

## CHAPTER - 5

# OUR JUDICIAL SYSTEM

In the previous chapter we have learned about how the government enacts and executes laws. The third function of the government is to ensure justice to the people. In this chapter we shall learn about the different kinds of law courts and their functions. The following story will help us understand the functions of courts:

### Land dispute between Chaitu and Ram Singh

Chaitu and Ram Singh lived in Sonpur village. They were farmers whose fields lay next to each other. For past few years they were having a dispute over their land. Ram Singh had encroached on Chaitu's land by shifting the boundary ridge between their fields.

One day Chaitu irrigated his field with water from the canal. That night Ram Singh broke the ridge of Chaitu's field and drained the water into his field. The next morning Chaitu saw that there was no water in his field while Ram Singh's field was filled with water.



**Fig-4.1 Boundary in the fields**

He called out to Ram Singh, who was working in his field, "Do you want to destroy my crop? What you have done is wrong?"

Ram Singh replied, "I have done nothing wrong."

Chaitu said, "I have been trying to work out our problems peacefully. But you think that is my weakness? I will see to it that I get back my land which you have occupied."

Chaitu complained to the village Sarpanch that Ram Singh had illegally occupied his land and drained the water from his field. Both parties presented their case at the Panchayat meeting. The Panchayat advised Ram Singh not to quarrel with Chaitu and to return his land. But Ram Singh refused to obey the Panchayat's decision. Chaitu decided to file a petition against Ram Singh in the Tehsildar's court.

Disputes over land or money are known as Civil Cases. In such cases no punishment is given, but the person who has suffered can be compensated for any loss he suffers.

The Sarpanch advised Chaitu to engage a lawyer to fight his case. The lawyer asked Chaitu to bring photocopies of all the papers related to his land, including the lease papers and the *khasra* number of the disputed land, from the *patwari* who maintains a record of the village accounts. He told Chaitu his fee for fighting the case would be Rs1,500. Chaitu agreed to pay the fee in instalments.

1. What are Civil Cases? Discuss with your teacher.
2. Is there any other way to get justice besides approaching the courts?
3. Why did Chaitu complain to the Sarpanch about his dispute with Ram Singh?
4. In which court will Chaitu's case be heard?
5. Why did Chaitu give money to the lawyer?
6. What is the work of a lawyer?

### Ram Singh assaults Chaitu

One day, a heated argument took place between Ram Singh and Chaitu. Ram Singh hit Chaitu on his head and hand with a *lathi*. Chaitu's hand was fractured and blood flowed from the wound in his head. Mangal, who was working in a neighbouring field at the time, witnessed the whole incident. He came to Chaitu's aid, tied a cloth around his head and took him home.



Fig. 4.2 Assault between Chaitu & Ramsingh in field

### Chaitu files a report in the police station

With his neighbour's help Chaitu's son took his father to the police station. Chaitu filed a complaint against Ram Singh. The clerk at the police station wrote the complaint on a sheet of paper and asked Chaitu to sign it. Chaitu requested the clerk to register the report, which is called a First Information Report or F.I.R., and give him a copy. The clerk showed the report to the inspector in charge of the police station and told him that Chaitu wanted to register it. The station-in-charge read the report and asked his clerk to register it and gave a copy to Chaitu. He then sent Chaitu with a constable to the Government Hospital for treatment. Chaitu returned home after being treated at the hospital.



Fig. 4.3 Report in police station

## What is F.I.R.?

If you want to complain about any incident or if you want to inform the police about any incident, you have to go to the nearest police station and get a report written about the incident. This is known as the First Information Report or F.I.R. and it is the duty of the police to register it. They can enquire into the incident and take necessary action only after the report is registered. All information related to the offence is written in the F.I.R. It describes the offence, gives details of the place and time when the offence took place, and mentions the names of the complainant, offenders and witnesses.

Anyone can file an F.I.R. in the police station. If the person is educated he can write and sign the report himself, giving his full address and other contact details. If the report is given orally, the station-in-charge writes it and reads it aloud to the complainant, who then signs it. The F.I.R. is written in a separate register and once the F.I.R. is registered at the police station the police have to conduct an enquiry.

The person who files an F.I.R. is given a copy of his complaint. If the station-in-charge or clerk does not register the F.I.R. the complainant can post the report directly to the Superintendent of Police or the District Magistrate. The report can also be made to the Police Control Room over the phone (Tel No 100).

What details would Chaitu have written in his report?

Why is it necessary to retain a copy of the report?

If the station-in-charge does not write your F.I.R. what can you do?

## Investigating the crime

The police station-in-charge decided to investigate the case on the basis of the F.I.R. filed by Chaitu. He went to Chaitu's house the following afternoon, met him and examined the doctor's report and prescription. The report showed that the injury was severe - Chaitu's hand was fractured. The inspector met the neighbours and questioned them about the incident. Mangal narrated all that he had witnessed. The inspector was convinced. It was a serious crime. He went to Ram Singh's house and told him that he would have to arrest him because he had seriously injured Chaitu. Ram Singh was taken to the police station.

Offences like theft, bribery, murder, dacoity, violent beating, etc that disturb the peace of the community are known as criminal offences.

Ram Singh was interrogated at the police station. He denied beating Chaitu and refused to accept that he had committed any offence even though the station-in-charge insisted that he must confess.

The police cannot force anyone to confess a crime. A person cannot be punished on the basis of a confession made at a police station. A confession can only be

accepted by a magistrate in a court of law. The job of the police is to present the evidence in the court and not to punish the person suspected of committing an offence. Only the magistrate can punish the suspect after hearing all the evidence.

## Arrest

When the police arrests a person they have to tell him why he is being arrested. If he is not told about the offence, he has the right to ask the police. He should go to the police station only after the police inform him about the offence. It is wrong to arrest anyone without telling him the reason for the arrest. Once arrested, a person has to be presented in the court within twenty four hours. The arrested person has the right to appoint a lawyer to defend himself in the case.

The police arrest a suspect so that they can interrogate him. If the suspect is not arrested he can destroy the evidence or commit another crime. Arrest is not a punishment.

1. For which crime was Ram Singh arrested?
2. Why is a person arrested?
3. Who can punish a person who commits a crime?
4. What is the difference between arrest and punishment?
5. Why is a person permitted to take the help of a lawyer?
6. What are civil and criminal cases? Explain with examples.

## Bail

The station-in-charge kept Ram Singh in the lock-up. Ram Singh begged him to let him go home. The station-in-charge told him that he could only let him out on bail. For this, he would have to get someone with money, land or property to sign a bond saying that he would take the responsibility of ensuring that Ram Singh would appear in court whenever he was required to. If the arrested person has land or money, he can file his own bond. Ram Singh had 15 acres of land, so he filled his own bond. The station-in-charge told him he could go home but he would have to come to the court whenever he was called.

## The first hearing

Ram Singh was presented before the magistrate for the first hearing. The public prosecutor presented the case against Ram Singh on behalf of the police. Copies of the F.I.R. and the doctor's report were presented to the magistrate and Ram Singh was accused of inflicting severe injuries on Chaitu. The magistrate asked Ram Singh if he accepted his offence. Ram Singh said he was not guilty of committing the offence. The magistrate then gave the date for the next hearing.

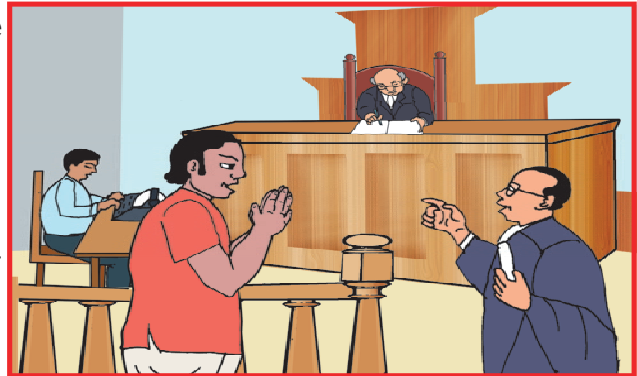


Map-4.4 First Hearing

## Questioning of witnesses

Ram Singh had given names of some of his friends as witnesses. Chaitu's report at the police station had named Mangal and another neighbour as witnesses. All the witnesses were summoned to appear in the court to present their testimony.

On the day of the second hearing all the witnesses came to the court of the Magistrate Grade II. When called to the witness stand, they related whatever they knew about the incident. The lawyers of both parties – the accused and the defendant - then questioned the witnesses.



**Fig. 4.5 Questioning of witnesses**

At the third hearing the lawyers of both sides argued their cases. The case stretched on for two years as the lawyers continued their presentations and interrogations. After hearing the arguments of both sides the magistrate finally gave his ruling in the case. He declared that Ram Singh was guilty of committing a life threatening offence and sentenced him to three years in jail.

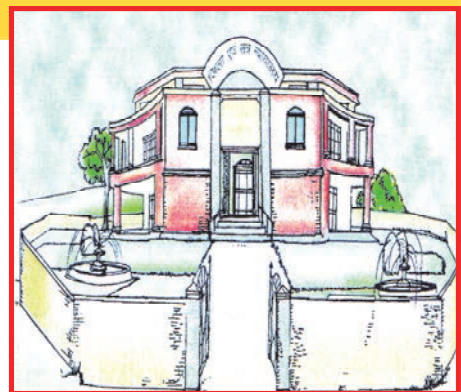
Discuss the following with your teacher before writing your answers:

1. Why is it necessary to present witnesses in court?
2. Why is it necessary to interrogate the witnesses?
3. What is the difference between the work of the police and the magistrate?
4. When taking a decision in a case, which factors does the magistrate keep in mind?

## Appeal in the Sessions Court

Ram Singh had to spend a lot of money during the long trial and he had very little money left. He was also worried that his farm would be completely ruined if he spent three years in jail. He asked his lawyers, "Is there any way in which I can be exempted from the punishment?"

His lawyer assured him, "I shall appeal against the decision in the Sessions Court. You will not have to go to jail till the Sessions Court gives its decision in the case. The Sessions Judge can overturn the decision of the Judicial Magistrate. You need not come to the Sessions Court for the hearings. But you must pay all the fees in time."



**Fig. 4.6 District and Sessions Court**

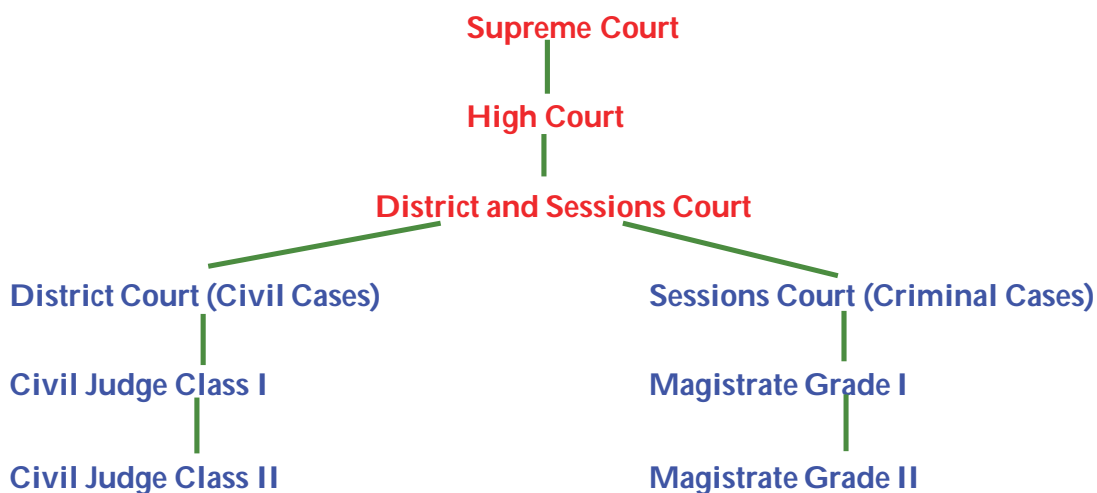


Ram Singh's lawyer filed an appeal in the Sessions Court. The lawyer tried to get Mangal to become a witness for Ram Singh, but Mangal refused. The hearings continued for another year. The Sessions Judge reduced Ram Singh's sentence from three to two years.

1. The \_\_\_\_\_ Judge can change the decision of the Judicial Magistrate.
2. The accused does not have to attend every hearing at the \_\_\_\_\_ Court.
3. Did Ram Singh's lawyer do anything wrong before the trial in the Sessions Court?

## The High Court

Ram Singh was unhappy when he heard the Sessions Judge's decision. But he did not lose hope. He asked his lawyer if he could find a way to avoid going to jail to serve his sentence. His lawyer told him he could try and get the decision overturned in the High Court. He said every state has a High Court, which is the highest court in the state. A person can appeal against any decision made by the lower courts in this court. The accused and the witnesses are not called to the High Court. The judge decides the case after reading the case file and hearing the arguments of the lawyers. His lawyer advised him to appeal to the High Court.



Ram Singh's lawyer filed an appeal in the High Court. The High Court began hearing arguments in the case after four months. Ram Singh's lawyer tried to get the sentence changed. The High Court Judge carefully studied the decisions of the lower courts and heard the arguments of the lawyers. He found the decision taken by the Sessions Judge was correct and awarded a sentence of two years imprisonment to Ram Singh.



**Fig. 4.7 Chhattisgarh High Court, Bilaspur**

Ram Singh was sent to jail for two years. His lawyer met him in jail and assured him that he could get his punishment pardoned by the Supreme Court. Ram Singh said, "I will have to spend more money in the Supreme Court and the decision may finally remain the same. I do not want to pursue the case any further."

Which courts heard Ram Singh's case? Write their names in serial order.

If a person is not happy with the decision of a court, he can file an appeal in a higher court. Why does the law provide such a facility? Discuss with your teacher.

Every state has a High Court and courts at the tehsil and district level. The Sessions Court try Criminal Cases and the District Court try Civil Cases.

The Supreme Court is the highest court in our country. Appeals against the decisions of the High Court can be filed in the Supreme Court. The decision of the Supreme Court is final.

Ram Singh's case first went to the Sessions Court of the Magistrate Grade II. He appealed against the decision of the Sessions Court in the District Court and then in the High Court of his state.

In this way, the judiciary is present at the tehsil, district, state and country level. The High Court of Chhattisgarh state is in Bilaspur and the Supreme Court of India is in Delhi.

**Find out where the different judicial courts in your area are located?**

### **EXERCISES**

#### **I. Which of the following sentences is true or false:**

- An F.I.R. is registered in a police station to file a complaint.
- It is the lawyer's job to give a decision.
- Decisions of the Sessions Court can be changed in the High Court.

## II. Fill in the blanks:

- a) Arrest is not a \_\_\_\_\_.
- b) The \_\_\_\_\_ Judge can change the decision of the Judicial Magistrate.

## III. A case is heard in the Tehsildar's Court if there is no physical assault. How would the case proceed?

**Read the details given below and fill in the blanks:**

The Tehsildar gave a \_\_\_\_\_ for the hearing. In the first \_\_\_\_\_ detailed information was taken from Chaitu. The date for the second hearing was fixed three months later. At the second hearing, the Tehsildar asked questions about the disputed land. The *patwari* told him that Ram Singh had occupied a portion of Chaitu's land. At the third hearing Ram Singh was asked to the papers showing the land he possessed. At the fourth hearing the \_\_\_\_\_ of both parties presented their evidence. Both lawyers answered the questions of the Tehsildar.

The Tehsildar heard both parties, the arguments of the lawyers and studied the case papers. He found that the disputed land belonged to Chaitu.

He gave his decision. He wrote that Ram Singh should return the \_\_\_\_\_ land to Chaitu and pay Rs5,000 to Chaitu as compensation and Rs500 towards the expenses of the court.

## V. What are the functions of:

Lawyer, Magistrate and Police

## IV. Differentiate between:

- a) Lawyer and Judge
- b) Arrest and Punishment
- c) Suspect and Prisoner.

## VI. Answer the following questions:

- a) Why do we need courts?
- b) What is the difference between a civil case and a criminal case?
- c) Why do hearings take place so often in the courts?

## THINGS TO DO

## VII Find out about the court in your area. Enact the activities of this court in a play.

