



# Haryana

## Assistant District Attorney (ADA)

Haryana Public Service Commission (HPSC)

Volume - 5

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Law (Civil & Criminal)

**Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**



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# The Bharatiya Nagarik Suraksha Sanhita, 2023

## Corresponding Section Table of BNSS with Repealed Act

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| 81. Warrant directed to police officer for execution outside jurisdiction.                          | 79. Warrant directed to police officer for execution outside jurisdiction.                         |
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| 95. Procedure as to letters.                                                                        | 92. Procedure as to letters and telegrams.                                                         |



## List of cases [BNSS]

### I. FIR & Cognizance

#### 1. Lalita Kumari v. State of UP (2014) SC

- ✓ **Rule:** Police must register FIR if information discloses a cognizable offence. Preliminary inquiry allowed in few cases (like matrimonial, commercial).

#### 2. State of Haryana v. Bhajan Lal (1992) SC

- ✓ **Rule:** Laid down **7 grounds** where FIR can be quashed under Section 482 CrPC [528 BNSS]

#### 3. T.T. Antony v. State of Kerala (2001) SC

- ✓ **Rule:** No **second FIR** on same incident. Subsequent FIRs liable to be quashed.

#### 4. Chandran Ratnaswami v. K.C. Palanisamy (2013)

- ✓ **Rule:** FIR cannot be quashed merely because it is filed after delay. Delay is only a factor for consideration.

#### 5. Manju Surana v. Sunil Arora (2018) SC

- ✓ **Rule:** FIR quashing not automatic even in commercial disputes if allegations reveal a criminal offence.

### II. Arrest, Bail & Personal Liberty

#### 6. Joginder Kumar v. State of UP (1994) SC

- ✓ **Rule:** Arrest **cannot be routine**. Police must justify reasons.

#### 7. DK Basu v. State of West Bengal (1997) SC

- ✓ **Rule:** Laid down **guidelines on arrest and detention** to prevent custodial torture.

#### 8. Arnesh Kumar v. State of Bihar (2014) SC

- ✓ **Rule:** Police **must not arrest automatically** in cases like Section 498A IPC [85 BNS].

#### 9. Gudikanti Narasimhulu v. Public Prosecutor (1978) SC

- ✓ **Rule:** Bail is the rule, jail is the exception.

#### 10. Satender Kumar Antil v. CBI (2021) SC

- ✓ **Rule:** Issued comprehensive guidelines on **arrest and bail** for offences punishable up to 7 years.

### III. Search, Seizure, & Investigation

#### 11. State of Punjab v. Baldev Singh (1999) SC

- ✓ **Rule:** Person must be informed of right to be searched before a gazetted officer under NDPS Act. Influences CrPC's fair investigation principles.

#### 12. Pooran Mal v. Director of Inspection (1974) SC

- ✓ **Rule:** Illegally obtained evidence is **admissible**, though may violate fundamental rights.

#### 13. Hardeep Singh v. State of Punjab (2014) SC

- ✓ **Rule:** Court can **suo motu summon additional accused** under Section 319 CrPC [358 BNSS] if evidence appears against them.

#### 14. Union of India v. W.N. Chadha (1993) SC

- ✓ **Rule:** During investigation, accused **has no right to be heard** before filing chargesheet.

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#### **IV. Compounding of Offences**

##### **15. Gian Singh v. State of Punjab (2012) SC**

- ✓ **Rule:** High Court can quash even **non-compoundable offences** under Section 482 CRPC [528 BNSS if parties settle, except in heinous crimes.

##### **16. Narinder Singh v. State of Punjab (2014) SC**

- ✓ **Rule:** Laid down guidelines for quashing criminal proceedings based on compromise.

#### **V. Discharge, Framing of Charge, Quashment**

##### **17. State of Bihar v. Ramesh Singh (1977) SC**

- ✓ **Rule:** At charge stage, court only sees whether there is **prima facie case**. Not detailed evaluation of evidence.

##### **18. M.E. Shivalingamurthy v. CBI (2020) SC**

- ✓ **Rule:** For discharge under Section 227 CRPC [250 BNSS], accused must show **no sufficient ground for proceeding**.

##### **19. R.P. Kapur v. State of Punjab (1960) SC**

- ✓ **Rule:** Laid down grounds for quashing proceedings:
  - No offence disclosed.
  - Legal bar.
  - Absurd allegations.

#### **VI. Statements, Confessions & Evidence**

##### **20. Selvi v. State of Karnataka (2010) SC**

- ✓ **Rule:** Narco-analysis and polygraph tests **violate Article 20(3)**.

##### **21. State of NCT of Delhi v. Navjot Sandhu (Parliament Attack Case) (2005) SC**

- ✓ **Rule:** Even if confession under POTA is inadmissible, other evidence can be relied upon under CrPC.

#### **VII. Trial & Speedy Trial**

##### **22. Hussainara Khatoon v. State of Bihar (1979) SC**

- ✓ **Rule:** Speedy trial is a **fundamental right**.

##### **23. State of Punjab v. Ajaib Singh (2004) SC**

- ✓ **Rule:** Delay alone does not quash trial unless it causes real prejudice.

##### **24. Zahira Sheikh v. State of Gujarat (2004) SC**

- ✓ **Rule:** Fair trial includes:
  - Safe atmosphere for witnesses.
  - Unbiased prosecution.

#### **VIII. Compounding & Quashing**

##### **25. B.S. Joshi v. State of Haryana (2003) SC**

- ✓ **Rule:** Allowed quashing 498A cases due to settlement.

##### **26. Jitendra Raghuvanshi v. Babita Raghuvanshi (2013) SC**

- ✓ **Rule:** Reaffirmed power under Section 482 CRPC [528 BNSS] for quashing matrimonial disputes.

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## **IX. Bail in Serious Offences**

27. **P. Chidambaram v. Directorate of Enforcement (2019) SC**

- ✓ **Rule:** Economic offences are serious, but **bail cannot be denied mechanically.**

28. **Nikesh Tarachand Shah v. Union of India (2017) SC**

- ✓ **Rule:** Certain PMLA bail conditions struck down for violating Article 21.

## **X. Jurisdiction & Territorial Limits**

29. **Bhura Ram v. State of Rajasthan (2008) SC**

- ✓ **Rule:** Section 179 CrPC/ 199 BNSS allows trial where part of offence occurred.

30. **Navinchandra N. Majithia v. State of Meghalaya (2000) SC**

- ✓ **Rule:** High Court can exercise jurisdiction under Section 482CRPC [528 BNSS] even if offence occurred outside its territory if cause of action partly arises there.

## **XI. Acquittal & Appeal**

31. **Chandrappa v. State of Karnataka (2007) SC**

- ✓ **Rule:** Appellate court can reverse acquittal if judgment is **perverse.**

32. **Banwari Lal Jhunjhunwala v. State of Maharashtra (1963) SC**

- ✓ **Rule:** Complainant has no right to appeal against acquittal in police case.

## **XII. Compromise & Quashing**

33. **State of M.P. v. Laxmi Narayan (2019) SC**

- ✓ **Rule:** Laid guidelines for quashing non-compoundable offences.

## **XIII. Recording of Evidence**

34. **State of Karnataka v. Shivanna (2014) SC**

- ✓ **Rule:** Courts should record victim's statement in rape cases **immediately.**

35. **State of Maharashtra v. Dr. Praful B. Desai (2003) SC**

- ✓ **Rule:** Recording evidence via **video conferencing is valid.**

## **XIV. Protection to Public Servants**

36. **Hari Ram Singh v. Emperor (1939) SC**

- ✓ **Rule:** Sanction under Section 197 CRPC [218 BNSS] required only if act was done in discharge of official duty.

37. **Prakash Singh Badal v. State of Punjab (2007) SC**

- ✓ **Rule:** Sanction not needed for acts done **in personal capacity.**

## **XV. Revision & 482 Powers**

38. **Madhavrao Scindia v. Sambhajirao Angre (1988) SC**

- ✓ **Rule:** If chances of conviction are bleak, proceedings may be quashed.

39. **Krishna Lal Chawla v. State of UP (2021) SC**

- ✓ **Rule:** Complainant cannot file revision if not permitted by CrPC.

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## **XVI. Other cases**

### **40. Satish Ragde v. State of Maharashtra (2021) SC**

- ✓ **Rule:** Touching private parts over clothes = sexual assault under POCSO.

### **41. In Re: Contagion of COVID-19 in Prisons (2020) SC**

- ✓ **Rule:** Supreme Court ordered release of prisoners on interim bail due to pandemic.

### **42. Joseph Shine v. Union of India (2018) SC**

- ✓ **Rule:** Though primarily IPC, affects CrPC—Adultery no longer a crime → no criminal trial under CrPC.

### **43. SG Vombatkere v. Union of India (2023) SC**

- ✓ **Rule:** Affects CrPC—Sedition trials paused, impacts cognizance and trials under CrPC.

### **44. Shilpa Mittal v. State of NCT Delhi (2020) SC**

- ✓ **Rule:** Children committing heinous offences can be tried as adults in certain circumstances, influencing CrPC trials.

### **45. Sushila Aggarwal v. State of NCT of Delhi (2020) SC**

- ✓ **Rule:** No time limit can be imposed on anticipatory bail unless justified.

### **46. C.B.I. v. Anupam J. Kulkarni (1992) SC**

- ✓ **Rule:** Police remand can only be for **15 days max.** Judicial custody after that.

### **47. Rajesh Sharma v. State of UP (2017) SC**

- ✓ **Rule:** Directed scrutiny before arrest in 498A IPC/85 BNS cases → impacts CrPC arrest procedures.

### **48. Sanjay Chandra v. CBI (2011) SC**

- ✓ **Rule:** Bail should be granted unless evidence suggests **tampering or flight risk.**

### **49. Pooja Pal v. Union of India (2016) SC**

- ✓ **Rule:** Courts can order further investigation or reinvestigation under CrPC/BNSS even after chargesheet filed.

## Background of BNSS, 2023

### 1. Need for Reform in Criminal Justice System

- ✓ The Code of Criminal Procedure, 1973 (CrPC) had been in force for 50 years.
- ✓ It was based on the older British colonial-era laws, including the CrPC of 1898.
- ✓ Over time, India's social, technological, and legal environment changed significantly.
- ✓ The existing CrPC was outdated, complex, and caused delays in justice delivery.

### 2. Vision for New Law: Indianized, Simplified, Digitized

The Government of India wanted to create a modern, citizen-friendly, and technology-driven criminal procedure code that:

- ✓ Prioritizes victims' rights,
- ✓ Ensures speedy investigation and trial,
- ✓ Uses digital tools like e-FIR, video trials, and electronic summons,
- ✓ Removes colonial terminology and procedures,
- ✓ Empowers police and judiciary with accountability.

### 3. Law Commission's Reports

- ✓ The Law Commission of India, in multiple reports over the decades (especially the 154th and 239th Reports), highlighted the need for comprehensive reform of criminal laws, especially CrPC.
- ✓ These reports emphasized:
  - Speedy justice,
  - Protection of constitutional rights,
  - Simplified procedures,
  - Victim compensation and participation.

### 4. Committees and Consultations

- ✓ A Committee for Reforms in Criminal Laws was constituted in 2020 under the Ministry of Home Affairs (MHA), involving:
  - Legal experts,
  - Judges,
  - Academics, and
  - Stakeholders from the bar and bench.
- ✓ The committee conducted nationwide consultations, webinars, and received feedback from the public and legal community.

### 5. Introduction of BNSS

- ✓ On 11 August 2023, the Government introduced three new bills in Lok Sabha:
  1. Bharatiya Nyaya Sanhita, 2023 – replaces IPC, 1860
  2. Bharatiya Nagarik Suraksha Sanhita, 2023 – replaces CrPC, 1973
  3. Bharatiya Sakshya Adhiniyam, 2023 – replaces Indian Evidence Act, 1872
- ✓ These are intended to decolonize Indian criminal laws and make them citizen-centric.

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## 6. Passage and Enactment

- ✓ The Bills were passed by both Houses of Parliament in December 2023.
- ✓ Received President's assent on 25 December 2023.
- ✓ The laws are to come into force from 1st July 2024 (as per government notification).

## 7. Objectives of BNSS, 2023

- ✓ Citizen first approach: victim-centric process
- ✓ Speedy investigation: timelines fixed for chargesheet and trials
- ✓ Use of technology: e-FIR, video conferencing, digital records
- ✓ Accountability of police: Zero FIR, mandatory forensic investigation in serious crimes
- ✓ Simplified procedures: Reduced delays, more clarity in stages of trial
- ✓ Removal of colonial legacy: Use of Indian names, values, and constitutional ethos.



## The Bharatiya Nagarik Suraksha Sanhita, 2023

### Act No. 46 OF 2023

Date of enactment: 25th December, 2023.

Date of enforcement: 1 July, 2024

An Act to consolidate and amend the law relating to Criminal Procedure. BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows: —

## CHAPTER I

### Section 1-5 [Preliminary]

### **Section 1: Short title, extent, and commencement**

Extent to:

- This Sanhita, except Chapters IX, XI, and XII (Chapter VII, X, and XI of CrPC), does not automatically extend to Nagaland and certain tribal areas.
- The State Government is empowered to apply it to those areas through a notification, with modifications if needed.

### **Section 2: Definitions**

#### **Clause (a): Audio-video electronic**

it refers to using electronic devices (like mobile phones, computers, CCTV cameras, webcams, etc.) for doing certain official work, especially in criminal cases. This includes:

1. Video conferencing – for example, when a witness or accused person appears before the court through a video call.
2. Recording:
  - ✓ When the police are identifying a suspect,
  - ✓ When they are conducting a search or seizure,
  - ✓ When they are collecting evidence — all these actions can be video or audio recorded.
3. Sending communication electronically, like messages, emails, or video recordings.

#### **Clause (b): Bail**

Bail means whenever a person who is arrested or detained. Who is an accused or suspected of an offence

The release is not unconditional — it is given on conditions, such as:

- Appearing in court when required,
- Not leaving the area,
- Not tampering with evidence or contacting witnesses.

The person must sign a bail bond or provide surety (guarantee).

#### **Clause (c): Bailable offence:**

- An offence (crime) that is mentioned as “bailable” in the First Schedule of the law (e.g., Bharatiya Nagarik Suraksha Sanhita or CrPC), or

- 
- An offence that is made bailable by any other law that is currently in force.
  - In such offences, getting bail is a right of the accused.
  - The police or court must grant bail if the person applies for it and agrees to the conditions under Section 478 BNSS/ 436 CrPC.

#### **A non-bailable offence means:**

- Any other offence which is not marked as bailable in the First Schedule or other laws.
- In such cases, bail is not a right.
- The court has the discretion (choice) to grant or deny bail depending on the seriousness of the crime and facts of the case.

#### **Clause (d): Bail bond**

##### **It is a written promise that says:**

- “I will follow all the conditions of bail, and I (or someone with me) guarantee it.”
- It includes a surety — someone (like a friend or relative) who promises that if the person does not follow the bail conditions, they will be responsible and may have to pay money to the court.

#### **Clause (e): Bond**

- A bond means a personal promise made by the person who is being released from jail that:
- “I will follow all the conditions of bail and come to court when required.”
- The key point is no surety is needed.
- The person does not need another person (surety) to sign or guarantee anything.
- It is a personal bond, also called a self-bond.
- The person may be asked to promise to pay a certain amount if they break the bail rules — but they don't pay anything at the time of release.

#### **Clause (f): Charge**

- A “charge” is an official statement made by a court (or police during investigation) that:
  - ✓ “You have committed a particular offence, and now you will face trial for it.”
  - ✓ It is the starting point of a criminal trial, where the accused is told exactly what offence(s) they are being tried for.
  - ✓ What is meant by “more than one head of charge”?
  - ✓ When a person is accused of more than one offence in the same case, then each offence is treated as a separate “head” under the main charge.
  - ✓ Each “head of charge” is like a different section of law the person is being accused under.
- Example for Better Understanding:
  - ✓ Suppose a person named Ramesh is accused of:
    1. Theft – Section 379 BNS
    2. House Trespass – Section 451 BNS
    3. Voluntarily Causing Hurt – Section 323 BNS
- Now, the charge sheet says:
  - ✓ “Ramesh is charged under Sections 379, 451, and 323.”
  - ✓ This one charge sheet contains three “heads of charge”, because it includes three separate legal accusations.



- 
- So, when the law says:
    - ✓ “Charge includes any head of charge when the charge contains more heads than one,”  
It means that the word “charge” can refer to:
      - The entire list of offences, OR
      - Any single offence from that list

### **Clause (g): Cognizable offence:**

- A case that involves a cognizable offence, where police can take immediate action — like arrest or investigation — without needing court permission.

### **Clause (h): Complaint:**

- Any accusation made by a person either orally or in writing to a Magistrate, saying that someone has committed an offence, and asking the Magistrate to act under the law.
- It can be about a known or unknown person.
- It does not include a police report (i.e., it is not an FIR filed by the police)
- **Explanation:** Normally, a complaint means a person (not police) goes to a Magistrate and says that someone has committed a crime.
- But this explanation adds a special rule:  
If:
  - ✓ The police investigate a case, and
  - ✓ After investigation, they find that a non-cognizable offence (i.e., a less serious offence where police cannot arrest without Magistrate’s permission) has been committed, and
  - ✓ The police then submit a report to the Magistrate,  
Then that report will be treated just like a complaint, and  
The police officer who submits it will be considered the complainant.

### **Example:**

1. A person files an FIR with the police about a minor fraud (a non-cognizable offence). Police do some investigation and prepare a final report. This report says: "Yes, this fraud happened." The report is sent to the Magistrate. As per this explanation:
  - ✓ That report = a complaint.
  - ✓ The police officer = the complainant

### **Clause (i): Electronic communication**

It means sending or receiving anything (text, voice, image, video) through electronic devices like phones, computers, or cameras.

E.g. You send a WhatsApp message to your friend, you call someone on your phone, A CCTV camera sends live video to a control room, you email your boss from your laptop.

### **Clause (j): High Court**

The meaning of High Court depends on which area we are talking about — a State or a Union Territory.

#### **(i) For a State:**

"High Court" means the High Court of that State.

**Example:** For Rajasthan → Rajasthan High Court

#### **(ii) For a Union Territory that is under a State’s High Court:**

If a Union Territory (UT) has been brought under the control of a State’s High Court (by law), then that State’s High Court will be treated as the High Court for the UT also.

**Example:** Delhi is a UT and it has Delhi High Court.

But for Chandigarh, which is a UT, the Punjab and Haryana High Court serves as its High Court.

### (iii) For other Union Territories:

For any UT which does not have its own High Court and is not under any State High Court, then the highest criminal appellate court in that UT will be treated as its High Court — but not the Supreme Court.

**Example:** In some small UTs like Lakshadweep, if no High Court is assigned, then the topmost criminal court there (like Sessions Court) may act like the final appeal court, and is treated as "High Court" for that UT — except the Supreme Court, which is above all.

| Area Type      | Meaning of "High Court"                                   |
|----------------|-----------------------------------------------------------|
| State          | That State's own High Court                               |
| UT under State | The High Court of that State (extended by law)            |
| Other UTs      | The highest criminal court in that UT (not Supreme Court) |

### Clause (k): Inquiry

A formal court process before the trial to check if there is a case to go ahead.

### Clause (l): Investigation

All the steps or actions taken to collect evidence about a crime — done by a police officer or by any person authorised by a Magistrate, but not by the Magistrate himself.

#### Investigation may include:

- Going to the crime scene
- Gathering and recording statements of witnesses
- Seizing objects (like weapons, documents, etc.)
- Collecting forensic or medical reports
- Arresting the accused (if necessary)
- Preparing the charge sheet (if evidence is found)

#### Who can do it?

- Normally, police officers conduct investigations.
- But sometimes, if the Magistrate gives permission, some other person (like a special officer or agency) may also be allowed to investigate.
- However, a Magistrate cannot investigate personally — he can only supervise or give orders.

### Clause (n): Judicial Proceeding

Any legal process or case where evidence is given or can be taken on oath before a judge or Magistrate.

| Judicial proceedings                                                                                                                                   | Not a judicial proceeding                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| A criminal trial — where witnesses come and give statements in court and the court asks questions                                                      | Police investigation is not a judicial proceeding — because police do not take evidence on oath. |
| 1. A bail hearing — if evidence is taken on oath.<br>2. A committal proceeding — where the Magistrate decides if the case should go to Sessions Court. | A simple complaint given to police is also not a judicial proceeding                             |

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**Clause (o): Non-cognizable offence:**

A police officer cannot arrest the person without getting permission (a warrant) from a Magistrate. In non-cognizable cases, the police:

- Cannot arrest the accused directly.
- Cannot start an investigation unless the Magistrate says so.
- Must first take approval from the Magistrate to proceed.

**Clause (q): Offence:**

- Any act (doing something) or omission (not doing something you are legally required to do) that is punishable under any law that is currently in force.
- In simple words, if any law says “this act is a crime and has punishment,” then that act is called an offence.
- The definition also includes:
  - ✓ Any act for which a complaint can be made under Section 20 of the Cattle Trespass Act, 1871.
  - ✓ This means that even specific acts under special laws (like damage caused by trespassing cattle) are treated as offences.

**Clause (r): The officer in charge of police station:**

1. **Normally:** The officer in charge is the regular SHO or the one officially posted as in-charge of the police station.
2. If the SHO is absent (due to leave, illness, or any other reason): Then the next senior officer who is:
  - ✓ Present at the police station, and
  - ✓ Above the rank of constable will act as the officer in charge.
3. **Also:** If the State Government gives specific directions, then any other police officer present at the police station (as per that direction) can be treated as the officer in charge.

**Clause (s): Place**

It does not just mean land or open area.

It includes any structure or enclosed space, such as:

- A house 🏠, A building (like an office, school, factory) 🏢, A tent (temporary shelter, even for events or camping) 🏕️, A vehicle (like a car, truck, bus) 🚗, A vessel (like a boat or ship) 🚢.
- This definition is used in legal situations like:
  - ✓ Search and seizure: If a law says "police can search any place", it means they can search not just homes, but also vehicles, tents, or ships.
  - ✓ Trespass or offences at a “place”: The law will apply whether the act happened in a house, car, or tent.

**Example:**

1. If a crime is committed inside a truck — it’s considered a “place” under law.
2. If someone hides in a tent to avoid arrest — police can act, because a tent is also a “place.”
3. A boat used to transport stolen goods is a “place” for legal purposes

**Clause (t): Police report:**

- A report that is sent by a police officer to a Magistrate under Section 193(3) of the BNSS, 2023.
- This report is usually made after the police finish their investigation in a criminal case.

**Clause (u): Police station**

- It is not just a building — it can be any location (post, camp, office) declared as a police station.
- The State Government decides and notifies:
  - ✓ Which places are police stations,
  - ✓ Which local areas come under their control.

**Example:**

1. A permanent building marked as "XYZ Police Station" is obviously a police station.
2. A mobile outpost or temporary post declared by the government during a festival can also be a police station.
3. The area covered by a police station (like certain wards or villages) is also included
  - A police station is not just the building where the police sit.
  - It also means the geographical area for which that police station is responsible.

**Clause (v): Public Prosecutor**

It means any person appointed under section 18, and includes any person acting under the directions of a Public Prosecutor.

**Clause (w): Sub-division:**

A part or section of a district, it is a smaller administrative unit within a district.

**Clause(x): Summons-case**

A criminal case involving a less serious offence (punishable with less than 2 years), where the court issues a summons instead of a warrant.

**Clause(y): Victim**

A person who suffers harm due to the crime, including their guardian or legal heir if they cannot act themselves.

**Clause(z): Warrant-case**

A criminal case involving a serious offence punishable with death, life imprisonment, or more than 2 years' jail.

**Section 4 – Trial of offence under BNS and other laws:**

BNS is the default rulebook for all crimes, but if another law has its own special procedure, then that special procedure will be followed.

**Section 5 – Saving**

This provision does not interfere with or override any:

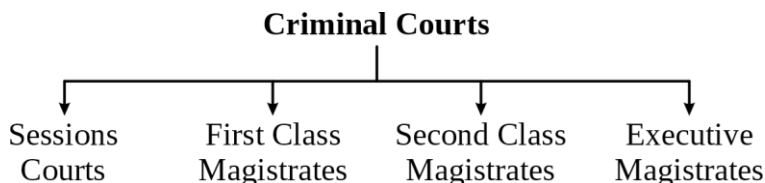
- Special law (such as the POCSO Act, NDPS Act, Prevention of Corruption Act, etc.),
- Local law (applicable to a particular region or state),
- Special jurisdiction or power given under any other law, or
- Special form of legal procedure laid down by another law, unless the BNSS explicitly states otherwise.

## CHAPTER II

### Section 6-20 [Constitution of Criminal Courts and Offices]

#### **Section 6: Classes of Criminal Courts.**

- Apart from High Courts and special courts, every State must have four types of regular criminal courts:



#### **Section 8 – Court of Session**

##### **(1) Establishment of Court of Session**

- ✓ The State Government must set up a Court of Session in every session division (each judicial district is called a sessions division for criminal trials).

##### **(2) Appointment of Sessions Judge**

- ✓ Every Court of Session will have a Sessions Judge, who is appointed by the High Court.

##### **(3) Additional Sessions Judges**

- ✓ The High Court can also appoint Additional Sessions Judges to help in dealing with the workload of the Court of Session.

##### **(4) Dual Jurisdiction**

- ✓ A Sessions Judge from one sessions division may also be appointed as an Additional Sessions Judge in another division.
- ✓ In such cases, he can hold court in the other division, at a place directed by the High Court.

##### **(5) Vacancy or Urgent Matters**

- ✓ If the office of the Sessions Judge is vacant, the High Court can authorize:
  - An Additional Sessions Judge, or
  - If none is available, a Chief Judicial Magistrate (CJM), to deal with any urgent application (like bail, interim relief, etc.) pending in the Sessions Court.
- ✓ Such officers will have the legal authority to act in these matters.

##### **(6) Place of Sitting**

- ✓ Normally, the Court of Session holds its sittings at the place notified by the High Court. However, if for convenience of parties and witnesses, it feels necessary, and both prosecution and accused agree, it can hold the trial or record evidence at any other place in the same sessions division.

##### **(7) Distribution of Work**

- ✓ The Sessions Judge can make orders for distribution of work among Additional Sessions Judges, in accordance with this Sanhita.

### (8) Alternate Arrangements in Absence

- ✓ The Sessions Judge can also make advance arrangements for the disposal of urgent matters during his absence or inability to act:
  - By an Additional Sessions Judge, or
  - If none is available, by the Chief Judicial Magistrate.
- ✓ These officers will be deemed to have the necessary jurisdiction to hear and decide those urgent matters

## Section 9 – Courts of Judicial Magistrates

### (1) Establishment of Courts

- ✓ In every district, there must be **Courts of Judicial Magistrates**:
  - **of the first class**, and
  - **of the second class**.
- ✓ **How many such courts** and **where they should be located** is decided by the **State Government**.
- ✓ But the State Government **must consult the High Court** before deciding this.

#### **Special Court**

- ✓ The State Government, after consulting the High Court, can also set up **Special Courts of Judicial Magistrates** (first class or second class).
- ✓ These special courts are for:
  - a particular **local area**, or
  - a particular **case**, or
  - a particular **class of cases**.
- ✓ **Effect of creating a Special Court**:
  - When a Special Court is established, **no other Magistrate's Court** in that local area can try that case or class of cases. Only the Special Court will have jurisdiction over those matters.

### (2) Appointment of Magistrates

- ✓ The **High Court appoints the presiding officers** (the Judicial Magistrates) for these courts.

### (3) Civil Court Judges as Magistrates

- ✓ The High Court has the power to:
  - give the powers of a Judicial Magistrate (either first class or second class) to **any Judge from the State's Judicial Service** who is working in a **Civil Court**.
- ✓ This is done **when it seems necessary or expedient**.
- ✓ Example:
  - A Civil Judge may be empowered to act as a Magistrate if required to handle criminal cases in certain circumstances.

## Section 10 – Chief Judicial Magistrate and Others

### (1) Chief Judicial Magistrate (CJM)

- ✓ In **every district**, the **High Court appoints** one Judicial Magistrate of the First Class as the **Chief Judicial Magistrate (CJM)**.
- ✓ The CJM is the **head of all Judicial Magistrates** in the district.