

subject of framing of charge would be satisfied.⁹⁷ It hardly matters as to whether the charge is improper or all the particulars are not mentioned therein because where no prejudice has been caused to the accused and the nature of accusation has been mentioned in a categorical matter in the charge eliminating the possibility of any confusion or prejudice.⁹⁸

25. CHARGE UNDER DIFFERENT STATUTES

When an accused was charged under two different statutes or laws, then, he could only be tried for offences under the law, which would provide lesser sentence provided offences were alike or similar in nature.⁹⁹

26. LACUNA IN CHARGE

Accused held, was misled in defending himself and lacuna in charge not condonable under S. 225 or 537, Cr.P.C.¹⁰⁰ Charge referring to only some of arms and ammunition allegedly recovered from accused and not referring to all items, such omission or error, cannot result either in vitiating proceedings or in acquittal of accused unless accused misled in defence or failure of justice occasioned.¹⁰¹ Omission in a charge cannot be regarded as material unless in terms of S. 225, it is shown by the accused that he has in fact been misled by such omission or that there has been a failure of justice as a result of such omission. Section 337 Cr.P.C. enables the Court to convict a person of an offence which is disclosed in the evidence and for which he might have been charged under the provision of section 236, although he is not charged with it.¹⁰²

27. SECTION 225 Cr.P.C. SCOPE OF

Section 225, Cr.P.C. intends to prevent any failure of justice for non-compliance with the matter required to be stated in the charge. The crux of the section is that omission or errors committed while framing charges would not vitiate the trial unless the accused is in fact misled by such error or omission and it has occasioned a failure of justice. This section must be read with section 537. The combined reading of these provisions requires that when any error,

97. PLC 1988 Quetta 22.

98. 2005 SCMR 364.

99. 2007 YLR 1088.

100. 1987 PCr.L.J 755.

101. 1980 PCr. L.J 292

102. 2005 SCMR 344.