

Ready Reckoner: Magistracy

The Bharatiya Nagarik Suraksha Sanhita (BNSS) has meticulously structured the hierarchy of criminal courts in India. This legal framework, outlined in the Sanhita, establishes a tiered system to ensure the effective dispensation of justice.

High Courts:

At the pinnacle of the judicial hierarchy of criminal courts are the High Courts. They hold the authority to appoint Judges for various courts, including the Courts of Session and Judicial Magistrates. The High Courts play a pivotal role in shaping the judicial landscape.

2. Courts of Session (Section 8 BNSS):

The next tier consists of Courts of Session, one for every sessions division. These courts, presided over by appointed Judges, form a crucial part of the legal system. Additional Sessions Judges may also be appointed, providing flexibility in addressing case loads.

Subpoints:

- The Sessions Judge oversees the distribution of business among Additional Sessions Judges.
- Provision for urgent matters is made in the absence of the Sessions Judge.

3. Judicial Magistrates (Section 9 BNSS):

In every district, Courts of Judicial Magistrates of the first and second class are established. The High Court appoints the presiding officers. Special Courts may be instituted for specific cases, limiting the jurisdiction of other magistrates in the local area.

The concept of Metropolitan Magistrates which was present in the Criminal Procedure Code, of 1973 has been done away with in Bharatiya Nagarik Suraksha Sanhita (BNSS).

Sections 21 to 29 of the BNSS define the powers of the Courts by which offences are triable, their powers to pass sentences, the mode of conferring such powers, powers of appointment, withdrawal of powers and powers of judges and magistrates exercisable by their successors-in-office.

The BNSS delineates a comprehensive hierarchy of criminal courts in India. From the High Courts to the grassroots-level Special Judicial Magistrates, this system is designed to balance authority, responsibility, and efficiency in the administration of justice. The flexibility embedded in the framework allows for adaptation to specific circumstances, ensuring a robust legal apparatus. This structured hierarchy not only streamlines the judicial process but also upholds the principles of justice, fairness, and expediency.

Executive Magistrates:

Sections 14 to 19 of the BNSS deal with the appointment of Executive Magistrates by the State Government in every district, their jurisdiction and hierarchy. A major amendment in the BNSS (Section 15) is that besides the Executive Magistrate, the State Government can also appoint any police officer not below the rank of a Superintendent of Police or equivalent to be known as a Special Executive Magistrate.

Relevant Provisions Concerning Magistracy in BNSS and CrPC

BNSS, 2023		CrPC, 1979	
Section	Heading	Section	Heading
6	Classes of Criminal Courts	6	Classes of Criminal Courts
7	Territorial divisions	7	Territorial divisions
8	Court of Session	9	Court of Session

9	Courts of Judicial Magistrates	11	Courts of Judicial Magistrates
10	Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.	12	Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.
11	Special Judicial Magistrates	13	Special Judicial Magistrates
12	Local jurisdiction of Judicial Magistrates	14	Local jurisdiction of Judicial Magistrates
13	Subordination of Judicial Magistrates	15	Subordination of Judicial Magistrates
14	Executive Magistrates	20	Executive Magistrates
15	Special Executive Magistrates	21	Special Executive Magistrates
16	Local Jurisdiction of Executive Magistrates	22	Local jurisdiction of Executive Magistrates
17	Subordination of Executive Magistrates	23	Subordination of Executive Magistrates
21	Courts by which offences are triable	26	Courts by which offences are triable
22	Sentences which High Courts and Sessions Judges may pass	28	Sentences which High Courts and Sessions Judges may pass
23	Sentences which Magistrates may pass	29	Sentences which Magistrates may pass
24	Sentence of imprisonment in default of fine	30	Sentence of imprisonment in default of fine
25	Sentence in cases of conviction of several offences at one trial	31	Sentence in cases of conviction of several offences at one trial
26	Mode of conferring powers	32	Mode of conferring powers
27	Powers of officers appointed	33	Powers of officers appointed
28	Withdrawal of powers	34	Withdrawal of powers
29	Powers of Judges and Magistrates exercisable by their successors-in-office	35	Powers of Judges and Magistrates exercisable by their successors-in-office
41	Arrest by Magistrate	44	Arrest by Magistrate
83	Procedure by Magistrate	81	Procedure by Magistrate

	before whom such person arrested is brought		before whom such person arrested is brought
158	Power of Magistrate to direct local investigation and examination of an expert	139	Power of Magistrate to direct local investigation and examination of an expert
159	Power of Magistrate to furnish written instructions, etc.	140	Power of Magistrate to furnish written instructions, etc.
162	Magistrate may prohibit repetition or continuance of public nuisance	143	Magistrate may prohibit repetition or continuance of public nuisance
163	Power to issue order in urgent cases of nuisance or apprehended danger	144	Power to issue order in urgent cases of nuisance or apprehended danger
164	Procedure where dispute concerning land or water is likely to cause breach of peace	145	Procedure where dispute concerning land or water is likely to cause breach of peace
165	Power to attach subject of dispute and to appoint receiver	146	Power to attach subject of dispute and to appoint receiver