

as to what was the case against him which he had to meet, but it was not all, and an error in the charge or even omission to frame it could not be material or fatal to the trial. Section 232 (1) & 535, Cr.P.C. were clear on the point. From provisions of section 225, Cr.P.C. one could easily understand that the Legislature never intended to vitiate a trial on the grounds of errors in the charge or omission to frame it, unless those were shown to have misled accused and thereby caused miscarriage of justice. Illustrations (d) & (e) of section 225, Cr.P.C. had clearly shown that misleading was not to be lightly inferred. Use of words 'in fact' in sections 225 and 535, Cr.P.C. clearly signified that mere claim of having been misled would not be sufficient, but it must be shown by convincing reasons, that he was in reality misled i.e., owing to the confusion created, he could not properly defend himself which in fact resulted into the miscarriage of justice.<sup>7</sup>

### 3. SECTION 221 Cr.P.C., SCOPE AND APPLICATION

Charge is the foundation of the accusation and every care must be taken to see that it is not only properly framed but that the evidence is available in respect of the matter put in the charge.<sup>8</sup> It is basic principle of law that before summoning a person to face a charge and more particularly when a charge-sheet is actually framed, the Court concerned must be equipped with at least *prima facie* material to show that the person who sought to be charged is guilty of an offence alleged against them.<sup>9</sup> If *prima facie* case cannot be established, then framing of the charge amounts to illegal exercise of jurisdiction.<sup>10</sup>

Sections 221, 222 and 223 of the Code specify particulars that should be stated in the charge. The object of such statement to enable the accused person to know the substantive charge he will have to meet and to ready for it before the evidence is given. The accused should be informed with certainty and accuracy the exact nature of the charge brought against him; otherwise he may be seriously prejudiced in his defence. Accused convicted for the offence for which he has not been tried at all, conviction being in vacuum cannot be sustained.<sup>11</sup>

7. 2007 PCr.L.J 829.

8. 1980 Cr.L.J 254 (Bom.).

9. 1984 Cr.L.J 886.

10. 1987 Cr. L.J 1658.

11. PLD 1985 (AJ&K) 125.