to recover damages from X is Y's sanctioning right.

PRIMARY RIGHTS	SANCTIONING RIGHTS
Primary rights are the privileges enjoyed by any person.	A sanctioning right is one that arises out of the violation of the other rights.
Independent existence	No independent existences
A violation or breach of the primary rights gives rise to sanctioning or remedial right.	Sanctioning rights comes into existence after the violation of primary rights.
Specific enforcement	Sectional enforcement
Can be a right in rem or a right in personam	Always right in personam
Example: The right not to be libel/ defamation, the right to property etc.	Example: The right to obtain compensation from one

# CONSTITUTION AND HIERARCHY OF COURTS

## Supreme Court Of India

- The Supreme Court is the **apex Court** of India.
- **Article 124 to 147** of the Constitution of India.
- The Supreme Court has **original, appellate** and **advisory** jurisdiction.
- **Original jurisdiction** extends to any dispute between the Government of India and one or more States, between states
- **The appellate jurisdiction** can be invoked in respect of any judgment, decree or final order of a High Court in both civil and criminal cases

Supreme Court of India (The apex court)



High Court (Highest court at the state level)



Sessions/District Court



Judicial Magistrates of the I Class/Metropolitan



Magistrate's Court



Court of the Judicial Magistrates of the Second Class



Executive Magistrates

## High Court

- The High Court stands at the **head of a State's judicial** administration.
- Article 141 of the Constitution Of India.
- Jurisdiction of state, group of states or Union Territory.
- To govern the jurisdiction of lower courts
- Mainly exercising their jurisdiction, if the lower courts are proved incapable of exercising their power.

## **District Courts (Subordinate) of India**

- The basis of structuring of district courts depends upon the discretion of the state governments or the union territories.
- Exercise their power of juridical service in district level

## **Village Courts or Lok Adalat or Nyaya Panchayat**

- Extended to the villages of India.
- System for resolving disputes in micro level.
- Assigned to judge the petty cases related to civil and criminal offence which can generate the penalty of up to 2 years imprisonment.