PRESENTATION ON FRAMING OF CHARGES

BY

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ON

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Framing of Charges: -

The accused who has to face the criminal trial must be informed of the accusation against him. The purpose of framing a charge is to provide the accused with detailed information about the allegations against him. Framing of proper charge is one of the basic requirements of a fair trial. Charge is of great significance in a criminal trial as it helps not only helps the accused in knowing the accusation against him but also helps him in the preparation of his defence.

Bharatiya Nagarik Suraksha Sanhita,2023 ('BNSS' for brevity) as well as Code of Criminal Procedure, 1973 ('CrPC' for brevity) do not give a detailed definition of charge. They merely state that charge includes any head of charge when the charge contains more heads than one.

In V. C. Shukla vs. State through CBI, it was held by the Hon'ble Supreme Court of India that charge is an intimation of the accusation for which the accused person would face trial and be liable to defend themself. The provisions regarding charge are contained in sections 211 to 224 and section 464 CrPC. The corresponding provisions in BNSS are respectively sections 234 to 247 and 510.

Provisions relating to charges in criminal trials:

Different provisions of law relating to the charges in criminal trials are as under: Chapter 17 of CrPC corresponding to Chapter 18 of BNSS deals with "THE CHARGE".

a) Sections 211 to 224 CrPC corresponding to sections 234 to 247 of BNSS (general law relating to charges).

b) Sections 226, 227, 228 CrPC corresponding to Sections 249, 250, 251 BNSS (discharge or charge of accused by Sessions Judge)

c) Sections 239, 240 CrPC corresponding to Sections 262, 263 of BNSS (discharge or charge of accused by Magistrate in police cases).

d) Sections 245, 246 CrPC corresponding to Sections 268, 269 of BNSS (discharge or charge of accused by Magistrate in complaint cases)

Contents of a charge: -

Section 234 BNSS which corresponds to section 211 CrPC states that the charge should enable the accused to know the offence with which he is charged, the law and section of law against which the offence is said to have been committed.

Section 235 BNSS states that the particulars of time, date, place and person against whom the offence is said to have been committed should be mentioned.

Description of offence by name Under section 234(2) of BNSS which corresponds to section 211(2) CrPC every charge framed should state the offence with which the accused is charged and if the law which creates the offence gives it a specific name, the offence should also be described in the charge by that name only.

Section 234(4) states that the law and section of law against which the offence is said to have been committed shall be mentioned in the charge. Language of the charge the charge can only be in the language of the Court but it has to be explained to the accused in his own language before recording his plea.

Scope of section 235(2) BNSS The normal rule is that there such be a separate charge for each distinct offence. In cases when the accused is charged with criminal breach of trust or dishonest misappropriation of money or other movable property, section 235(2) BNSS states that the charge can contain only the gross sum and the dates between which the same are alleged to have been committed, without specifying the particular items or exact dates thereof.

Separate charge for distinct offences Section 241 BNSS lays down the general rule providing for a separate charge for every distinct offence and for separate trial for every such charge. The object is to give to the accused notice of the precise accusation and to afford him opportunity of defending himself properly.

Exceptions to the above rule: - However, sections 242, 243, 244, 245 and 246 carve out exceptions to this rule.

The exceptions are:

(1) when the accused committed five offences of the same kind within a span of 12 months, he may be charged with and tried of such offences at one trial (section 242(1) BNSS);

(2) when more than one offence is committed by the same person in the same transaction, he may be charge with and tried at one trial, for every such offence (section 243 BNSS);

(3) when it is doubtful what offence has been committed then the accused may be charged with all or any of such offences or he may be charged alternatively with having committed some of the said offences (section 244 BNSS);

(4) section 246 BNSS lays down that the following persons may be charged jointly and tried together:

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

(b) persons accused of an offence and persons accused of abetment of 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 242 BNSS committed by them jointly within the period of twelve months;

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

(e) persons accused of theft, extortion or criminal misappropriation and persons accused of receiving or retaining or assisting in the disposal or concealment of property obtained in the commission of these offences;
(f) persons accused of receiving stolen property or assist in concealing or disposal of stolen property;

(g) persons accused of any offence relating to counterfeit coin or any other offence under Chapter X of Bharatiya Nyaya Sanhita, 2023 relating to the same coin or of abetment or attempt to commit any such offence.

(5) Section 246 BNSS apples when there is a doubt regarding which offence has been committed and in such a case, the Court has got a choice of charging for all the offences or only one of such offences.

Materials to be considered at the stage of framing of charge

The Hon'ble Supreme Court of India in State of Maharastra vs. Som Nath Thapa, (1996) 4 SCC 659

pleased to hold if the Court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused had committed the offence. It was further held that at the stage of framing of charge the Court cannot look into the probative value of the materials on record.

In Union of India vs. Prafulla Kumar Samal, (1979) 3 SCC 4

the Hon'ble Supreme Court of India observed that while considering the question of framing a charge, the Court has the undoubted power to sift and weigh the materials for the limited purpose for finding out whether or not a prima facie case against the accused has been made out. In exercising the power, the Court cannot act merely as a post office or a mouthpiece of the prosecution. It was observed further that the test to determine a prima facie case against the accused would naturally depend on the facts of each case and it is difficult to lay down the rule of universal application. It was held that where the material placed before the Court discloses grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing the charge and proceeding with the trial.

In State of Andhra Pradesh vs. Golconda Linga Swamy,

(2004) 6 SCC 522

the Hon'ble Supreme Court of India held that at the stage of framing of charge, evidence cannot be gone into meticulously. It was held that it is immaterial whether the case is based on direct or circumstantial evidence and a charge can

be framed if there are materials showing possibility about commission of the offence by the accused as against certainty.

Principles governing framing of charge and discharge: -

The Hon'ble Supreme Court of India in Sajjan Kumar vs. CBI, was pleased to lay down the following principles governing discharge and framing of charges:

(i) The Judge while considering the question of framing the charges under section 227 of the CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case

(ii) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the trial.

(iii) The Court cannot act merely as a Post Office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities etc. 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.

(iv) If on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of sections 227 and 228 the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging there from taken at their face value discloses the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."

Alteration, addition or deletion of charge (Section 216 CrPC or Sec 239 BNSS:-

- Section 216 CrPC empowers the court to alter or add any charge at any time before the pronouncement of judgment. Anant Prakash Sinha Vs. State of Haryana, (2016) 6 SCC 105.

- Altering charge framed u/s 304 IPC to Section 302 IPC by Addl. Sessions Judge held proper.
  Amrish Vs. State of UP
- Charge can be changed or altered u/s 216 CrPC any time if material is available on record: Court can change or alter the charge if there is defect or something is left out. The test is that it must be founded on the material available on record. It can be on the basis of the complaint or the FIR or accompanying documents or the material brought on record during the course of trial. It can also be done at any time before

pronouncement of judgment. It is not necessary to advert to each and every circumstance. Suffice it to say, if the Court has not framed a charge despite the material on record, it has the jurisdiction to add a charge. Similarly, it has the authority to alter the charge. The principle that has to be kept in mind is that the charge so framed by the Magistrate is in accord with the materials produced before him or if subsequent evidence comes on record. It is not to be understood that unless evidence has been led in, charges already framed cannot be altered, for that is not the purport of section 216 CrPC. It is obligatory on the part of the Court to see that no prejudice is caused to the accused and he is allowed to have a fair trial. There are in built safeguards in section 216 CrPC. It is the duty of the trial court to bear in mind that no prejudice is caused to the accused as that has the potentiality to affect a fair trial.

Anant Prakash Sinha @ Anant Sinha Vs. State of Haryana, 2016 (93) ACC 951 (SC).

- Witnesses to be recalled if charge is altered or added (Section 217 CrPC): Section 217 CrPC provides that when a charge is altered or a new charge is framed or added, the PWs or DWs would be recalled by the Court for fresh examination by the prosecution and the defence. Apart from the already examined witnesses, the prosecution and defence would be allowed by the court to examine additional witnesses as well if they so propose.

- Conviction for charge u/s 302/149 IPC in place of already framed charge for offence u/s 302 IPC held improper: Where charge was initially framed by the Sessions Judge u/s 302 IPC but without altering the charge, the Sessions Judge convicted the accused for offence u/s 302/149 IPC without having complied with the provisions of Section 216 (2) CrPC, the Supreme Court held that it was obligatory on the part of the Sessions Judge to bring to the notice of the accused about the alteration of the charge and explain it to him that the charge from Section 302 IPC was altered to Section 302/149 IPC.
  Sabbi Mallesu Vs. State of A.P., (2006) 10 SCC 453

- Conviction for offence u/s 304-B IPC in place of already framed charge for offence u/s 302 IPC held proper: Where the charge was initially framed by the Sessions Judge u/s 302 IPC and conviction was recorded u/s 304-B IPC, it has been held by the Supreme Court that since the accused was aware of the accusations against him and had not raised/stated contrary in his statements u/s 313 CrPC, his conviction for the offence u/s 304-B IPC was proper

  Balbir Singh Vs. State of Punjab, AIR 2006 SC 3221
- Recall, cancellation & deletion of charge: Charge once framed cannot be deleted, recalled or cancelled u/s 216 CrPC. It can be rather withdrawn u/s 224 CrPC after the pronouncement of judgment. Having framed charges against an accused, a Magistrate has no jurisdiction in law to recall such order on the ground that the prosecution had failed to comply with the provisions of Section 207 CrPC
  Bharat Parikh Vs. CBI, 2008 Cr.L.J 3540 (SC)
  Vibhuti Narain Chaubey Vs. State of UP, 2002 (2) JIC 613

- Charge u/s 302 IPC should be framed along with charge u/s 304-B IPC: The Supreme Court has directed all trial courts in India to ordinarily add Section 302 IPC to the charge of Section 304-B IPC so that death sentence can be imposed in heinous and barbaric crimes against women.
  Rajbir Vs. State of Haryana, AIR 2011 SC 568
  Note: Registrar Generals of all High Courts have been directed by the Supreme Court to circulate this judgment to all trial courts in India for compliance.

- Charge u/s 302 IPC to be added with Section 304-B IPC only when there is evidence for the same : Discussing the earlier directions of the Supreme Court issued in the case of Rajbir Vs. State of Haryana, AIR 2011 SC 568, the Supreme Court, in the case noted below, has held that the trial court should not frame an additional charge u/s 302 IPC in a trial of dowry death case merely because of the directions in the Rajbir's case. In a dowry death case, an additional charge u/s 302 IPC along with the

charge of Section 304-B IPC should only be framed when framing of such additional charge u/s 302 IPC is justified on the basis of evidence on record. See: Jasvinder Saini Vs. State (Govt. of NCT of Delhi), AIR 2014 SC 841.

- Court has unrestricted power u/s 216 CrPC to add or alter any charge whenever it finds a charge defective : Relying upon its previous decision in Hasanbhai Valibhai Qureshi Vs. State of Gujrat, (2004) 5 SCC 347 (para 10), it has been ruled by the Hon'ble Supreme Court that the Court has unrestricted power u/s 216 CrPC to add or alter any charge whenever it finds the charge framed earlier defective. The court can re-examine the question of framing of a charge against the accused and pass an appropriate order if upon a prima facie appraisal of the evidence adduced before it, the trial court comes to the conclusion that there is any room for doing so.
  Jasvinder Saini Vs. State (Government of NCT of Delhi), (2013) 7 SCC 256.

Conviction for charge not framed: -Provisions contained u/s 215, 218, 221, 222, 464/465 CrPC are relevant for the purposes of this sub-topic.

- Where charge was initially framed by the Sessions Judge u/s 302 IPC but without altering the charge convicted the accused u/s 302/149 IPC without having complied with the provisions u/s 216 (2) CrPC, the supreme court held that it was obligatory on the part of the Sessions Judge to bring to the notice of the accused of the alteration of charge and explain it to him that the charge from Section 302 IPC was altered to Section 302/149 IPC.
  Sabbi Mallesu Vs. State of A.P., (2006) 10 SCC 453

- Conviction for minor offence in place of charges framed for major offences permissible: It is well settled legal position of law that if an accused is charged of a major offense but is not found guilty thereunder, he can be convicted of minor offense if the facts established indicate that such minor offense has been committed.
  Pandhari Nath Vs. State of Maharashtra, AIR 2010 SC 1453.

- Conviction for charge not framed : Where a charge for offence u/s 397 IPC was not framed by the trial court but the accused was convicted for offences u/s 120 B, 302, 392, 457 r/w Section 34 IPC and also for offence u/s 397 IPC and the High Court had in appeal set aside the conviction and sentence awarded by the trial court on the ground that charge for the offence u/s 397 IPC was not framed and remanded the case to the trial court for re-trial by framing a charge u/s 397 IPC as well, the Supreme Court set aside the judgment of the High Court by holding that the charges framed by the trial court did adequately encompass all essential facts building up offences imputed against the accused persons and omission to frame charge u/s 397 IPC was not fatal.
  Bharamappa Gogi Vs. Praveen Murthy and Others, AIR 2016 Supreme Court 791.

- Non-framing of charge not to vitiate trial and conviction if the accused was aware of the accusations and had opportunity of defence: Relying on a Constitution Bench decision reported in Willie Slaney Vs. State of MP, AIR 1956 SC 116 (Five-Judge Bench), the Supreme Court has in the case noted below held that absence of charge would vitiate conviction only if the non-framing of the charge had caused prejudice to the accused or he was deprived of the opportunity to defend himself at trial or he was not aware of the accusations or he was deprived of the protection of the principles of natural justice. Conviction of the accused for offence u/s 302/34 IPC was held proper even when no charge for the said offence u/s 302/34 IPC was framed.
- Conviction for offence u/s 306 IPC in place of already framed charges for offences u/s u/s 498-A and 304-B IPC held proper :Where in a dowry death case, initially a case u/s 306 IPC was registered against the accused and a charge u/s 304-B IPC was ultimately framed by the court but the accused was convicted for offence u/s 306 IPC only without framing any charge u/s 306 IPC, it has been held that absence of charge being framed u/s 306 IPC is immaterial when the relevant and material facts were already part of charge u/s 498-A and 304B IPC.
  Satish Shetty Vs. State of Karnataka, AIR 2016 SC 2689.
  Narwinder Singh Vs. State of Punjab, AIR 2011 SC 686.

- Conviction u/s 304-B IPC in place of charge framed for offence u/s 302 IPC held proper: Where the charge was initially framed by the Sessions Judge u/s 302 IPC and conviction was recorded u/s 304-B IPC, it has been held by the Supreme Court that since the accused was aware of the accusations against him and had not raised/stated contrary in his statements u/s 313 CrPC , his conviction for the offence u/s 304-B IPC was proper Balbir Singh Vs. State of Punjab, AIR 2006 SC 3221

- Conviction u/s 306 IPC, when possible, in the absence of framing of charge? Accused was tried for the charges u/s 302, 304-B IPC and charge u/s 306 IPC was not framed. The Supreme Court, interpreting the provisions u/s 215, 386, 399, 401, 464 CrPC held that the revisional or appellate court u/s 464 CrPC can convict the accused for the unframed charge u/s 306 IPC provided the following conditions are fulfilled: (a) That the accused was aware of the basic ingredients of that offence. (b) That the main facts sought to be established against the accused were explained to him clearly. (c) That the accused got a fair chance to defend himself.
  (i) Radha Mohan Singh alias Lal Saheb Vs. State of UP, 2006 (54) ACC 862 (Three-Judge Bench)
  (ii) Dalbir singh Vs. State of UP, (2004) 5 SCC 334 (Three-Judge Bench)

- Conviction for charge not framed held proper: Where charges were framed against four accused for offenses u/s 147,148, 324, 302 r/w Sec 149 IPC but one of the accused alone was convicted u/s 302 IPC simpliciter, it has been held that the accused can be convicted for which no charge was framed unless it had occasioned failure of justice. Balraje Vs. State of Maharashtra, (2010) 6 SCC 673.

Defective charge and its effect: -

- The absence of a charge under one or the other of the various heads of criminal liability for the offence cannot be said to be fatal by itself, and before a conviction for the substantive offence, without a charge, can be

set aside, prejudice will have to be made out. If it is so grave that prejudice will necessarily be implied or imported, it may be described as an illegality. If the seriousness of the omission is of a lesser degree, it will be an irregularity and prejudice by way of failure of justice will have to be established.

State of A.P. Vs. Thakkidirani Reddy, (2001) 9 SCC 528

Errors & omissions in framing charges when fatal? -

- Section 215 and Section 464 CrPC provide that the proceedings of a criminal trial do not get vitiated because of some error, omission or irregularity in the charge unless (i) the omission is vital (ii) substance of accusation is totally different from what was sought to be established by the prosecution (iii) accused was misled in defending himself and prejudice was caused to him for that reason and (iv) there was no material to frame charge of particular penal section,
  Vinubhai Ranchhodbhai Patel Vs. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743.

- No prejudice if the accused was aware of the error in charge: There will be no prejudice or failure of justice where there was an error in the charge and the accused was aware of the error. Such knowledge can be inferred from the defense, i.e., if the defense of the accused showed that he was defending himself against the real and actual charge and not the erroneous charge. In judging a question of prejudice, as of guilt, the courts must act with a broad vision and look to the substance and not to the technicalities and their main concern should be to see whether the accused had a fair trial, whether he 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.

  Mainpal Vs. State of Haryana, AIR 2010 SC 3292.

Framing of charge with the Aid of Section 34 IPC:

- Necessary conditions for the applicability of Section 34 IPC are common intention to commit a criminal act and participation therein of all the persons in furtherance of that intention. A specific overt act on the part of the accused is not necessary. Participation in action implies acting in concert. A solitary accused can be convicted with the aid of Section 34

IPC although all other accused have been acquitted. To attract Section 34 IPC, it is not necessary that each one of accused must assault or cause injury. It is enough if it is shown that they shared common intention to commit the offence: (i) (ii) Daya Shankar Vs. State of M.P., 2009(1) Supreme 298

- Effect of absence of Section 34 IPC in charge: If no prejudice is shown by the accused, non-framing of charge u/s 34 IPC does not vitiate the trial & conviction. If conviction of accused with the aid of Sec 34 IPC in place of Sec 149 IPC is recorded but no prejudice to accused is shown by such error, the trial and conviction will not be vitiated.

Abdul Sayeed Vs. State of M.P, (2010) 10 SCC 259

Anna Reddy Sambasiva Reddy Vs. State of A.P,(2009) 12 SCC 546

- Charge not to vitiate for want of Section 34 IPC : Where two accused persons had waited for the deceased, collected sticks from hiding and mounted attack on the deceased by causing injuries on vital parts of body and the attack continued even after the deceased fell down, it has been held by the Hon'ble Supreme Court that the circumstances clearly indicate that the attack was pre-planned and the accused persons shared common intention to kill the accused and failure to show section 34 IPC in the charge framed for the offence u/s 302 IPC would not vitiate the charge.
  Chinnam Kameswara Rao Vs State of AP, AIR 2013 SC 3602.

- Conviction for offence u/s 302 IPC without the aid of Section 34 IPC held proper: Where accused along with other co-accused was charged for the offences u/s 147, 148, 307, 302, 452, 326 IPC without any mention of Section 34 IPC in the charge but the accusations were known to the accused and no prejudice was established, the Supreme Court held that absence of charge with the aid of Section 34 IPC was not fatal to prosecution and the conviction of the accused was proper.
  Anil Sharma Vs. State of Jharkhand, (2004) 5 SCC 679,
  Kammari Brahmaiah Vs. Public prosecutor, 1999 (38) ACC 408 (SC)

Framing of Charges with the Aid of Section 149 IPC :

- To attract Section 149 IPC regarding constructive liability of members of an unlawful assembly, proof regarding overt act of any individual accused is not necessary. Direct evidence of common object is generally not available and the same has to be gathered from the acts committed and result therefrom. If membership of unlawful assembly is once established, Section 149 IPC is to attract even if no definite role has been assigned to a particular accused. Common object need not be product of common concert but may be formed on spur of the moment. Nature of common object is a question of fact to be determined by considering the nature of arms, nature of assembly and behaviour of its members etc.

  Mahmood Vs. State of UP, AIR 2008 SC 515

- Total number of convicted accused plus unnamed accused should not be less than five for conviction with the aid of Section 149 IPC : Total six named accused and no unknown persons were involved in the murder. All accused persons were acquitted of all charges except the appellant. The acquittal attained finality. In such circumstances possibility of conviction of the appellant u/s 148/149 IPC could have arisen only if there would have been certain unknown persons besides the named five acquitted co-accused. Hence, the appellant was also acquitted by the Supreme Court. Conviction with the aid of Sections 148/149 IPC cannot be recorded in the absence of at least five accused. Either at least five accused should stand convicted, or total number of convicted accused plus unnamed accused should not be less than five.

Ramvir Vs State of Uttar Pradesh, (2019) 2 SCC 237

- Altering charge from Section 302/149 IPC to Section 302/34 IPC held improper: Eight co-accused persons were already acquitted of the charges u/s 302/149 IPC. Subsequently, charge against remaining three-accused persons was altered by the court u/s 216 CrPC from Section 302/149 IPC to Section 302/34 IPC. The allegations against these three accused persons were that they had instigated the other accused persons to commit the murder. Prosecution had failed to prove common

intention on the part of the said three accused persons to commit the murder. The Supreme Court set aside the conviction of the said three accused persons for the offence u/s 302/34 IPC by holding the charges unsustainable.
Mala Singh Vs. State of Haryana, AIR 2019 SC 1026.

- charges against an accused u/s 147 or 148 cannot be framed at the same time : A person cannot be charged simultaneously with both the offences by the very nature of the offences u/s 147 and 148 IPC. A person can only be held guilty of an offence punishable either u/s 147 or u/s 148 IPC.
  Vinubhai Ranchhodbhai Patel Vs. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743, Dalvir Singh Vs. State of UP, (2004) 5 SCC 334.

- Conviction for charge u/s 148 IPC set aside as the accused was not armed with deadly weapons: Where six members of an unlawful assembly committed offence u/s 307 IPC and except one all other remaining accused were armed with deadly weapons like guns, lathis and takua but all the six accused were convicted by the trial court for the offences u/s 147, 148, 307/149, 324/149, 323/149 IPC, the Supreme Court set aside the conviction of that accused u/s 148 IPC who was not armed with deadly weapons and altered his conviction from Section 148 IPC to Section 147 IPC but the conviction of remaining five accused u/s 148 IPC was upheld as they were armed with deadly weapons.
  Kabul Singh Vs. State of Punjab, 1995 SCC (Criminal) 1035.

- A single accused cannot be charged and convicted for the offence u/s 120-B of the IPC: Addl. Sessions Judge, Lucknow condemned for being totally negligent, careless and ignorant of the law in framing charge and convicting against a single accused for offence u/s 120-B IPC. The Division Bench directed the ASJ to undergo exhaustive training at the JTRI, Lucknow to be recharged with the nuances of law on the point.
  Judgment dated 25.02.2015 of the Lucknow Bench in Criminal Appeal No. 1150/2011, Hoshiyar Singh Vs. State of UP.

- Supreme Court deprecated Judicial Officers of the State of Bihar for improper framing of charges : “We are constrained to say that this is not an isolated case but it is almost a stereotype. It is our experience that in criminal trials in Bihar no proper attention is paid to the framing of charges and the examination of the accused under section 313 of the Code of Criminal Procedure, the two very important stages in a criminal trial. The framing of the charge and the examination of the accused are mostly done in the most unmindful and mechanical manner. We wish that the Patna High Court should take note of the neglectful way in which some of the Courts in the State appear to be conducting trials of serious offences and take appropriate corrective steps.
  Sajjan Sharma Vs. State of Bihar, (2011) 2 SCC 206 (para 14).

- New accused not to be added at the stage of framing charges u/s 228 CrPC : Sessions Court from the stage of committal of the case by magistrate till the stage indicated in Section 230 CrPC can deal only with the accused referred to in Section 209 CrPC. There is no intermediary stage till then for Sessions Judge to add any other person as accused. Sessions court can add any other person as accused u/s 319 CrPC only after collection of evidence.
  Ranjit Singh Vs. State of Punjab, 1998(37) ACC 768 (SC) (Three -Judge Bench)
- Charge against two or more persons for their joint trial (Section 223 CrPC) : Section 223 CrPC provides for different categories of accused persons who may be charged together for their joint trial. But clubbing and consolidation of two such cases is not permissible u/s 223 CrPC if the prosecution versions in the two cases are materially different, contradictory and mutually exclusive. Such cases can be tried together but cannot be consolidated. Evidence in such cases has to be recorded separately in both the cases and they should be decided simultaneously by the same trial court.
  Harjinder Singh Vs. State of Punjab, 1985 SCC (Criminal) 9
  Kewal Krishan Vs. Suraj Bhan, AIR 1980 SC 1780

- Sessions Judge not to send back the case to Magistrate for trial even when the charge framed by him u/s 228(1)(a) CrPC is exclusively triable by court of Magistrate: According to Section 26 CrPC, the court of sessions may try any offence under the IPC and in case a charge framed by court of sessions u/s 228(1)(a) CrPC is found exclusively triable by court of Magistrate, even then it is not necessary that the case should be sent to the CJM or any other judicial magistrate for trial of the same.

- Cross-cases having arisen out of the same incident must be tried by one and the same court.
  Sudhir & Others Vs. State of M.P., 2001 (42) ACC 479 (SC)

- Noncompliance with Section 207 CrPC vitiates charge: If the copies of statements of witness & documents relied in support of charges are not supplied to the accused, then order framing charges against the accused is not proper for noncompliance of the mandatory provisioned of Section 207 CRPC.
  Pramod Kumar sharma Vs. State of UP, 2011 CrLJ 1088

Conclusion

In a criminal trial, the framing of 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 also only for the matters concerned and not for any other matter. Moreover, the fact that charge framed shall be read and explained to the accused serves the basic right of fair trial and furthers the ends of justice.