



CHARGE & DISCHARGE UNDER CRPC/ BNSS

<p>(S 211-214 (BNSS - 234- 237) - Contents of charge</p> <p>S – 211 Content of charge</p> <p>S - 212 – Particulars of charge (Time , Place , Person)</p> <p>S - 213 – More details shall be included : Manner of offence</p> <p>S - 214 – Words understood according to the law _____</p> <p>S - 215 – Effect of errors (BNSS – 238) & S – 464 (510)</p> <p>S - 216 – Alteration of charges (BNSS – 239)</p> <p>S- 217 – Re call witness when charge altered (BNSS – 240)</p>	<p>S – 218 General rule :Separate charge for distinct offence (BNSS – 241)</p> <p>EXCEPTION TO S-218 (Joinder of charges)</p> <p>S – 219 – 3 offences of same kind (BNSS – 242)</p> <p>S – 220 – Multiple (one trial) (BNSS – 243)</p> <p>S – 221 – Doubt of offence committed (BNSS – 244)</p> <p>S - 223 - 2 or more persons can be charged jointly and tried. (BNSS – 246)</p> <p>_____</p> <p>S – 222- Convicted for minor offence even if not charged. (BNSS – 245)</p>
<p style="text-align: center;">DISCHARGE</p> <p>S – 227 (BNSS -250) – Discharge by session judge</p> <p>S – 239, (BNSS -262,)- Discharge by Magistrate in Police cases.</p> <p>S – 245,246 (BNSS – 268,269) - Discharge by Magistrate in Complaint cases.</p>	<p style="text-align: center;">CHARGE</p> <p>S – 228 (BNSS -251) - Charge by session judge</p> <p>S – 240 (BNSS -263) - Charge by Magistrate in Police cases.</p>

S – 211 /234

- State the offence with which the accused is charged.
- Specific name to the offence/ or give the notice of the offence to the accused.
- Written in the language of court.
- Law & section shall be mentioned.

S – 212 /235

- Time & Place of offence.
- Person against whom the offence has been committed.

S – 213/236

When the details in sections 211/**234** and 212/**235** are **not enough** to inform the accused about what they are being charged with, the charge must **include more details** about how the alleged crime was committed to make it clear.

S – 214 /237 : Words understood according to the law

S – 215 /238 : **Effect of error**

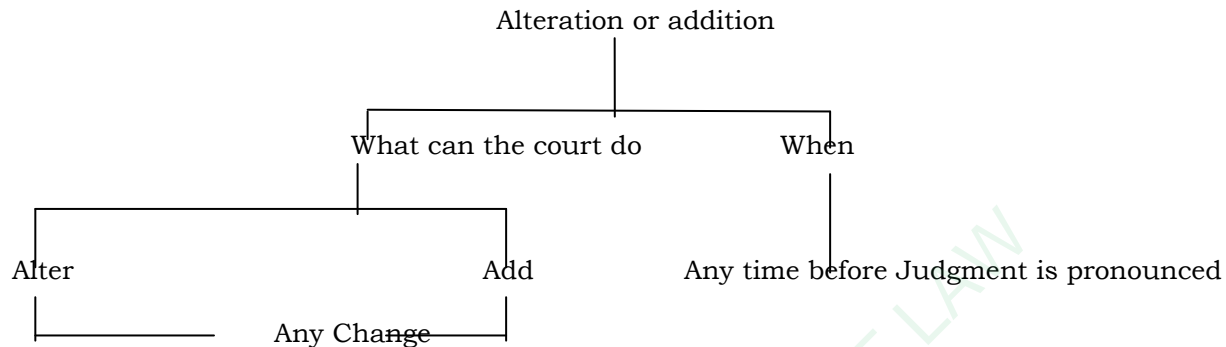
According to Section 215/238 **neither errors nor omissions** in stating the offence or the particulars are considered **as material** at any stage of the **except** in the cases where the accused was in fact **misled by the error or omission**, and it resulted in failure of justice.

Section 464/**510** CRPC/BNSS states that a **mere omission to** frame the charge or any error or irregularity in the charge including the misjoinder of charges will be **no ground for de novo trial** (afresh) or a re-trial unless it lead to a failure of justice for the accused.

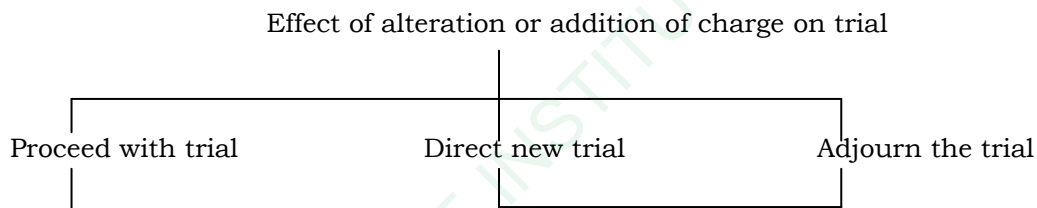
S – 216 / 239 : Alteration of charges

The trial court or the appellate court may either alter or add to the charge provided the only condition is

Accused must have been given the opportunity of meeting and defending the charge against him.



Every alteration shall be read and explained to the accused



If the new charge is not likely to cause Prejudice prejudice to accused or prosecution.

If the new charge can cause to accused or prosecution.

S – 217/240

When Change is altered or added then both the parties shall be allowed to recall or re-summon or to examine.

S – 218 /241 : Basic rule - Separate charge for distinct offence (by an application in writing magistrate may try together)

S – 219 /242 :

More than 1 **same** offence (Max 3) + Within a period of 12 months

(Same kind of offences = Same amount of punishment)

S – 220 /243 : **One trial** for multiple offence

a) One Person (Same) + More than 1 offence + Same transaction (Several acts are connected)

b) Accused is charged with one or more offences of **criminal breach of trust or dishonest misappropriation of property** = one trial

c) Single acts + Act alleged fall under different definition of offences

d) Act form an offence + also constitute different offence when separately taken = single trial

S – 221 /244

Charged for **all or** any one of the offence if **doubt** for what offence the accused is to be charged.

S – 222 /245

Convicted for **minor offence** (if proved some particulars only), though he was not charged with it.

It is an exception to the general rule that a person cannot be convicted of an offence with he is not charged.

S – 223 /246 : The following persons may be charged and tried together.

1) Different Persons + Same offence + Same transaction

- 2) Principal offender and persons accused of abetment (abettor, or attempter)
- 3) Different Persons + Same offence + More than 1 offence + Within 12 Months
- 4) Different Persons + Different offences + Same transaction
- 5) Different Persons + Offences → Theft, extortion, cheating, criminal misappropriation of property **along with** Persons receiving, retaining or assisting in disposal of property.
- 6) Persons accused of offences in respect of **stolen property** the possession of which has been transferred by one offence.
- 7) Persons accused of offence in respect of counterfeit coin or of abetment of or attempting to commit any such offence.

S – 227 (BNSS -250) – **Discharge** by session judge

When there are no grounds to frame charge, the accused may be discharged. The accused may prefer an application for discharge within a period of sixty days from the date of commitment of the case under section BNSS - 232

S – 239, (BNSS -262,)- **Discharge** by Magistrate in Police cases.

- Section 239 CrPC provides for discharge of accused in warrant cases instituted upon a police report. The power under section 239 Cr.P.C. is exercisable when Magistrate considers the charge against the accused to be groundless.
- Section 262(2) BNSS is similar to section 239 CrPC but section 262 BNSS provides an opportunity to the learned Magistrate to examine the accused either **physically or through audio – video electronic means**.

- Section 262(1) BNSS stipulates a time limit of **60 days** from the date of supply of documents under section 230 BNSS within which an application should for discharge should be filed by the accused.

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