



## Court Martial

**Prelims:** Court Martial, Court of Inquiry, Armed Forces (Special Powers) Act, FIR, Code of Criminal Procedure.

**Mains:** Court Martial and Legal recourse for Accused.

### Why in News?

An Army court has recommended **life imprisonment for a Captain involved in the staged killings** of three men at Amshipora in Jammu and Kashmir's Shopian district in 2020. The sentence will be final after it is confirmed by the Northern Army Commander.

- The Captain was court-martialled after a **Court of Inquiry (Col)** and subsequent summary of evidence found that troops under his command had **exceeded their powers** under the [Armed Forces \(Special Powers\) Act](#).

### What is the Process of Court Martial?

- When the Army wants an allegation against its personnel investigated, it first sets up a Col for the purpose.
  - This stage is **similar to the registering of a [First Information Report \(FIR\)](#)** by police.
- A Court of Inquiry investigates **the complaint but cannot award a punishment**. The Col records the statements of witnesses, which is comparable to the examination of witnesses by a police officer under **Section 161 of the [Code of Criminal Procedure \(CrPC\)](#)**.
- Based on the findings of the Col, a **tentative charge sheet is drawn up by the commanding officer** of the accused officer.
  - After this, the **hearing of charges takes place** (just like the initial summoning of an accused by the magistrate in a case involving civilians). The **summary of evidence is then recorded**.
- Once this process has been completed, a **General Court Martial (GCM)** is ordered; similar to the conduct of a trial by a judicial court for civilian matters.

### What is the Legal Recourse Available?

- Under section 164 of the **Army Act 1950**, the accused **can file a pre-confirmation petition as well as one post-confirmation**.
  - A **pre-confirmation petition will go to the Army Commander**, who may look into its merits.
  - Whereas a **post-confirmation petition must be filed with the government** since the officer is cashiered — his ranks are removed, and he is dismissed from service — after confirmation of the sentence by the Army commander.
- After these options have been exhausted, the **accused can approach the Armed Forces Tribunal**, which can suspend the sentence.
  - For instance, in 2017, the Tribunal **suspended the life sentences awarded to five**

**Army personnel**, including two officers, in the Machil fake encounter case of 2010.

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