

CHAPTER-III

NATURE OF CASES DEALT IN THE SUBORDINATE COURTS

The subordinate courts in the state of Assam deal in several types of cases under several statutes. The nature of cases which are dealt in the subordinate courts are intended to be incorporated in this study with intent to highlight that so much people from different corners and discipline of the society use to come to the courts seeking justice. The nature of the cases and the statutory laws which governs the subordinate courts are, amongst others, are mentioned below. Since the purpose is to highlight the stakeholders and not the particular legal provisions, to maintain brevity, the details of the statutes are not mentioned in this chapter. Rather, the broad concept is incorporated therein.

1. GENERAL CIVIL CASES

The cases pertaining to the protection of rights of common people over immovable properties, over movable properties, registration of documents, rights and duties arising out of contract, matrimonial suits, suits for damages, succession of properties,

liabilities of hirer, rights and duties of the landlord and tenant, issuance of *pattas* and settlement of lands etc. as embodied in the Code of Civil Procedure, 1908; the Specific Relief Act, 1963; the Carriers Act, 1865; the Indian Contracts Act, 1872; Hindu Adoption and Maintenance Act, 1956, the Hindu Marriage Act, 1955; the Hindu Minority and Guardianship Act, 1956, the Hindu Succession Act, 1956; the Hire Purchase Act, 1972; the Interest Act, 1978; the Land Acquisition Act, 1984; the Majority Act, 1985; the Indian Partnership Act, 1932; the Partition Act, 1893; the Public Premises (Eviction of Unauthorized Occupants) Act, 1971; the Registration Act, 1908; the Sale of Goods Act, 1930; the Special Marriage Act, 1955, the Indian Succession Act, 1925, the Wakf Act, 1995; the Assam Land and Revenue Regulation, 1886, the Assam Urban Areas Rent Control Act, 1972; The Assam Temporarily Settled Areas Tenancy Act, 1971 are dealt in the subordinate courts as per the respective provisions.

2. BAIL APPLICATIONS

All the courts working in the criminal side exercises jurisdiction on the matters of bail of accused person or persons in accordance with their respective powers as provided in the given provisions. The bail applications are governed by the provisions of

Sections 436 to 440 of the Code of Criminal Procedure, 1973. Bail applications include prayers for pre-arrest bail as well as regular bails. Section 436 Cr. P.C. provides the powers of the subordinate courts to grant bail in bailable offences. Section 437 provides the powers of the subordinate courts to grant bail in non-bailable offences. Section 438 Cr.P.C. provides the powers of the Sessions Court to allow the privilege of pre-arrest bail. Lastly, Section 439 Cr.P.C. provides the power of regular bail by the Sessions Court.

3. MAINTENANCE CASES

The petitions praying for maintenance by the wife or children from the husband or father respectively or by the parents from the wards are filed under Section 125 of the Code of Criminal Procedure, which is the general law of the land. However, the Hindu Adoption and Maintenance Act, 1956 also provides for payment of maintenance to Hindu wives only. Similarly, the Muslim Women (Protection of Rights on Divorce) Act, 1986 also provides for maintenance from her husband and other relatives from whom she is entitled to claim. Large numbers of beneficiaries use to come to the regular courts to get the benefits of these social legislations.

4. APPOINTEMENT OF GUARDIAN & CUSTODY OF CHILDREN

The cases for appointment of guardian, custody of children as well as guardian in respect of properties of minors are also dealt in the subordinate courts. These kind of cases are filed for appointment or termination of guardian for the minors' person and property. The Guardian and Wards Act, 1890 deals the matter in detail.

5. TRIAL OF OFFENCES PUNISHABLE UNDER THE INDIAN PENAL CODE.

The subordinate courts beginning from the court of the Judicial Magistrate, Second Class to the Sessions Judge tries the offences punishable under the relevant provision of the Indian Penal Code, 1860. The first Schedule of the Code of the Criminal Procedure, 1973 provides the details as to which offence is triable by which court. The proceedings in a court start on receipt of the charge-sheet submitted by the Investigating agencies under Section 173 of the Code of Criminal Procedure or on receipt of a complaint under Section 200 Code of Criminal Procedure.

6. INDUSTRIAL DISPUTES AND LABOUR CASES

The disputes in between the worker and the management pertaining to the condition of work, wages, compensation, retrenchment, reinstatement, general leave, maternity leave, provident funds etc. as provided in the Industrial Dispute Act, 1948, The Factories Act, 1948, the Workman Compensation Act, 1923, Minimum Wages Act, 1948, Maternity Benefit Act, 1961, Employees Provident Funds and Miscellaneous Provision Act, 1952 etc. are also dealt by the subordinate courts known as Labour Court & Industrial Tribunal.

7. IMMORAL TRAFFICKING CASES

The cases under the Immoral Traffic (Prevention) Act, 1956 dealing with prevention and restriction of prostitution, brothel homes etc. are also dealt in the subordinate courts as per the provisions prescribed in the aforesaid statute itself. Similarly, the cases pertaining to the indecent representation of women as provided under the Indecent Representation of Women (Prohibition) Act, 1986 and the Young Persons (Harmful Publication) Act, 1956 are also dealt in the subordinate courts.

8. CASES OF THE JUVENILES AND CHILDREN

The cases of the juveniles, namely persons conflicted with law and under the age of eighteen years pertaining the special provision of investigation, production, care homes, observations homes, bail and bonds thereon etc. as contemplated in the Juvenile Justice (Care and Protection) Act, 2000 are also dealt in the subordinate courts. The cases under the Child Labour (Prohibition and Regulation) Act, 1986 are also dealt in the subordinate courts.

9. CASES RELATING TO PROTECTION OF WOMEN

The cases pertaining to the protection of the dignity and modesty of the women from sexual abuse, torture by the husbands or relatives of the husband, members of the family, demand of dowry, domestic violence etc. are also dealt in the subordinate courts. All these protections are enshrined in the Indian Penal Code, 1860, Child Marriage Restraint Act, 1929; the Commission of Sati (Prevention) Act, 1987; Dowry Prohibition Act, 1961 and the Protection of Women from Domestic Violence Act, 2005.

10. PROTECTION OF CONSUMERS

The cases and the matters connected to the protection of the rights of consumers and Redressal thereof as provided in the

Essential Commodities Act, 1955; Essential Commodities (Amendment) Act, 2003; the Prevention of Food Adulteration Act, 1954, the Standard of Weights and Measures (enforcement) Act, 1985; the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 are also dealt in the subordinate courts.

11. PRESERVATION OF ENVIRONMENT

The cases pertaining to the protection of the air, water, forest and matters connected thereto as provided in the Water (Prevention and Control of Pollution) Act, 1974; the Inflammable Substance Act, 1952; the Environment (Protection) Act, 1986, the Wild Life Protection Act, 1972 are also dealt in the subordinate courts.

12. PREVENTION OF ILLEGAL DRUGS

The cases connected to the supply, export or import as well as consumption of drugs by illegal means as provided in the Drugs and Cosmetic Act, 1940; the Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954; the Drugs Control Act, 1940; the Narcotic Drugs and Psychotropic substances Act, 1985; the prevention of Food Adulteration Act, 1954 are also dealt in the subordinate courts.

13. PROTECTION OF SCHEDULE CASTES AND SCHEDULE TRIBES

The cases pertaining to the protection of the civil rights of the schedule castes and schedule tribes as provided under the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989; the Protection of Civil Rights Act, 1955 and the Protection of Human Rights Act, 2003 are also dealt in the subordinate courts.

14. PROTECTION OF THE SOVEREIGNTY OF THE STATE

The cases pertaining to the protection of the unity, integrity and sovereignty of the state from the ongoing threats of anti-social groups as provided under the Indian Penal Code, 1860; the Unlawful Activities (Prevention) Act, 1967; the National Security Act, 1980; the Extradition Act, 1962; the Prevention of Seditious Meetings Act, 1911 are also dealt in the subordinate courts.

15. PROTECTION OF THE HONOUR OF THE STATE

The cases pertaining to the use of national emblems and signs, disclosure of the information touching the internal affairs of

the state; dishonour of the national flag etc. as provided under the Emblems and Names (Prevention of Improper Use) Act, 1950; the Official Secrets Act, 1923; the National Security Act, 1980; the Prevention of Insults to National Honour (Amendment) Act, 2003 are also dealt in the subordinate courts.

16. PROTECTION OF ANIMALS

The cases pertaining to the control of animals and protection of the rights of the animals as embodied in the Cattle Trespass Act, 1871; the Prevention of Cruelty to Animals Act, 1960 and the Wild Life (Protection) Act, 1972 are also within the adjudicatory powers of the subordinate courts.
