

CHAPTER- II

NOMENCLATURE OF EXISITING

SUBORDINATE COURTS IN ASSAM

The term 'Subordinate court' is not defined anywhere. But, by way of convention, it is understood that the courts which are functioning in the district or sub-divisional level compose the subordinate courts. These courts include the courts which are subordinate to the High Court. During the study, the following kinds of courts are found working in the state of Assam.

1. DISTRICT and SESSIONS JUDGE

The court of the District and Sessions Judge is at the top in the district level. This court is having Original, Appellate, Revision as well as Special jurisdiction. In the original side (civil) it tries the Guardians and Wards Act cases, Succession Act cases, Probate cases and Matrimonial suits. In the criminal side (original) the courts conducts the Sessions triable cases as referred in the Indian Penal Code, 1860 and Code of Criminal Procedure, 1973. A Sessions Judge can pass any sentence authorized by law including death sentence¹. However, if any death sentence is inflicted, it must

be confirmed by the Hon'ble High Court². Such court also tries the cases under the Special Acts such as Narcotic Drugs and Psychotropic Substance Act, 1985, Human Rights Act, 1993, Motor Vehicle Act 1988 and Election Matters under the Assam Gaon Panchayat Act. As on January, 2014 there are 23 (twenty three) Numbers of District and Sessions Judges in the state of Assam³.

Besides, the District and Sessions Judge also exercises powers as an Appellate and Revisional Court of the courts subordinates to it. Revisions or appeals lie to this court against the judgement or orders passed by the officers subordinate to this court. Nowadays, this court also acts as the Chairman of the Permanent Lok Adalat.

2. SPECIAL JUDGE and CENTRAL BUREAU OF INVESTIGATION (C.B.I.) JUDGE

There are total five courts of this nature. They are known as 'Court of the Special Judge', 'Designated Court'. These two courts exercise the powers on the pending cases under the TADA and other corruption matters investigated by the special investigating agencies. Besides, the Central Government established one court known as 'Court of the Special Judge, C.B.I.' and two Addl. C.B.I.Courts. These court tries the cases investigated by the

Central Bureau of Investigation(C.B.I.) only. It exercises the offences which are investigated by the C.B.I. under the Delhi Police Special Establishment Act, 1946. The presiding officers of these courts are of the rank of District and Sessions Judge. All these four special courts are working in the state Headquarter at Guwahati.

3. ADDITIONAL DISTRICT and SESSIONS JUDGE

Next to the District & Sessions Judge, there is the court of Additional District & Sessions Judge. This court also performs almost similar functions in both civil and criminal side as performed by the District & Sessions Judge of a district. As on January, 2014 there are nine courts of Additional District and Sessions Judges in the state of Assam.

4. ADDITIONAL DISTRICT and SESSIONS JUDGE (FIRST TRACK COURT)

Next to the Additional District and Sessions Judge, there is the court of Additional District and Sessions Judge (F.T.C.). This court has been created by the Central Government with intent to dispose of the long pending criminal cases. This court also performs almost similar functions in both civil and criminal side as performed by the District and Sessions Judge of a district. As on

January, 2014 there are fifteen courts of Additional District and Sessions Judges in the state of Assam operating as First Track Court.

5. ASSISTANT SESSIONS JUDGE

Subordinate to the Additional District and Sessions Judge, there is the Assistant District and Sessions Judge. The Assistant District and Sessions Judge tries cases as may be transferred by the Sessions Judge for trial of the cases in which punishment does not exceed more than ten years, as provided in Section 28 of the Code of Criminal Procedure. As on January, 2014 there are 23 courts of Assistant Sessions Judges in the state of Assam.

6. CIVIL JUDGE (SENIOR DIVISION)

Next, there is the court of Civil Judge (Senior Division). The Civil Judge, Senior Division exercises original as well as appellate jurisdiction. In the original side, this court tries civil cases depending on the valuation. Nowadays, in the state of Assam, the Civil Judge, Senior Division entertains the civil suits of the value of more than two lakhs³. There is no upper limit of the pecuniary jurisdiction of this court. In the appellate side this court hears appeal against the judgment and orders passed by the Civil Judge,

Junior Divisions (nowadays designated as Munisff). As on January, 2014 there are twenty three courts of Civil Judges (senior divisions) in the state of Assam.

7. CIVIL JUDGE JUNIOR DIVISION (MUNSIFFS)

Civil Judge, Junior Division (nowadays designated as Munsiff) tries civil cases having limited pecuniary jurisdiction. This court tries the suits the value of which is up to Rs. 2 (two) lakhs⁴. In some occasions, the Hon'ble Gauhati High Court limits the jurisdiction of any particular court. As on January, 2014 there are thirty three courts of Civil Judges (junior divisions) in the state of Assam.

8. CHIEF JUDICIAL MAGISTRATE

In the Judicial Magistrates level, the Chief Judicial Magistrate is, subject to the control of the Sessions Judge and High Court, the principal or Head of the establishment of magistrates in the particular district. The Chief Judicial Magistrate, as per Section 12 of the Code of Criminal Procedure, 1973 is also a Judicial Magistrate, First Class. This court is having basically the original jurisdiction to try cases as provided in Section 29 and the First Schedule of the Code of Criminal Procedure and such other offences as may be empowered by law time to time. This court can sentence

a convict for suffering sentence not exceeding seven years. However, as per Section 381 (1) of the Code of Criminal Procedure appeal lies to this court also against the order of conviction passed by the Judicial Magistrate, Second Class. As on January, 2014 there are twenty one courts of Chief Judicial Magistrates in the state of Assam.

9. ADDITIONAL CHIEF JUDICIAL MAGISTRATE

In order of seniority the Additional Chief Judicial Magistrate is the next to the Chief Judicial Magistrate of any district. However, this court also exercises the same power as that of the Chief Judicial Magistrate. This court is having only the original jurisdiction to try cases as provided in Section 29 the Code of Criminal Procedure time to time. As on January, 2014 there are twenty two courts of Additional Chief Judicial Magistrates in the state of Assam.

10. SUB-DIVISIONAL JUDICIAL MAGISTRATES

This court is having only the original jurisdiction to try cases as provided by 29 (2) of the Code of Criminal Procedure as amended time to time. Nowadays, there are Sub-divisional Judicial Magistrates in some districts in the Sub-divisional level also. As on

January, 2014 there are 20 courts of Sub-divisional Judicial Magistrates in the district headquarters and 15 courts of Sub-Divisional Judicial Magistrates in the Sub-Divisional level, in the state of Assam. The Sub-divisional Judicial Magistrate is also a judicial magistrate, first class and can pass sentence of imprisonment not exceeding three years or of fine not exceeding Rs. 10,000/- (ten thousands).

11. SPECIAL JUDICIAL MAGISTRATE

For trying cases under the special Acts like Railway Act, 1989 cases, cases investigated by the central bureau of investigation etc. the courts of some special Judicial Magistrates are established or so designated by the Hon'ble Gauhati High Court time to time. There are two of special magistrates (Railway); one is at Guwahati and the other is at Tinsukia. Moreover, there is one Special Judicial Magistrate at Guwahati for trying the cases investigated by the Central Bureau of Investigation. The Special Judicial Magistrate is also a Judicial Magistrate, first class and in view of Section 29(2) of the Code of Criminal Procedure, 1973 can pass sentence of imprisonment not exceeding three years or of fine not exceeding Rs. 10,000/-(ten thousands).

12. JUDICIAL MAGISTRATE, FIRST CLASS

This court is having only the original jurisdiction to try cases as provided in Section 29 (2) the Code of Criminal Procedure as amended time to time. This court can pass sentence of imprisonment not exceeding three years or of fine not exceeding Rs. 10,000/- (ten thousands). As on January, 2014 there are thirty one Judicial Magistrates, First Class working in the state of Assam.

13. JUDICIAL MAGISTRATE, SECOND CLASS

This court is also having only the original jurisdiction to try cases as provided 29 (3) the Code of Criminal Procedure as amended time to time. This court can pass sentence of imprisonment not exceeding one year or of fine not exceeding Rs. 5,000/- (five thousands). As on January, 2014 there is only one Judicial Magistrates, Second Class working in the state of Assam.

14. FAMILY COURT

Family Court is a Special Court established by the state government in consultation with the Hon'ble Gauhati High Court for dealing with family and matrimonial disputes. This court exercises jurisdiction on dissolution of marriage, restitution of

conjugal rights, divorce, maintenance, adoption etc. There are three Family courts in the state of Assam :- two are at Kamrup, Guwahati and the other is at Cachar, Silchar. In other districts the District Judge concerned exercises these powers⁴.

15. MOTOR ACCIDENT CLAIMS TRIBUNAL

This is also a Special Court established to reduce the burden of regular courts. This court conducts cases relating to compensation which may be claimed by the injured person due to motor accident or the dependents of the deceased in such an accident. In Assam, there are 8 (eight) No's of regular Motor Accident Tribunal in the state of Assam.⁵ In the other districts the District and Sessions Judges and the judges of the same rank as may be empowered by the Hon'ble Gauhati High Court entertains the petitions on such claims.

16. INDUSTRIAL TRIBUNAL and LABOUR COURTS

These courts are also the Special Courts established by the Hon'ble Gauhati High Court in consultation with the State of Assam. These courts, amongst others, try cases relating to Factories Act, Industrial Disputes Act, Minimum Wages Act and Workmen's compensation Act cases arising between the employer

and the employees. There are two Labour Courts one is at Kamrup, Guwahati and the other is at Dibrugarh, and three Industrial Tribunals at Kamrup, Guwahati, Cachar, Silchar and at Dibrugarh.⁶

17. JUVENILE JUSTICE BOARD

The Juvenile Justice Board is constituted to deal with the cases of 'juveniles-in-conflict with law'. The main purpose of this Board is reformation and rehabilitation of the juveniles. The Juvenile Justice Board is constituted with one Judicial Magistrate of the First Class as the Principal Magistrate and two other members in accordance with Section 4 of the Juvenile Justice Care and Protection Act, 2000. In the state of Assam the Sub-divisional Judicial Magistrates are designated as the Principal Magistrates of the said Board. However, where there is no post of Sub-divisional Magistrates, other competent Magistrates are empowered with similar powers.⁷

18. FOREIGNERS TRIBUNALS

In order to expedite the cases pertaining to the foreigners which is a great problem in our state, the State Government constituted as many as 32 (thirty two) numbers of Foreigners

Tribunals in the state. These Tribunals deal with the matter of identifying the foreigners as well as citizenship of a particular person.

19. DISTRICT CONSUMER FORUM

In order to provide for better protection and promotion of consumer rights, the Consumer Protection Act, 1986 was enacted by the parliament of India, which amongst others provides for establishment of District Consumer Redressal Forum⁸. The District Forum is constituted of a person who is, or has been or is qualified to be a District Judge and two other members. This forum can entertain complaints where the value of the goods or services and the compensation, if any, does not exceed rupees twenty lakhs.

20. EXECUTIVE MAGISTRATES

Apart from the Judicial Magistrates as mentioned hereinabove, in our country including the state of Assam there are Executive Magistrates in the district and Sub-divisional Level. The Deputy Commissioner of a particular district is designated as the District Magistrate and the other officers working in the civil side are designated as Executive Magistrates. These magistrates, apart from their administrative works under the guidance and policy

decision of the state government, are empowered by various laws such as the Assam Land and Revenue Regulation, 1886, The Assam Land Acquisition and Requisition Act, 1984 as well as the Code of Criminal Procedure, 1973 to exercise their functions. In some districts such as Karbi Anglong and N.C. Hills district the Executive Magistrates functions as regular courts. In those two districts regular courts are yet to be established.

REFERENCES

1. Section 28(2)Cr.P.C.
2. Section 366 Cr.P.C.
3. Souvenir of the Assam Judicial Service Association, 2014.
4. ditto
5. Regular MACT Courts are available at Guwahati (3-Nos), Nogaon, Nalbari, Barpeta, Dibrugarh and Silchar.
6. Annual Report, 2012 of Gauhati High Court, p-74-75.
7. At Dhemaji and Hilakandi there is no Sub-Divisional Judicial magistrate. Therefore, the Chief Judicial Magistrates of those two districts are exercising the powers of Juvenile Justice Board.
8. Section 19 of The Bengal, Agra and Assam Civil Courts (Assam Amendment) Act, 2005.
