



Last year, we studied that laws are made by governments. We also briefly read about the role of executive in implementing laws. But what happens when laws are violated? In this chapter, we shall read about this.

### A Dispute over Property

Ravi is a real estate businessman. He buys land and makes small plots of it and sells them. Ravi advertises in newspaper about the plots. The people who buy a plot have to pay Rs 5000/- per month for 5 years.



Samba is a support staff in a co-operative society. He saw the advertisement and decided to purchase a plot. He saved money from his income and paid all the instalments for a period of 5 years. After 5 years, Samba planned to build a house on the plot. But, then he learnt that Ravi sold the same plot to someone else.

Samba went to Ravi's house along with his son Kranthi. Samba demanded that his money for the plot to be returned. There was an altercation and Ravi beat up Samba and broke his hand.

As the news spread, a large crowd gathered. The village Sarpanch also arrived and tried to pacify Samba and Ravi. A little while later, Kranthi took Samba to the nearby town which was also the Mandal

Headquarter. They showed Samba to the doctor and got his hand plastered. Then, along with the doctor's certificate, they proceeded to the police station to file a case.

### Filing the case

At the police station, Kranthi registered a complaint against Ravi.

The complaint contained the following particulars:

1. Addressed to SHO of Police Station
2. Details of complainant
3. Date, Time and Place of offence
4. Description of the incident
5. Name of the accused, gender, details address etc.



6. Name of witnesses (in whose presence the act was committed)
7. Prayer (to punish the accused according to law or section; if known the section number can also be mentioned)
8. Signature of the complainant, address and details.

The report based on the information given in the complaint. This is known as the First Information Report (F.I.R.). Kranthi signed the report and asked the writer, who is a Police Officer, "Please enter the report in your register and give us a copy as well". "I have to wait for the S.H.O. to come before I can enter the report in the register," the Writer replied. The head of a police station is formally known as Station House Officer (SHO). In this police station, Sub Inspector (S.I.) was the SHO. So, Kranthi waited until the report was entered in the register after the arrival of the SHO.

- Why did they wait for the SHO / S.I. to return? If you were to file such a report, what would you write in it?

- Can you write the imaginary details of Ravi and Samba as given above?
- Why do you think it is important for the person who makes an FIR to take a copy of the report?

- Every police station covers certain area. Find out under which particular police station's area (jurisdiction) does your house fall.

### First Information Report (F.I.R.)

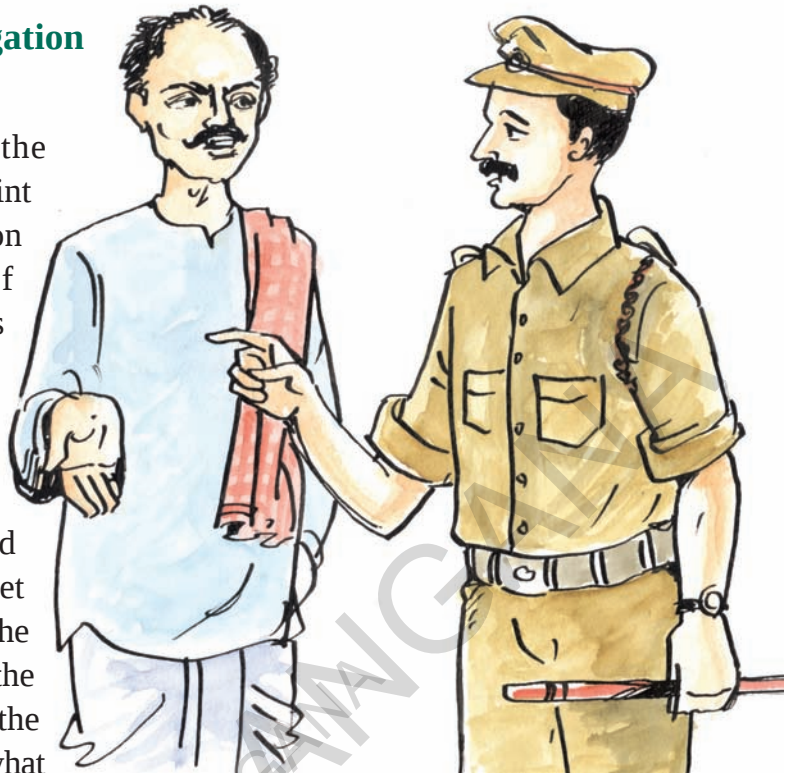
If you have to make a complaint to the police, it is necessary to file a First Information Report (F.I.R.) at the police station. After the First Information Report is filed, it becomes the duty of the police to investigate and solve the problem.

The SHO will then readout this recorded statement of the person and after approval, the person will sign it. The account of the offence/crime should be entered in the Station House Register on the basis of the FIR and a copy of the FIR given free of charge to the person making the complaint.

In case, the SHO refuses to file the report, the person can go directly to the DSP or Magistrate and file the case. The case can also be sent by post to them.

## Role of the Police in Investigation and Arrest

One important function of the police is to investigate any complaint about the crime. An investigation includes record statements of witnesses and collect different kinds of evidence. On the basis of the investigation, the police are required to form an opinion. If the police think that the evidence points to the guilt of the accused person, then they file a chargesheet in the court. It is not the job of the police to punish the accused. It is the judges and judiciary who decide if the accused person is guilty or not and what punishment is to be given.



In this case, the S.I. went to the village and began his investigation by examining the injuries suffered by Samba. The report of the hospital doctor established quite clearly that the injuries were serious. Then he questioned Ravi's neighbours. The neighbours gave him a full account of the incident that had taken place. This established beyond doubt that Samba was assaulted and injured by Ravi.

The S.I. then went to Ravi's house and informed him that he was being arrested on the charge of causing grievous injury to another person. He arrested Ravi and took him to the Mandal Police Station and questioned him. Ravi flatly denied ever assaulting Samba. They tried hard to make Ravi accept his offence, but he stuck to his denial. Ravi was detained in the police lockup, so that he could be produced before the magistrate the next day.

- Who investigated the offence and how?
- What is meant by 'an accused'? In this story, who is the accused?
- What were the charges levelled against the accused?
- Samba thought that the SHO arrested Ravi to punish him for the crime. Was he right?

## Civil and Criminal Offences

The next day, Ravi talked to the S.I., "I just want to get this over and done with. I will return the amount Samba remitted for the plot. Then, we can all forget this ever happened."

The S.I. answered, "You will have to pay that money anyway. But now you are arrested for beating him up. This is a criminal case now. If you had not

*assaulted Samba, the police would not have been involved and Samba would have filed a civil case against you for not giving the plot. Then you could have returned his plot and paid compensation for the loss incurred by him. In that case, you would not have been sent to jail."*

In the case of Ravi and Samba, there are two types of disputes. One is Ravi attacking Samba. This is a criminal offence. Theft, dacoit, adulteration, bribery, making spurious drugs etc are few other criminal offences. There is also a civil offence between them. Ravi did not give the plot or return the amount that Samba had paid.

Civil cases are related to people's rights over land, property, income and people's relationships with each other. In case of criminal disputes, people are often punished with a jail term whereas in civil

cases, they may not be sent to jail. A criminal case is always handled by the police and not by the person who suffered from the crime. On the other hand, a civil case is always lodged by a person who feels that he has suffered due to the cheating or breach of contract.

The police takes charge of the criminal case because it is a violation of law made by the government. In a civil case, the violation is of an agreement between two people.

- When Ravi sold Samba's plot to another person it was \_\_\_\_\_ offence. (criminal or civil)
- When Ravi beat up Samba it was a \_\_\_\_\_ offence. (criminal or civil).

Look at the following table to understand some of the significant differences between criminal and civil law:

| No. | Criminal law                                                                                                | Civil law                                                                                                                                |
|-----|-------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| 1.  | Deals with conduct or act that the law defines as offences. For example theft, taking dowry and murder.     | Deals with any harm caused to a party due to breach of agreement by another individual. For example rent, purchase of goods and divorce. |
| 2.  | It usually begins with lodging of an FIR and police investigation. And then the case is filed in the court. | A petition has to be filed before the court by the person who has been offended, for e.g. in a rent dispute either the owner or tenant.  |
| 3.  | If found guilty, accused can be sent to jail and also fined.                                                | Court provides relief to the offended like a house may be vacated by the tenant or dues get paid.                                        |

Fill in the table given below based on what you have understood about criminal and civil law:

| Description of Violation                                                                | Branch of Law | Procedure to be Followed |
|-----------------------------------------------------------------------------------------|---------------|--------------------------|
| While walking to school, a group of girls are continuously harassed by a group of boys. |               |                          |
| A tenant who is being forced to vacate files a case in court against the landlord.      |               |                          |

## Bail

Since Ravi's case is a criminal case, after being chargesheeted, Ravi was put in lockup. In criminal cases, an accused is kept in jail. But this is not a punishment. This is only to help in the process of investigation as well as to prevent him or her from tampering with evidence or threatening the witness etc. After some days in judicial custody, his family appeared in the court to get a bail for him. A person who is accused of serious crimes like murder, bribery, dacoity etc. may not get a bail. To get bail, certain sureties are to be given in the court. These sureties can be property or a person who will stand as guarantee or bond. The bond is a promise that offender will appear before the Court whenever asked for. The judge in the court can decide whether to give bail or refuse it.

### Bail as right of the accused

Bail is a right of the accused. It will be granted basing on the gravity of the offence, possibility of threat to the witnesses. At the same time, the court will decide if the accused is released, whether there is any harm to the society, witnesses and complainant. In bailable

offences, only SHO can give bail. In case of non-bailable offences, the accused have to move bail petition before the appropriate court.

In a court, Ravi or Samba's case is argued by lawyers. Ravi will have to find his own lawyer. But Samba will get a Public Prosecutor, or Government Lawyer. Legal procedures are complicated and special knowledge is needed to discuss them.

### Role of the Public Prosecutor

A criminal offence is registered as a public wrong. This means that a crime is committed not only against the victims but against society as a whole.

In court, it is the Public Prosecutor who represents the interests of the government. The role of the Prosecutor begins after the police has conducted the investigation and filed the chargesheet in the court. The Prosecutor has no role to play in the investigation. He/ she must conduct the prosecution on behalf of the government. As an officer of the court, it is his/ her duty to act impartially and

present the full and material facts, witnesses and evidence before the court to enable the court to decide the case.

## Fair Trial

Samba's and Ravi's case was to be heard in the court of the judicial magistrate. Lawyers in black robes, people facing trial, and many other people who had come to attend the hearing of other cases were present in and around the court.

The rule of law says that everyone is equal before the law. Before deciding if someone is guilty, she/he will be allowed to a fair and impartial public hearing. Criminal prosecution starts with 'presumption of innocence' and the guilt must be proved beyond reasonable doubt.

The judge did not jump to the conclusion that Ravi was the criminal just because Samba was injured. It is to be proved that the injuries were made by Ravi.

- What is a fair trial? Is it necessary? Why? Discuss.

After a long wait, Ravi and Samba were called for the hearing. This was the first hearing of this case before the Judicial Magistrate.

The S.I. had given a copy of the FIR and the police report to Ravi's lawyer so that he could know the exact charges levelled against his client. From these reports, Ravi's lawyer could also know the kind of evidence that the police had collected against Ravi. All this information would enable him to prepare a defence for Ravi, who was the accused in this case.

In the first hearing, the judicial magistrate accused Ravi of inflicting grievous injuries to Samba. This offence, if proved, would entail imprisonment for 4 years. Ravi did not accept the charges. So, the magistrate ordered a second hearing of the case after 15 days.

- Which court was hearing the case of Ravi?
- What happened in the first hearing?
- What is the name of the officer who deals with the case on behalf of the government?

## The first Hearing and the Lawyer

Samba and his son Kranthi, Ravi and the S.I. were all present at the Judicial Magistrate court. Ravi had engaged a lawyer. Public Prosecutor presented the case on behalf of the government.



### What is the Role of the Judge?

The judge is like an umpire in a game and conducts the trial impartially and in an open Court. The judge hears the arguments of all the witnesses and any other evidence presented by the prosecution and the defence. The judge decides whether the accused person is guilty or innocent on the basis of the evidence presented and in accordance with the law. If the accused is convicted, then the judge pronounces the sentence. Depending on what the law prescribes, the judge may send the person to jail or impose a fine or both.

### Separation of powers and independence

In an earlier chapter, we had read about the Indian Constitution. One of the central features of the constitution is the separation of the powers of Executive, Judiciary and Legislative. This means that the other branches - the Legislature and the Executive - cannot interfere in the work of the judiciary. The courts do not come under the government and do not act on behalf of the government.

The police is also not a part of Judiciary, they are part of the Executive. Last year, you had read about the district administration. At district level, just like the Collector, there is also a government police officer who is responsible for maintaining law and order in the district. Police department comes under the ministry of Home of the state government.

For the above separation to work well, it is also crucial that all judges in the High

Court and the Supreme Court are appointed with little interference from the other organs of government. Once appointed to court, it is also very difficult to remove a judge.

- Is there any scope for political power to influence the judgment? Why?
- What is an independent judiciary?
- Imagine that there is a big company cutting down forest and tribals cutting wood for fuel in your area. Debate.

### The Evidence of Witnesses

Ravi had given names of some friends as his witnesses. Kranthi, who had filed the FIR for Samba also named some people as witnesses. While making his investigations, the S.I. had taken down the names of two neighbours of Ravi as witnesses. All these witnesses received summons from the magistrate to be present for second hearing of the case on the given date.

Fifteen days later, all the concerned people reached the court. After a long wait, this case began. To begin with, a woman who was a witness on behalf of the government was summoned. She narrated the events of the day of the crime. The Public Prosecutor and Ravi's lawyer asked her many questions. The magistrate heard the evidences from 3 more witnesses and recorded their evidence. The rest of the hearing was postponed to another day. 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.

The hearings continued for many months. Ravi had to pay the fees of his lawyer. He also had to spend on travelling to the court and back. His business also suffered. A year dragged by. Finally, the magistrate announced the judgement that Ravi was guilty and sentenced him to 4 years of imprisonment.

- Discuss why is it necessary to hear the evidences given by the witnesses in any case.

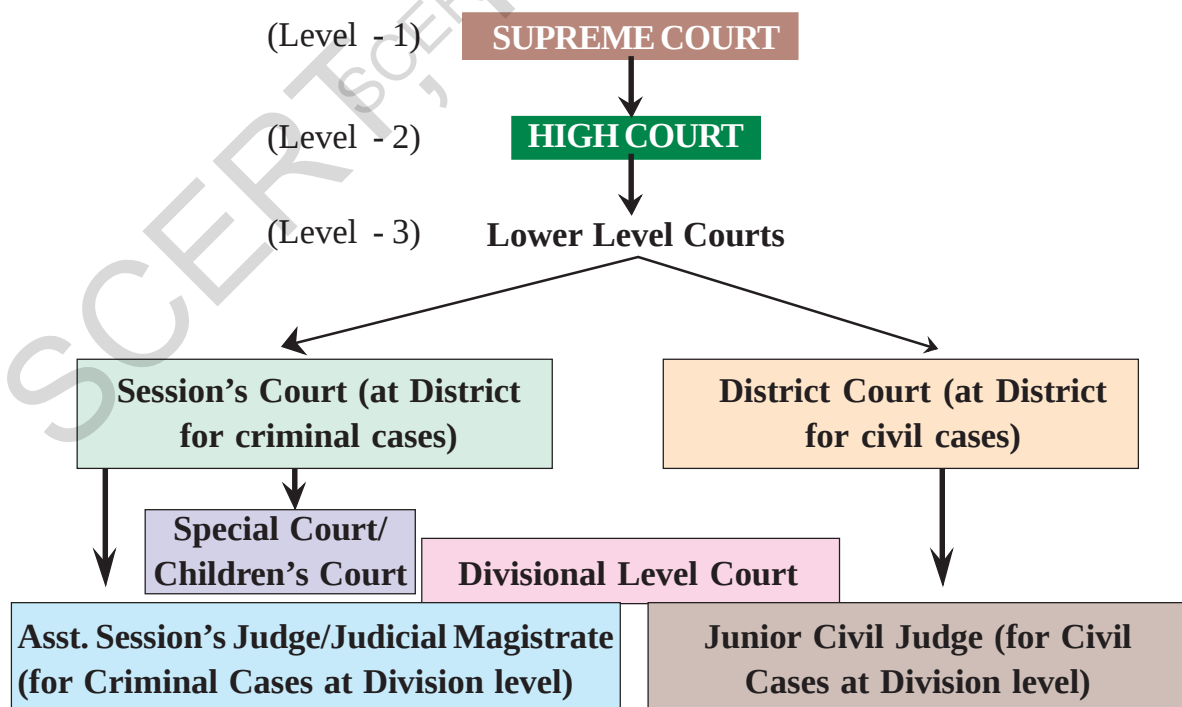
### Appellate System

Ravi was unhappy with the judgment. He was very anxious about what would happen to his family when he was in jail. If one is dissatisfied with the lower level court judgment they can appeal in the higher level courts.

There are three different levels of courts in our country. There are several

courts at the **lower level**. The courts that most people interact with are called subordinate or District courts. These are usually at the District or Divisional level or in towns and they hear many kinds of cases. Each state has a **High Court** which is the highest court of that state. At the top is the **Supreme Court** that is located in New Delhi and is presided over by the Chief Justice of India. The decisions made by the Supreme Court are binding on all other courts in India.

- Identify the location of these courts for your area with the help of your teacher.
- The structure of the court from lower to highest level resembles a pyramid. Can you fill the information about them in a diagram?



## Appeal at the Session's Court

Ravi's lawyer advised him to file an appeal in the session's court in the district headquarter: *"You can leave the task of the making the appeal to me. Of course you have to pay additional fees for this." This court has the power to change the decision of the lower court. Your punishment can be changed by that court.*

Ravi was still worried. He was thinking of the frequent hearings in the case. He said *"The District headquarter is quite far away. Travelling there with all witnesses etc. and back will need lot of work. 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 Ravi would have to be present. The rest of the case would proceed on the basis of the file of the case.

Ravi'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 Ravi did not have to go to

jail immediately. In this court Ravi had to appear only once. Samba and their witnesses need not appear. The lawyer handled the rest of the hearings. The session's court took two years to announce its judgement. Ravi was held guilty but his punishment was reduced by a year.

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

## The High Court

Ravi was not happy with the judgement of the session's court also. The lawyer told him that the decisions of the smaller courts can be challenged in the High Court, which is the highest court in the state. The High Court does not summon the accused or the witnesses to appear before it. 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*



Fig 15.1 : Telangana and A.P. High Court

*can certainly do that,”* the lawyer added.

Ravi 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 i.e. it agreed with the decision of the Session’s court. Ravi, therefore, lost the case in the High Court too and had to suffer the penalty given to him by the session’s court.

Now Ravi has only two ways; one is to go to jail and the other is to appeal to the Supreme Court. Ravi was quite tired and weary of the whole affair by now. So, Ravi’s case ended with the High Court.

- High Court does not summon the accused or witnesses before it. Why?
- Kranthi says “My father got justice but too late.” Do you agree with him?

In the dispute between Ravi and Samba, we have seen mechanisms of reporting, recording of evidence,

investigation and trial of offences at different stages of justice for adults. Now we shall read about the judicial processes that deals with the issues of children which is entirely different from adult Criminal justice System.

The Government has brought in a Special law, namely, The Protection of Children from Sexual Offence (POCSO) Act 2012. The POCSO Act 2012 is a comprehensive law to protect children from the sexual offences through child-friendly mechanisms. The child who faces abuse or the crime should bring it to the notice of their parents or a caring adult immediately. The parents or caretakers are required to report to the police (Special Juvenile police unit) which is a police for children available in each District or call 1098 for help. The special courts and judges appointed for this issue give great importance to the statement of the child victims.

### Keywords

- |                       |            |                        |                  |
|-----------------------|------------|------------------------|------------------|
| 1. Accused            | 2. FIR     | 3. Offence             | 4. Investigation |
| 5. Arrest             | 6. Summons | 7. Witness             | 8. Fair Trial    |
| 9. Judgement          | 10. Appeal | 11. Breach of contract | 12. Client       |
| 13. Public Prosecutor |            | 14. Bail               | 15. Magistrate   |

## Improve your learning

1. Correct the false statements

- An F.I.R. is filed in the court.
- Being arrested by the police is equal to being punished.
- A bail is given on the basis of sureties.
- Supreme Court is the apex court in the country.



2. Describe in the following table what happened in Ravi's case from its first hearing till the appeal in court.

| Role of witness | Punishment given | Requirement of Ravi's presence |
|-----------------|------------------|--------------------------------|
|                 |                  |                                |
|                 |                  |                                |

3. In the context of the differences between a criminal and a civil case, write a sentence each about (a) punishment and jail; b) government lawyers; c) filing FIR.
4. Can the Sessions or District court change the decision of a High Court? Why?
5. If someone is not satisfied with the decision of a Session's Court or a High Court, what can be done?
6. What are the differences between the role of the S.H.O. and the magistrate?
7. In your view, what should have been the verdict in Ravi's case?
8. A person confessed his crime at the police station and the police locked him in jail for 6 months. Is this the correct procedure? Explain your answer.
9. How should be the behaviour of elders towards children? Give you suggestions for good behaviour to ensure child safety?
10. Imagine a person is teasing you. Write a letter of complaint to the police stating all the particulars.

### Discussion:

1. Why are there disputes in villages/families. What are the reasons for that? What sort of change in behaviour is necessary to avoid them ?
2. Discuss on the conditions of the families related to the criminals who experienced Jail life. Invite such persons and talk to them on Jail life and freedom.
3. Invite either a Police officer or an Advocate to your class room and conduct a discussion on different crimes and their punishments and how to get on without committing crimes.

## Project:

In a town called Peace Land, the supporters of the Fiesta football team learnt that the supporters of the Jubilee football team in a city about 40 km away have damaged the ground on which the final match between both teams was to be held the following day. A crowd of Fiesta fans armed with deadly weapons attacked the homes of the supporters of the Jubilee football team in the town. In the attack, 10 men were killed, 5 women were gravely hurt, many homes were destroyed and over 50 people injured.

Imagine that you and your classmates are now part of the criminal justice system. First divide the class into the following four groups of persons:

1. Police
2. Public Prosecutor
3. Defence lawyer
4. Judge

Let each group pick the functions from the lesson that it needs to perform to bring justice to those who were affected by the violence of the Fiesta fans. In what order, will these functions be performed?

- Now, take the same situation and ask one student who is a supporter of the Fiesta football team to perform all the functions listed above. Do you think the victims would get justice if only one person performed all of the functions of the criminal justice system? Why not?
- State two reasons why you believe that different persons need to play different roles as part of the criminal justice system.