

## LAW - COURTS AND JUSTICE

*You are likely to have heard about some court cases around you. Why don't you narrate a case that you know about? Talk about the people one meets in courts. You can also take a look at all the subtitles in this chapter and discuss what you know about the key words contained in them.*

We shall now study the dispute between Kalluram and Parsuram and how it was settled in the courts. This example will help us understand the judicial system in our country.

### A DISPUTE OVER LAND

*Kallu was busy ploughing his land. As he neared the electricity pole in his field he sensed that something was amiss. He could remember that he used to plough till beyond the pole. But now the boundary ended almost a foot or so before. He left his plough and went to the pole. As he looked carefully there he became convinced that Parsu, his neighbour, had shifted the boundary.*

*He was seething with rage at Parsu's mischief. That night he went to the field with*

*his brother Laxman and son, Reva. They worked overnight and shifted the boundary to its original position.*

*When Parsu found this out in the morning he marched off to Kallu's house with his lathi. In the fight that took place, Parsu beat up Kallu so badly that his hand broke.*

*As the news spread, a big crowd gathered and the village kotwar also arrived. People intervened to pacify Kallu and Parsu.*

*A little while later Laxman and Reva took Kallu to the nearby town which was also the tehsil headquarter. They showed Kallu to the doctor and got his hand plastered. Then along with the doctor's certificate they proceeded to the police station to file a report.*



## Filing the Report

At the police station Reva filed the report against Parsu. The clerk wrote out the report on an ordinary blank paper. This is known as the 'first information report' (F.I.R.) Reva signed the report and asked the clerk, "Please enter the report in your register and give us a copy as well." "I have to wait for the thanedar (head of the police station) to come before I can enter the report in the register," the clerk replied. The head of a police station is formally known as Station House Officer (S.H.O.) So they waited and the report was entered after the arrival of the thanedar. As they made to leave, Reva asked for a copy again. He knew that the person who files a report is entitled to a copy of it. So, he made sure that they had a copy of their report before they left the police station.

- Why did they wait for the SHO to return? If you were to file such a report what would you write in it?
- Why is it important for the person who makes an F.I.R. to take a copy of the report?



Fig. 2 Filing the FIR at the police station

## Investigation and Arrest

The thanedar went to the village and began his investigation by examining the injuries suffered by Kallu. The report of the hospital doctor established quite clearly that the injuries were serious. Then he questioned Kallu's neighbours. The neighbours gave him a full account of the incident that had taken place. This established beyond doubt that Kallu was injured on being violently assaulted by Parsu.

## FIRST INFORMATION REPORT

If you have to make a complaint to the police it is necessary to file a First Information Report (F.I.R.) at the police station. After the F.I.R. is filed it becomes the duty of the police to investigate and solve the problem.

When an F.I.R. is filed, details like the following need to be given – a description of the incident, name of the offender, time and place of the offence and the names of the witnesses. All information available which is connected with the incident needs to be recorded.

Anyone can file an F.I.R. in a police station. If the person is literate she/he can write the F.I.R. herself, sign it and submit it. If illiterate, a person can submit the F.I.R. orally and whatever is said will be written down. The S.H.O. will then read out this recorded statement to the person and after approval, the person will sign it. The account of the crime should be entered in the Station House Register on the basis of the F.I.R. and a copy of the F.I.R. given free of charge to the person making the report.

In case the thanedar refuses to file the report, the person can go directly to the D.S.P. or the Magistrate and file the report. The report can also be sent by post to them.

## ARREST

It is a fundamental right of all citizens to be able to move freely. No one can be deprived of this right and be put behind bars without proper reasons or without following proper procedures. The police can arrest an accused in order to interrogate (question) him. It is also needed to prevent an accused from destroying the evidence against him. Besides, the accused must also be prevented from possibly committing other crimes. However, before a person is arrested he/she should be informed of the charges being levelled against him/her by the police. If this is not done, the accused has the right to refuse to go to the police station. It is illegal to arrest people without apprising them of the charges made against them.

Since a person is arrested only to help investigation and to prevent him from committing a new crime, arrest is not a punishment.

At the police station, no one can be forced to accept the charges. In any case, even if the person accepts the charges or confesses at the police station, he/she cannot be punished on that basis. A confession is valid only if it is made before a magistrate or in a court of law. The job of the police is to investigate the crime and produce evidence before the court. The police cannot penalise anyone for anything. All cases and complaints have to be heard by a magistrate and it is the magistrate alone who can pass a sentence to penalise those proved guilty.

*The thanedar then went to Parsu's house and informed him that he was being arrested on the charge of causing grievous injury to another person. He arrested Parsu and took him to the tehsil police station and questioned him there. Parsu flatly denied ever assaulting Kallu. The thanedar tried hard to make Parsu accept his offence but he stuck to his denial. Parsu was detained in the police lock up so that he could be produced before the magistrate the next day.*

- *Who investigated the offence and in what manner?*
- *What is meant by 'an accused'? In this story who is the accused?*
- *What were the charges levelled against the accused?*
- *Kallu thought that the thanedar had arrested Parsu to punish him for the crime. Was he right?*

*propertied person can stand guarantee for you and give your bail or if you have property you can fill the bond yourself. The bond is to make you promise that you will appear before the thana or the court whenever summoned. If you don't come, your property will be confiscated. If you can get such a bond filled you can be released on bail."*

*Parsu informed the thanedar that he owned 8 acres of land. So he filled the bail bond for himself. While releasing him the thanedar said to Parsu, "You have to appear before the court tomorrow for a hearing. If you wish you can engage a lawyer for your defence."*

### Non-bailable Offence

All offences are not bailable. Theft, dacoity, murder, bribery, etc. are non-bailable offences. Those accused and arrested for these offences cannot be released on bail. However the accused can make an appeal to the magistrate to grant bail. It is then upto the discretion of the magistrate whether the person accused of a non-bailable offence is granted bail or not. This is not a right of the accused.

### Bail

*Parsu was hankering to be set free from the police lock up. The thanedar explained – "You can be let out if you can give bail. Some*

## The First Hearing and the Lawyer

Kallu's and Parsu's case was to be heard in the court of the judicial magistrate which was held in the town. There were many people in and around the court. Lawyers in black robes, people facing trial, and many other people who had come to attend the hearing of other cases. Parsu and his son, Kallu, Reva, Laxman and the thanedar were all present. Parsu had engaged a lawyer. On the other hand, the assistant public prosecutor (or government lawyer) was handling the case on behalf of the government.

After a long wait, Parsu and Kallu were called for the hearing. This was the first hearing of this case before the judicial magistrate.

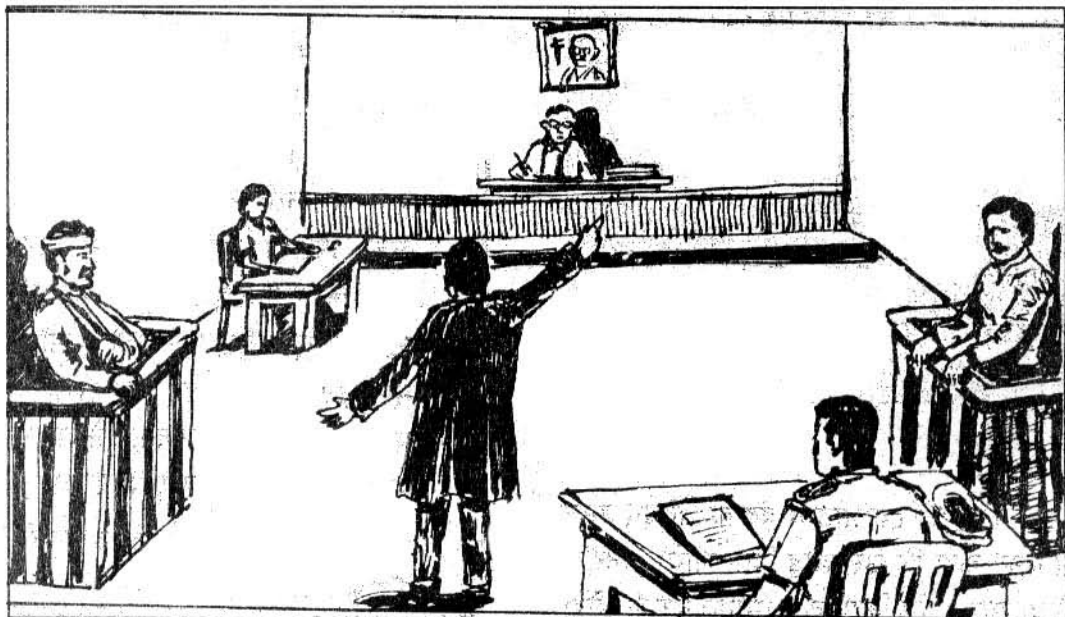
The thanedar had given a copy of the FIR and the police report to Parsu's lawyer so that he could know the exact charges levelled against his client. From these reports Parsu's lawyer could also know the kind of evidence that the police had collected against Parsu. All this information would enable him to prepare a defence for Parsu, who was the accused in this case. Thus in the first hearing, the judicial magistrate accused Parsu of inflicting grievous injury to Kallu. This

offence, if proved, would entail imprisonment for 4 years. Parsu did not accept the charges. So, the magistrate ordered a second hearing of the case after 15 days.

## The Evidence of Witnesses

Parsu had given the names of some friends as his witnesses. Reva, who had filed the FIR for Kallu had also named some people as witnesses. While making his investigations, the thanedar had taken down the names of two neighbours of Kallu as witnesses. All these witnesses received judicial orders from the magistrate to be present for the second hearing of the case on the given date.

15 days later all the concerned people reached the tehsil court. Once again, their turn came after a long wait. To begin with, a woman who was the witness on behalf of the government was summoned. She narrated the events of the day of the crime. The public prosecutor as well as Parsu's lawyer questioned her on many points. The magistrate heard the evidence of two such witnesses and then gave the date for another hearing after some days. In this way, at every hearing the evidence of one or two witnesses was heard and questioned, and the date was announced for the next hearing.



A view of the court

The hearings continued for many months. Parsu had to pay the fees of his lawyer. He also had to spend on travelling to the tehsil headquarter and back. His work on the fields also suffered on the days of the hearing.

A year dragged by. Finally, the magistrate announced his verdict. The offence committed by Parsu was to be punished by imprisonment for 4 years.

- Which court was hearing the case of Parsu?
- What happened in the first hearing?
- What is the lawyer who deals with the case on behalf of the government called?
- Discuss why it is necessary to hear the evidences given by the witnesses in any case?
- In the picture of the courtroom, identify the lawyer, the magistrate, the writer and the witness.

### Appeal at the Sessions Court

Parsu was unhappy with the verdict. He was very anxious about what would happen to his family when he was in jail. He asked his lawyer if something could be done. The lawyer suggested, "We can file an appeal in the session's court. The session's court judge is higher in rank than the judicial magistrate. He has the power to change the decision of the magistrate. Let's take a chance. Maybe, we can at least get the punishment reduced."

Parsu enquired, "Where is the session's court? What will I have to do to make an appeal there?"

The lawyer replied, "The session's court is in the district headquarter. You can leave the task of making the appeal to me. Of course you must take care to pay my fees regularly." Parsu was still worried. He was thinking of the frequent hearings in the case. He said, "The district headquarter is quite far away. Travelling there and back will cost

so much. How can I manage this?" The lawyer assured him that the case in the session's court would require not more than one or two hearings in which Parsu would have to be present. The rest of the case would proceed on the basis of the file of the case.

Parsu's lawyer appealed to the session's court on his behalf. The session's court ordered a stay on the decision of the judicial magistrate. This meant that Parsu did not have to go to jail immediately. In this court, Parsu, Kallu and their witnesses had to appear only once. The lawyer handled the rest of the hearings. The session's court took 2 years to announce its judgement. It reduced the punishment by a year, but Parsu was held guilty all the same.

- Can you think of the reasons why the session's court may have reduced Parsu's punishment?

### The High Court

The decision of the session's court disappointed Parsu very much. He asked his lawyer, "Can this decision be changed anywhere?" The lawyer told him that every state has a High Court. This is the highest court of any state. The decisions of the smaller courts in the state can be challenged there. The High Court does not summon the accused or the witnesses to appear before it at all. It takes decisions on the basis of the case-file alone. "If you want to try and appeal to the High Court to reduce your penalty further, we can certainly do that," the lawyer added.

Parsu paid some more fees to his lawyer and asked him to appeal to the High Court. The appeal was made and after some months the High Court announced its verdict in which the decision of the session's court was upheld; the High Court agreed with the decision of the session's court. Parsu therefore lost the case in the High Court and had to suffer the penalty given to him by the session's court. He could no longer avoid his term in jail.

## Civil and Criminal Offences

Parsu was quite tired and weary of the whole affair by now. He talked to his lawyer, "Listen, I just want to get this over and done with. Can't I pay Kallu the amount of money he lost owing to my encroachment on his land? Then we can all forget this ever happened."

The lawyer answered, "You can't do that. You are penalised now for beating him up. This is a criminal offence. For criminal offences such as theft, dacoity, adulteration, bribery, making dangerous drugs, etc. the punishment of jail terms has to be borne."

"If you had not assaulted Kallu, the police would not have been involved and he would have filed a civil case against you for shifting the boundary between the fields. Then you could have returned his land and paid compensation for the loss incurred by him in the past and that would have been the end of the matter. In that case, you would not have been sent to jail."

Parsu asked, "What are these civil cases?"

The lawyer explained, "Civil cases are related to people's rights over land, property, income and people's relationships with each other. No one is punished with a jail sentence or fine in civil cases."

"For example your dispute regarding the boundary between the two fields would have been a civil case. Whichever party had been wronged would have to be compensated by the other and the property returned to the rightful owner. However, since you had physically assaulted Kallu, this became a criminal case."

"This is taken to be a case where someone has disturbed the normal law and order. There is a long list of situations in which a case is considered as a criminal case. It is then the responsibility of the police to investigate and through the government lawyer prove their case in a court."

"This is so because it is the duty of the government to see that such violations of the law do not take place. One does not have the right to settle disputes using force or muscle power. But by attacking Kallu you had really tried to take law in your own hands."

"I am afraid," said the lawyer, "nothing more can be done now ..."

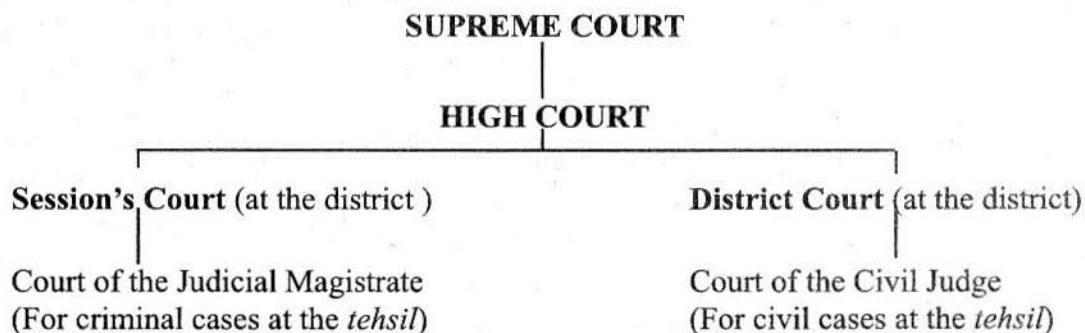
- When Parsu shifted Kallu's boundary, was the offence criminal or civil in nature?
- When Parsu beat up Kallu, was the offence civil or criminal in nature?
- Recall what you learnt about the work of the district administration. Can you figure out which officials would have helped to settle the dispute between Kallu and Parsu regarding the boundary of their fields?

## SUPREME COURT

Parsu's story ended in the High Court of Madhya Pradesh. However there is an even higher court which serves the whole of the country. That is the Supreme Court of India. It is located in Delhi. Only very special cases are heard in the Supreme Court.

You must have realised that there are many levels of courts and a lot of time is taken up in their proceedings. Civil cases often run for 10 – 20 years or more. Sometimes the person who has been aggrieved dies without receiving justice

Why don't you do a play in the class on the whole case. Read the story carefully to see how many actors you need. Let those who play the lawyer and the public prosecutor think out in detail the questions they will ask. And let the student who plays the magistrate think out the judgement he/she will announce.



Look at the sketch given above. There is one Supreme Court in the country. It is at Delhi. Usually every state has a High Court. In this chapter you saw that Parsu fought the case up to the High Court. But there was no change in the verdict. In Madhya Pradesh the High Court is at Jabalpur. It also has a bench at Indore. That means that the main High Court is at Jabalpur and it has a branch at Indore. Similarly there is a court at the district level, too. Criminal cases at the district level are settled in the Session's Court and civil cases at the District Court.

Parsu's case had come to the session's court. Have you understood why it was not heard in the district court? Below the district level too there are separate courts for civil and criminal cases. Parsu's case was first heard at the judicial magistrate's court. This is the first step. Usually this court is at the *tehsil* headquarters or at the block headquarters.

**Discuss with your teacher where these courts are located in your area.**

### EXERCISE

1. When and where is an F.I.R. filed?
2. How is arrest different from punishment?
3. What happens when someone gets bail? How is bail given?
5. Describe what happened in Parsu's case from its first hearing to its final disposal in the High Court.
6. What are the differences between a criminal and a civil case?
7. What are the law courts for criminal and civil cases?
8. Which court would settle a dispute over a man's property after he dies?
9. Can the session's or district court change the decision of a High Court?
10. If someone is not satisfied with the decision of a session's court, what can he/she do? If he/she is dissatisfied with the decision of the High Court, what can be done?
11. What are the differences between the roles of the S.H.O. and the magistrate?
12. Fill in the blanks:

Courts are of four levels. The first level court for criminal case is that of the judicial magistrate. The decision of this level of the court can be changed by ..... The decision of this court in turn can be changed by the ..... whose decision in turn can only be changed in the .....

13. In your view, what should have been the verdict in Parsu's case ?
14. A person confessed his crime at the police station and the police sent him to jail for 6 months. Is this the correct procedure? Explain your answer.
15. Every thana or police station covers a certain area. Find out-under which particular police station 's area does your house fall?