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ABSTRACT:

This paper mainly deals with the concept of framing of charges and the procedure for the joinder of charges. The procedure, as laid down under the Code of Criminal Procedure, 1973, broadly discusses which court shall frame charges and on what kind of offences, which trials require the framing of a formal charge, and under what situations where a single charge shall be framed for different offences. This paper also discusses the classification of charges, along with the legal aspect of framing of charges and mentions different situations where a charge may be framed for different offences committed by different accused persons during the same course of time. It also discusses the judicial aspect in relation to framing and joinder of charges concerning the recent case laws.

Keywords: Charges, trials, formal, joinder, accused, offences, case laws.

INTRODUCTION:

Whenever a First Information Report (FIR) is lodged against anyone, the police have to submit a police report[1] in the court. The court then frames the charge to inform the accused about the allegations against him. The basic idea behind the framing of charges

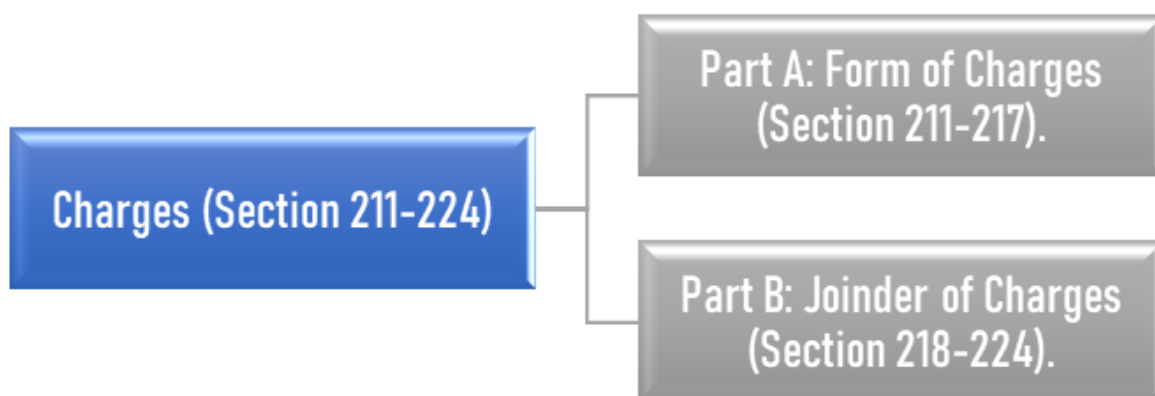
is to ensure that the person gets a free and fair trial by informing him about the offence he has committed so that he can defend himself in a court of law through his counsel. Framing of charges is an important exercise to give the accused vital information about the offence. It also acts as a notice[2] to the accused person to be present during the trial[3]. It is a form of opinion of the court to imply that it has taken into consideration the report of the police and has presumed that the accused has committed the offence.

MEANING AND DEFINITION OF CHARGE AND CHARGES:

The Code of Criminal Procedure (CrPC), 1973, defines 'Charge' under Section 2(b) as *"any head of charge when the charge contains more heads than one."* The definition under this section defines both 'charge' as well as 'charges.'

A charge is simply an allegation raised by the court against a person who has been accused of an offence. In other words, the charge is a legal word used to denote an allegation. Similarly, when an allegation against a person consists of more than one, it is known as 'Charges.' For example, if we take a situation where a person, A, has been alleged of a hit-and-run case by B, and an FIR has been lodged against him. After the FIR has been lodged, the police will submit a report in the court informing the court about the offence A has committed along with the investigation status. After deliberating upon the matter, the court will frame *charges* of Rash Driving (under Section 279 of the Indian Penal Code, 1860) and Culpable Homicide not amounting to Murder (under Section 299 of the IPC) against A to initiate a trial. However, if A had been alleged of the offence of Rash Driving only, the court would have framed a single *charge* against him.

Chapter XVII of the CrPC deals with 'Charges.' The topic of Charges has been divided into two headings: (i) Forms of Charges (Section 211-217); and (ii) Joinder of Charges (Section 218-224).



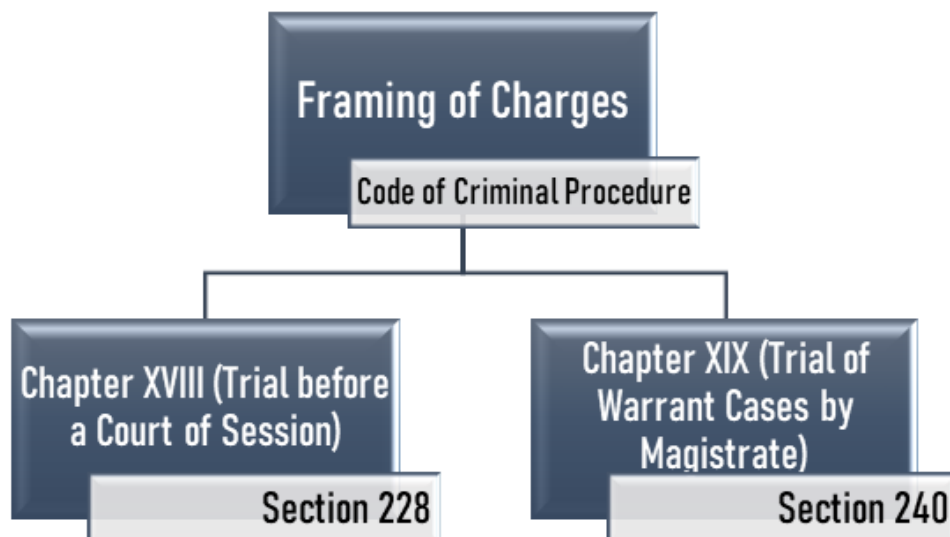
FRAMING OF CHARGES:

Framing of charges refers to the court's opinion that the accused has done a particular offence after considering the police report and other documents and hearing both parties.

It is a first step towards initiating a trial against the accused[4]. Although the framing of charges is a necessary exercise where the accused is informed about the allegations against him, it is not necessary to frame formal charges in every case. Under the CrPC, there are different kinds of trials, including the following:

- i. Summary Trial,[5] which is conducted for the offences punishable with imprisonment not more than two years, or, in case of theft or receiving of stolen property or assisting in retaining the stolen property, where the value is less than Rs. 2,000.
- ii. Summons Case,[6] which includes the trial of offences with an imprisonment of not more than two years. As per Section 251, the accused person, when brought or appears before the court, is informed about the offence he has committed, and the court shall ask him whether he pleads guilty or has to make any defence, and in such cases, framing of formal charges is not required.
- iii. Warrant Case (Sections 238-250).
- iv. Trial before Sessions Court (Sections 225-227).

In both Summary Trials and Summons Cases, framing of formal charge is not necessary. While as in Warrant cases and Trials before the Sessions Court require framing of charges in writing.



TRIAL BEFORE THE COURT OF SESSION (CHAPTER XVIII):

Under the CrPC, framing of charges has been divided into two different chapters, viz. (i) Chapter XVIII (Trial before a Court of Session); and (ii) Chapter XIX (Trial of Warrant-Cases by Magistrate).

Section 228 of CrPC talks about the framing of charges in cases where the trial is held before a Court of Session. Those offences which are exclusively triable by the Court of

Sessions and are mentioned in the First Schedule of the CrPC are included in the Trial before Court of Session. As per Section 228(1), when the Court of Session takes into consideration the report of police and other documents and hears both parties. It considers that there is a ground for the presumption of the accused in the commission of the offence, it shall take into consideration the following things:

- If the case is not exclusively triable by the Court of Session, the court *may* frame a charge against the accused and then, by order, transfer the case to the Chief Judicial Magistrate or any other Judicial Magistrate of First Class and direct the accused to be present before that court on a particular date as it deems fit. The Magistrate shall try the offence by the charge framed by the Court of Session as per the procedure for trial under Warrant-Cases[7].
- If the case is exclusively triable by a Court of Sessions, the court *shall* frame a charge against the accused[8].
- When the Court of Session has framed a charge in triable cases, the charges shall be explained to the accused in a clear manner and asked whether he pleads guilty of the offence[9].

The court must frame formal charges where there is a presumption of commission of the offence by the accused, i.e., *prima facie case*[10] and when the offence is exclusively triable by the Court of Session. The courts have to use their judicial analysis to frame charges in different cases because if the charges are not framed as per the procedure, the higher courts may set the trial aside.

TRIAL OF WARRANT CASES BY MAGISTRATE (CHAPTER XIX):

Section 240 of CrPC, 1973 talks about framing of charges by a Magistrate in Warrant cases. Warrant Case involve the trial of cases where the offences are punishable with an imprisonment for a term exceeding two years. As per Section 240(1), where the Magistrate is satisfied that the matter before him is triable and there is a ground to presume that the person has committed the offence, he shall frame charges in writing. Then the charges shall be explained to the accused in a fair manner, and asked whether he pleads guilty; it is a formal pronouncement of charges by the court under Section 240(2).[11] It is a legal duty of the court to frame formal charges in warrant cases.

JUDICIAL ANALYSIS OF SECTIONS 238 & 240:

In different cases, courts have tried to explain the procedure and essentials of framing of charges. Following are some of the important judicial observations in case of framing of charges:

- In the case of *Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjaya*[12], the Hon'ble Supreme Court opined that at the stage of framing of the charge, courts have to take into consideration that the allegations made against the accused are *prima facie* believable. The framing of charges depends on the 'subjective satisfaction' of the courts[13]
- Similarly, in the case of *State of Tripura v. Bhupen Dutta Bhowmik*[14], the court observed that *"at the stage of framing of charges, the courts are required to examine the broad possibilities of the case."* It has to take into consideration the preliminary evidence and justify the charges with the allegations made.
- In *Bal Krishna Pandey v. State of Uttar Pradesh*[15], where the trial court took seven months to frame charges against the accused, the Hon'ble Supreme Court strictly directed the trial court to be careful in dealing with the framing of charges in future. And it emphasised the 'principle of speedy trial' that can be affected in case of a delay in the framing of charges because it ultimately affects the trial while the accused languishes in custody.
- In the case of *Mauvin Godinho v. State of Goa*[16], the Hon'ble Supreme Court of India observed, *"A court while framing charges under Section 228 Cr.P.C should apply the prima facie standard. Although the application of this standard depends on facts and circumstances in each case, a prima facie case against the accused is said to be made out when the probative value of the evidence on all essential elements in the charge taken as a whole is such that it is sufficient to induce the court to believe in the existence of the facts pertaining to such essential elements or to consider its existence so probable that a prudent man ought to act upon the supposition that those facts existed or did happen. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."*
- In the case of *Minakshi Bala v. Sudhir Kumar & Ors*, the Apex Court observed that once a charge has been framed under Section 240, it shall not be the inherent power of the High Courts to quash the charges based on the police report or other documents, unless there arises a rare situation as in case of forensic exigencies and formidable compulsions.

JOINDER OF CHARGES:

Part B of Chapter XVII of the CrPC from Sections 218 to 224 deals with the Joinder of Charges.

Whenever a person is accused of any offence, a single charge may be framed against him or more than one. The general principle under the CrPC is that for every offence a person has committed, the court has to frame separate charges for separate offences[17]. In other

words, every offence constitutes a separate charge. However, there may be situations where different charges may be framed together as a single entity. For example, two or more persons who commit the same offence can be tried together, taking both under one heading. Similarly, if a person has committed a series of offences and those offences are in proximate connection with each other, those offences may be regarded as one under the charges by the court. Such situations pave the way for the Joinder of Charges, which refers to joining different charges into a single charge.

The general principle laid under Section 218 has certain exceptions[18] which mention the cases where the joinder of charges shall happen. Thus, Section 219-223 is an exception to the general rule.

Section 219 talks about a situation where a person commits a series of similar offences within 12 months (whether in relation to the same person or not); the court shall charge him with all the offences under a single charge. This has been done to avoid the multiplicity of proceedings in relation to the same kind of offences[19]. Part two of the same section mentions that where the person commits an offence of the same type, which is punishable with the same quantum of punishment, he shall be tried for all those offences under a single header of charges.

Similarly, Section 220(1) states that where a person commits a series of offences so closely related that they form a part of a single transaction, they shall be tried under a single charge for all those acts. Sub-section 2 states that the offences of Criminal Breach of Trust or that of Dishonest misappropriation of Property or any other related offences committed to achieving the mala fide objective of the main offence shall be treated as one while framing of charges. There may arise a case where a single offence committed by a person may fall under different definitions under the law for the time being in force; in such cases, the person shall be tried under a single charge for all the offences. If a person, while committing an offence, commits another offence which is separate in nature, he shall be tried for a single charge for both offences. For example, if a person committed the offence of robbery, and to commit the offence, he caused injury to someone, he shall be tried under Sections 323, 392 and 394 of the IPC.[20]

As per Section 221, Where there is a doubt related to the series of offences committed by the accused, he shall be tried under a single offence for that act at once. However, suppose it is found during the evidence stage that the person has not committed the offence he has been tried with. In that case, he shall be convicted of the said charge and, simultaneously, convicted under the committed offence under a different charge.

The joint trial has been mentioned in Section 223, where a group of persons can be subjected to charges together under a single trial. It shall happen only under the

following circumstances:

- Where the accused persons have committed the same or different offences in the same course of time.
- Where accused persons have abetted the commission of the crime.
- Where the accused persons can be covered under Section 219.
- Where the accused persons have committed offences mentioned under Chapter XII of the IPC.

JUDICIAL ANALYSIS OF JOINDER OF CHARGES:

- a. In the case of *Subrahmania Ayyar v. King Emperor*, [21] it was held that disregard of an express provision of law as to the mode of the trial (under Sections 233 & 243) should not be regarded as a mere irregularity. Still, an illegality and such trial shall be regarded as conducted in a manner prohibited by law.
- b. In *Kamalanantha & Ors. V. State of Tamil Nadu*, the Court observed, “It is true that Section 218 CrPC prescribes that for every distinct offence, there shall be a separate charge and every charge shall be tried separately...if joinder of charges is in contravention of procedure prescribed under Section 218, it would be misjoinder of charges...To ascertain that, it is the duty of the court to see whether the accused knew what he was being tried for, whether the main facts sought to be established against him were explained to him fairly and clearly and whether he was given a full and fair chance to defend himself.”

CONCLUSION:

When we talk about framing of charges or the joinder of charges, it is an important judicial exercise which has to be undertaken by the courts after the proper judicial procedure and by applying their wisdom. However, if the charges are not framed to justify the allegations made against the accused, or the court has delayed the framing of charges, the Higher Courts may set aside the trial conducted. Similarly, if the charges are not jointly framed as laid under the procedure of the law, it shall be regarded as a misjoinder of charges, which is illegal and against the law.

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[1] Police Report has been defined under Section 2 (r) of the Code of Criminal Procedure, 1973 as “a report forwarded by a police officer to a Magistrate under sub-section (2) of section 173.”

[2] Sugandha Nayak, *Framing of Charges: An Overview*, (2013), [Framing Of Charges: An Overview – Crime – India \(mondaq.com\)](#), last seen on 10/05/2023.

[3] VC Shukla v. State, (1980) Cri LJ 690.

[4] Suyash Verma, Saurabh Kumar, Yash Ramesh Kahandole, *What is Framing of Charges under CrPC*, (2021), [What is Framing of Charges under CrPC? | Desi Kanoon- Your Daily Dose of Law](#), last seen on 10/05/2023.

[5] Sections 260-265 of CrPC, 1973 deal with Summary Trials.

[6] Sections 251-259 of CrPC deal with Summons-Cases.

[7] Section 228 (a).

[8] Section 228 (b).

[9] Section 228 (2).

[10] ‘*Prima Facie*’ is a Latin word, meaning ‘at the first expression’. In cases where the Court is satisfied that the pre-trial evidence is sufficient to initiate a trial, it is known as *Prima Facie Case*.

[11] Sidharth Behera, *Trial of Warrant Cases Under The Code of Criminal Procedure, 1973*, [Trial Of Warrant Cases Under The Code Of Criminal Procedure, 1973 \(legalserviceindia.com\)](#), last seen 10/05/2023.

[12] (1990) 4 SCC 76, p. 394, para 3.

[13] State of Madhya Pradesh v. Rakesh Mishra, (2015) SCC 8, para 7.

[14] (2001) SCC Online SC 79.

[15] (2003) 12 SCC 186.

[16] (2018) 3 SCC 358. p. 359, para. 12.

[17] Section 218 CrPC.

[18] Section 218 (2).

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[20] Illustration (m) attached to Section 220 CrPC.

[21] (1902) ILR 25Mad 61 (Vol. XXV) 28 IA 257.