

Framing of Charge

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Introduction

One basic requirement of a fair trial in criminal cases is to give precise information to the accused as to the accusation against him. This is vitally important to the accused in the preparation of his defence. In all trials under the Code the accused is informed of the accusation in the beginning itself. In case of serious offences the Code requires that the accusations are to be formulated and reduced to writing with great precision and clarity. This “charge”

Provisions relating to charge are aimed at giving full notice to the accused about the offence of which he is charged. It gives the accused accurate and precise information about the accusations made against him. Every charge under this Code shall state the offence with which the accused is charged *State v. Ajit Kumar Saha*

Purpose of Framing charge

In the ruling of a four-Judge Bench of The Hon'ble Supreme Court in V.C. Shukla v. State 1980 CrLJ 690. Justice Desai delivering a concurring opinion opined that 'the purpose of framing a charge is to give intimation to the accused of clear, unambiguous and precise notice of the nature of accusation that the accused is called upon to meet in the course of a trial'.

Essential elements of Charge

Contents of a Charge

Sections 221 to 224 specify the particulars that should be stated in the charge. Particulars are as follows:

Particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed.

Statement of the offence with which the accused is charged.

When Can Be Charged

In all warrant cases whether triable by a Court of Session or by a Magistrate, a formal charge is required to be framed. Framing of Charge is, however, not necessary in summons case. Similarly, it is not necessary to frame charge in summary trials. At the stage of framing a charge, the court should consider the materials placed before the court; there is a prima facie case against the accused. The test to determine prima facie case depends upon the facts and circumstances of each case.

Form and requirements

- The charge should be precise but should give the necessary particulars required by law.
- Every charge shall state the offence with which the accused is charged.
- The charge shall be written either in English or in the language of the Court.
- For every distinct offence of which any person is accused there shall be a separate charge and every such charge shall be tried separately.
- The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.
- The court framing charge should avoid all unnecessary words. Abbreviations or recondite words should as far as possible be also avoided.
- An omission, defect or error in the charge which does not prejudice or mislead the accused and does not result in any failure of justice cannot be regarded as material.

Charge Form No :32

CHARGE WITH ONE HEAD

I, (name and office of Magistrate, etc.), hereby charge you (name of accused person) as follows:-

That you, being a public servant in the..... Department, directly accepted from (state the name) gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under Section 161 of the Indian Penal Code, and within the cognizance of this Court.

And I hereby direct that you tried by this Court on the said charge.

(Signature and Seal of the Magistrate)

Alteration in charge

Section-216 the object is to secure fair trial to the accused and it is the duty of the court to ensure that alteration or addition of charge has not caused prejudice to him. Though the power is wide and extensive, it must be exercised judiciously. The court cannot alter the charge to the prejudice of the accused. Similarly, such power cannot be exercised after the accused is discharged of all the charges inasmuch as no charge exists against him and the provisions of Section 216 do not apply.

Joinder of Charge

Sections 218 to 222 of the Code provide for joinder of charges in one trial against the same accused.

Section 223 deals with joint trial against two or more accused persons.

The basic rule section 218 lays down the basic rule relating to trial of offences and enacts that for every distinct offence there must be a separate charge and a separate trial for each such charge.

Case Laws

Union of India v. Prafulla Kumar AIR 1979 SC 366: (1979) 3 SCC 4: 1979 CrLJ 154: (1979) 3 SCR 1 after considering the leading cases on the point, the Supreme Court laid down the following principles as to when the charge should be framed –

That the Judge while considering the question of framing the charges under Section 227 of the Code to weigh the evidence for finding out whether it's a prima facie case or not. And for which the accused has been made out;

Where the materials placed before the Court the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

Continue.....

The test to determine a prima facie case would naturally depend upon the facts of each case. By and large however if two views are equally possible and the Judge should be satisfied with the evidence produced while giving rise to some suspicion but not grave suspicion against the accused, he has all the right to discharge the accused.

That in exercising his jurisdiction under Section 227 of the Code, the total effect of the evidence and the document produced by the court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

Conclusion

Charge is an accusation against a person with respect to the commission of an offence.

Every charge shall state the section of the law along with the name of the offence, if any, which the accused is charged with and shall also state the time, place and the manner of the occurrence as well as the person against whom or the thing in respect of which the offence has been committed.

Previous conviction of the person charged with, if any, may also be mentioned, because it directs severe punishment.

For every offence there shall be a separate Charge and the charge be tried separately except in the cases mentioned with the section. In one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, the person may be charged with and tried at one trial for every such offences.

Thanking You