

Special courts for MPs and MLAs

November 17, 2021

In news– Recently, the Supreme Court of India has decided to examine questions regarding the legal jurisdiction of Special Courts set up to exclusively prosecute MPs and MLAs for various offences.

Key updates–

- The Supreme Court would examine whether these Special Courts deprive the accused of their right to a rung of appeal.
- The **argument is that some of these cases are triable by Magistrates.**
- In the normal course, if an accused has failed before the Magistrate, he or she could file an appeal against the decision before the Sessions Court.
- In such cases, the trial judge is the Magistrate and the Sessions Court is the first appellate court and the High Court the second appellate court.
- Petitioners have argued that a Special Court would have the powers of a Sessions Court.
- If the case of an MLA or MP whose offence can be tried by a Magistrate is directly placed before a Special Court, the accused would lose his right to defend his case before a Magistrate and also is stripped of his right to make his first appeal before a Sessions Court.
- Among the suggestions that came up was whether there should be special Magistrate courts along with special Sessions court in every jurisdiction.
- A Special Bench of Chief Justice N.V. Ramana, Justices D.Y. Chandrachud and Surya Kant have agreed to hear the issues on November 24.

About special courts-

- Special Courts were meant to speedily dispose of cases pending for long.
- Similar to statutes mandating Special Courts to try particular offences, the State governments, too, in consultation with High Courts, can designate competent judicial officers as Special Courts.
- Further, the apex court under Article 142 of the Constitution could direct the formation of Special Courts.
- The Supreme Court of India in its Order dated the 01st November, 2017 had directed the Union Government to prepare a scheme for setting up of Courts exclusively to deal with criminal cases involving political persons on the lines of Fast Track Courts (FTCs) which were set up by the Central Government for a period of five years and extended further.
- Accordingly, 12 Special Courts (02 in NCT of Delhi and 01 each in the state of UP, Bihar, WB, MP, Maharashtra, Karnataka, Andhra Pradesh, Telangana, Tamil Nadu and Kerala) were constituted.
- 10 Special Courts (except special courts of Bihar and Kerala) are presently functional.

Extra

reading:

<https://journalsofindia.com/centrally-sponsored-scheme-for-fast-track-special-courts/>