**Charge under the code of criminal procedure, 1898**

Every charge under the code of criminal procedure, 1898 shall state the offence with which the accused is charged. The motive behind a charge is precisely and succinctly to let know the accused individual, the issue for which he is being charged. It is necessary to pass on to the accused absolutely clearly and with certainty what the prosecution has accused him of or what the prosecution has against him. The underlying principle of criminal law is based on the fact that it is the right of the accused to be informed about the exact nature of the charge leveled against him.

Hence we see that knowing the charge which is levied against the accused is important for him to be known so that he can prepare his defence and so that justice is done by him. It is in the very beginning only that the accused is informed of his accusation in the beginning itself. It is to be kept in mind that in case of serious offences the statute requires the accusations to be formulated and reduced to writing with great precision & clarity. It is also necessary that the charge be then read and explained to the accused person.

Under section 4.1(C) CrPc, 1898, ‘charge’ includes any head of charge when the charge contains more heads than one. Hence it can be interpreted that when a charge contains more than one heads, the head of charges is likewise a charge.

**Nature and Purpose of charge**

It is a necessary characteristic of charge to be precise in its scope and particular in its details.

In ***V.C. Shukla vs. State***, Justice Desai 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 the accusation that the accused is called upon to meet in the course of a trial’.

**Essentials of Charge**

The following are the contents that are a must for a charge:

**Stating the Offence**

The offense must be expressed, in a charge sheet so that the accused may shield himself.

**Describing the offence by the name**

Along with the charge the name of the offence, related to such charge must be clearly defined and explained.

**Defining and understanding the offense**

In places where the criminal law has not named the offence then a definition/ meaning of the offense must be expressed.

**Mentioning the law and section of law**

The charge must contain the law or the section of the law against which the offense has been said to be committed.

**Substantive requirements of offense to be complied with**

The charge must fulfil the requirements of the offense, whether there are any exceptions are there or not and if there are then the charge should adhere to them.

**Charge’s language**

It is to be noted that one of the basic essentials of charge is that the charge should be framed in English or the Court’s language or the language which is understandable by an accused.

**Accused person’s previous convictions**

Charge might state the fact, date, and place of the previous conviction in places where the accused is liable to enhanced punishment by virtue of his previous conviction and where such previous conviction has to be proved.

**Details of Time, Place and Person**

It is crucial for a charge to contain the time when offense happened, place where offense was committed, person against whom the offense was committed and any other object or thing against whom the offense was committed.

Particulars of the way in which the offence was committed

In cases where the information above is not sufficient to give notice of the offense with which the alleged accused has been charged, then it is expected that the charge shall include the particulars of the manner in which the alleged offense was committed.

**Thing in respect of which offense is committed**

It is important for a charge to express the property in respect of which the offence is said to have taken place.

**What is a charge sheet?**

In order to prove the accusation of crime in the court of law a final report is prepared by the investigation or law enforcement agencies and this report is known as charge-sheet. This statement has not been defined in the Cr.P.C. The police officer submits report in order to prove that the accused is connected with or has committed any offence which is punishable under the code. The report contains all the stringent records right from the commencement of investigation procedure of lodging an FIR to the completion of investigation and preparation of final report.

**Legal Provision relating to Charge**

**Charge to state offence**

221. (1) every charge under this Code shall state the offence with which the accused is charged.

**Specific name of offence sufficient description**

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

**How stated where offence has no specific name**

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

 (4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge

**What implied in charge**

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

**Language of charge**

(6) The charge shall be written either in English or in the language of the Court.

**Previous conviction when to be set out**

(7) If the accused having been previously convicted of any offence is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge. If such statement has been omitted, the Court may add it at any time before sentence is passed.

**Particulars as to time, place and person**

222.(1) The charge shall contain such 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, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234.

**When manner of committing offence must be stated**

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

**Words in charge taken in sense of law under which offence is punishable**

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

**Effect of errors**

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

**Court may alter charge**

227. (1) Any Court may alter or add to any charge at any time before judgment is pronounced.

(2) Every such alteration or addition shall be read and explained to the accused.

**When trial may proceed immediately after alteration**

228. If the charge framed or alteration or addition made under section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defense or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made proceed with the trial as if the new or altered charged had been the original charge.

**When new trial may be directed, or trial suspended**

229. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

**Stay of proceedings if prosecution of offence in altered charge require previous sanction**

230. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

**Recall of witnesses when charge altered**

231. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to re-call or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined and also to call any further witness whom the Court may think to be material.

**Effect of material error**

232.(1) If any Appellate Court, or the High Court Division in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defense by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(2) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

**Joinder of Charges**

**Separate charges for distinct offences**

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

**Three offences of same kind within year may be charged together**

234.(1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Penal Code or of any special law:

Provided that, for the purpose of this section, an offence punishable under section 379 of the Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the Penal Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.

**Trial for more than one offence**

235.(1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

**Offence falling within two definitions**

(2) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

**Acts constituting one offence, but constituting when combined a different offence**

(3) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by anyone, or more, of such acts.

(4) Nothing contained in this section shall affect the Penal Code, section 71.

 **Where it is doubtful what offence has been committed?**

236. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

 **When a person is charged with one offence, he can be convicted of another**

237. If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

 **When offence proved included in offence charged**

238.(1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(2A) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(3) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

 **What persons may be charged jointly**

239. The following persons may be charged and tried together, namely:-

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;

(c) persons accused of more than one offence of the same kind, within the meaning of section 234 committed by them jointly within the period of twelve months;

 (d) persons accused of different offences committed in the course of the same transaction;

 (e) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last named offence;

(f) persons accused of any offence under sections 411 and 414 of the Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence; and

(g) persons accused of any offence under Chapter XII of the Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges.

**Withdrawal of remaining charges on conviction on one of several charges**

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.