

All you need to know about ‘charge’ under the Criminal Procedure Code, 1973

Introduction

What happens when the accused is not informed to him/her under which head he is charged against? In such a circumstance, the accused trial will lead to delay injustice and also the accused will be delayed in preparing his defence. So, it is essential that as soon as the accused is charged for an offence, he must be informed of his charge. One of the basic requirements of a fair trial in criminal cases is to give precise information to the accused as to the accusation against him. This “charge” is then to be read and explained to the accused person.

Charge

In simple terms, charge means informing the accused person of the grounds on which the accused is charged. A charge is defined under [Section 2\(b\)](#) of the Criminal Procedure Code, 1973 which states, the charge includes any head of the charge when the charge contains more than one head. The case of [V.C Shukla v. State](#) (1980) explains the purpose of framing charge is to give intimation to the accused, which is drawn up according to the specific language of the law, and giving clear and unambiguous or precise notice of the nature of the accusation that the accused is called upon to meet in the course of a trial.

Provisions dealing with ‘charge’

A charge is dealt with under Chapter 17 of the [Criminal Procedure Code, 1973](#).

Section 211 to 214	Contents of Charge
Section 216 to 217	Powers of the court to alter the charge
Section 218	Basic rule

Section 219, 220, 221 and 223	Exceptions
Section 224	Effects of withdrawal
Section 215 and 464	Effects of errors

Form and content of a charge

[Section 211](#) of Cr.PC constitutes essentials elements of the contents of the charge:

1. The charge form shall state the offence for which the accused is charged.
2. The charge form shall specify the exact offence name for which the accused is charged.
3. In case there is no specific name given under any law for the offence which the accused is charged with, then the definition of the offence must be clearly stated in the charged form and informed to the accused.
4. The law and provisions of the law to be mentioned in the charge form.
5. The charge shall be written in the language of the court.
6. The accused shall be informed about his previous allegations which would expose him to enhanced punishments if found guilty for the offence charged.

In the case of *Court in its motion v Shankroo (1982)*, the court held that mere mentioning of the Section under which the accused is charged, without mentioning the substance of the charge amounts to a serious breach of procedure.

In *Dal Chand v State (1981)*, the court held that defect in charge vitiates the conviction.

[Section 212](#) of Cr.PC asserts the charge form shall contain:

1. The offence for which the accused is charged and the particulars like the time, place and the person against whom the offence is committed and giving to the accused the precise and clear notice of matter for which he is charged.

2. The exact time need not be mentioned in the charge form when the accused is charged with criminal breach of trust or dishonest misappropriation of money or any other movable property, it is sufficient if the gross sum is specified and the dates on which such alleged offence have been committed.

In *Ranchhod Lal v. State of Madhya Pradesh (1964)*, it was held that failure to mention the particulars precisely due to the nature of the information may not invalidate the proceedings.

[Section 213](#) of Cr.PC asserts When the nature of the case is such that the particulars mentioned in Section 211 and 212 do not give the accused sufficient notice of the matter with which he is charged, the charge shall contain such particulars of how the alleged offence is committed as will be sufficient for that purpose.

Alteration of charge and the procedure to follow such alteration

[Section 216](#) of Cr.PC explains that courts shall have the power to alter or add to charge at any time before the judgment is pronounced.

The trial court or the appellate court may either alter or add to the charge provided the only condition is:

- Accused has not faced charges for a new offence.
- Accused must have been given the opportunity of meeting and defending the charge against him.

After such alteration or any addition made to the charge, the charge shall be explained to the accused as to enable him to prepare to meet the fresh challenges.

If the court concludes that the alteration or addition of the charge is likely to be prejudiced to the accused or the prosecutor then the court may proceed with the original trial or adjourn it. The case shall not move forward unless the sanction is obtained in respect of the facts constituting the offence.

Joinder of charges

In the case of *K. Satwant Singh v. State Of Punjab (1960)*, sections of joinder of charges are not compelling. They only permit the joint trial of charges under

certain circumstances, and the courts may consider the same in the interest of the administration of justice after thoroughly studying the facts and circumstances of each case.

The basic rule regarding charge and its trial

The initial requirement of a fair trial in criminal cases is a precise statement of the accusation.

Exceptions to the basic rule

Exception 1

[Section 219](#) of Cr.PC asserts when a person is accused of an offence of more than one, but not exceeding three of the same kind, and the offence is committed within twelve months then the accused may be charged and tried at one trial for all the offences committed. Offences are said to be of the same kind when they are punishable with the same amount of punishment under the same Section of Indian Penal Code or any special law or local laws. The proviso to Section 219 of Cr.PC states when the accused is punishable under [Section 379](#) of IPC, and it is said to be the offence of the same kind as an offence punishable under [Section 380](#) of IPC.

In [Madan Mohan Sahu v. Central Agencies \(2010\)](#), cheques were issued within twelve months. The court held that it was not necessary to file two separate complaints against their dishonour and it is enough if a single complaint is filed.

Exception 2

[Section 220\(1\)](#) of Cr.PC When the accused commits several offences in the same transactions, then he may be tried jointly and it is immaterial whether the offence is of the same kind or not, or whether the number exceeds three or not, and whether the offence is committed within one year or not.

[Mohinder Singh v. The State of Punjab \(1998\)](#): In this case, it was held that the court may or may not try all the offences together in one trial.

Exception 3

[Section 220\(2\)](#) of Cr.PC When the accused is charged with one or more offences of criminal breach of trust or dishonest misappropriation of property the accused may be charged with and tried at one trial for every such offence.

Exception 4

[Section 220\(3\)](#) of Cr.PC When the accused is charged with an offence which is falling under two or more separate definitions of law, then the accused may be charged with and tried at one trial for each of such offences.

[Ramayan Bhagat v. The State \(1968\)](#): In this case, it was said that a man may be prosecuted under [Section 7](#) of the [Essential Commodities Act, 1955](#) for having rice above the prescribed limit and also for dacoity in respect of the same bags of rice.

Exception 5

[Section 220\(4\)](#) of Cr.PC When the accused commits several acts and one of which constitutes an offence and when it is combined constitutes a different offence, the accused person may be tried at one trial for the offence constituted by such acts when combined and for any offence constituted by any one or more of such acts.

Example: A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with and convicted of an offence under Section 323, 392 and 394 of IPC.

Exception 6

[Section 221](#) of Cr.PC lays down a few conditions:

1. When a single act or series of acts is of such a nature that it is doubtful what offence the accused has committed then the accused may be charged with having committed all or any of such offences and the charges against may be tried at once or the accused may be charged in the alternative with having committed someone of said offences.
2. When the accused is charged with one offence but it appears that in the evidence there is altogether a different offence for which he was

charged then the accused is convicted for the offence only which he committed although he has not charged with it.
This section is applicable only in cognate offences such as theft and criminal breach of trust and it does not include offences such as murder and theft.

[Achhut Rai v. Emperor \(1926\)](#): In this case, where the accused is charged with murder under [Section 302](#) of IPC, the accused cannot be convicted under [Section 194](#) of the [Indian Penal Code](#).

Exception 7

[Section 223](#) of Cr.PC provides certain persons can be tried jointly:

- Accused who committed the same offence in the same course of the transaction.
- Accused of an offence and person accused of abetment of or attempt to commit such offence.
- Accused of more than one offence of the same kind and committed by them jointly within twelve months.
- Accused of different offences committed in the course of the same transaction
- Accused of an offence which includes theft, extortion, cheating, criminal misappropriation, concealment of property.
- Accused of offences under [Section 411](#) and [414](#) of the Indian Penal Code.
- Accused of offences under Chapter XII of the Indian Penal Code.

The proviso to Section 223 of Cr.PC provides that the magistrate on an application of the accused person may direct their joint trial even if they do not fall under the categories specified if the magistrate believes that trial of such persons would not be prejudicially affected.

[Dinesh Kumar v. State \(2015\)](#): In this case, the court held that where several persons are alleged to have committed several separate offences, which are not wholly unconnected then there may be a joint trial unless such joint trial is likely to cause either embarrassment or difficulty to the accused in defending themselves.

Conviction of an offence not charged when such offence is included in an offence charged

[Section 222](#) of Cr.PC provided when the accused is charged with several offences and some of which when combined and proved form a complete minor offence, then the accused may be convicted of a minor offence though he was not charged with such minor offence. Where the accused is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

Unless the conditions are fulfilled for the conviction of the accused of the minor offence, the conviction cannot take place. Eg: where the sanction is lacking.

This section applies only when the major and minor offences are cognate.

Withdrawal of remaining charge on conviction on one of several charges

[Section 224](#) of Cr.PC states when the accused is charged with more than one head, and after the conviction of the accused under that head then either the complainant or the officer conducting the prosecution may withdraw the remaining charge with the consent of the court.

[Vibhubti Narayan Chaubey v. State of UP \(2002\)](#), in this case, a charge can be withdrawn under this section only after the judgment and it cannot be deleted.

Effect of errors

[Section 215](#) and [464](#) of Cr.PC deals with effect or errors.

The idea behind these sections is to prevent failure of justice where there has been an only technical breach of rules and while not going to the roots of the case as such. Section 215 of Cr.PC states there shall be no error or omission either in stating the offence or the particulars which are required to be stated in the charge, and they shall be regarded as material at any stage of the trial unless the accused was misled by such error or occasioned as a consequence and as a consequence it has failed justice.

Bhagabat Das v. The State of Orissa (1989): In this case, the court held that the insignificant irregularities in stating the particulars of the offence in the charge will not affect the trial or its outcome.

Section 464 of Cr.PC states that no sentence or order given by the competent jurisdiction shall be invalid merely on the ground that no charge was framed or charged framed was based on some error, omission, irregularity, including any misjoinder of charge unless, in the opinion of the court of appeal, confirmation or revision, a failure of justice has been occasioned.

If the court concludes there has been omission or irregularity or error to frame a charge then the court may order a charge to be framed and that the trial may be recommenced from that point immediately after framing of the charge or direct the new trial to be held upon the new charge framed.

Provided, if the court is in the opinion that facts of the case are such that no valid charge could be preferred against the accused then the conviction shall be quashed.

Conclusion

In a criminal trial, the charge is the foundation of the accusation and every care must be taken to see that it is not only properly framed but the evidence is only tendered concerning the matters put in a charge and not the other matters.