

1. WHAT IS A CHARGE?

The term "charge" is defined in section 4(c) and includes any head of charge when the charge contains more heads than one. A charge is precise formulation of the specific accusation made against a person who is entitled to know its nature at the early stage. The purpose of a charge is to tell an accused as precisely and concisely as possible of the matter in which he is charged and must convey to him with sufficient clearness and certainty what the prosecution intends to prove against him and of which he will have to clear himself.¹ Charge is precise formulation of specific accusation made against a person who is entitled to know its nature at the earlier stage. Purpose of a charge is to let the accused as precisely and concisely as possible the matter in which he is charged and must convey to him with sufficient clearances and certainty what the prosecution intends to prove against him and which he would have to clear himself.²

2. DEFECTIVE CHARGE

Sections 324, 235, 236, and 239, Cr.P.C. mentioned as exceptions in this section are not mutually exclusive but can supplement each other. Charge framed in contravention of mandatory provisions of the section would be illegal and though no failure of justice might have thereby occasioned, it would not be one which could be condoned under 8. 537, Cr.P.C.³

Conviction based on a defective charge is against the mandatory requirement of section 222(1), Cr.P.C. and causes prejudice to the case.⁴ Case split up into fifteen special cases besides the main one. Acquittal on first account, proceedings in other trials illegal.⁵

If any person is misled in his defence by the absence of any charge or an error in the charge, a retrial is to be ordered.⁶

Right of defence, no doubt was the essence of a criminal trial and accused was entitled to adequate opportunity of defence and the framing of the charge was one of the steps in that direction as it would put accused on notice at initial stage

1. AIR 1967 Cal. 478.
2. 2005 PCr. L.J 489; 2004 PCr.LJ 397.
3. 1096 MLD 2477; AIR 1944 Bom. 206.
4. 1997 PCr. L.J 1663.
5. PLD 1971 Dacca 56.
6. 1992 MLD 1253.