

RMM LAW COLLEGE SAHARSA
CODE OF CRIMINAL PROCEDURE

IIIrd Part

Paper -3

TOPIC- Section 210 and THE CHARGE

Lecture Notes by- **BINOD KUMAR JHA**

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Section - 210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence

(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code

Comments

Filing of complaint case and FIR lodged simultaneously Magistrate empowered to stay complaint call for report on police officer and tried together was proper; *Birendra Kumar v State of Bihar, 2000 Cr LJ 145 (Pat)*

CHAPTER XVII - THE CHARGE

A—Form of charges

Section - 211. Contents of charge –

- (1) Every charge under this Code shall state the offence with which the accused is charged
- (2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only
- (3) If the law which creates the offence does not give it any specific name so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged
- (4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge
- (5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case
- (6) The charge shall be written in the language of the Court
- (7) If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact date and place of the previous, conviction shall be stated in the charge; and if such statement has been omitted, the Court may add it at any time before sentence is passed

Illustrations

- (a) A is charged with the murder of B This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code (45 of 1860); that it did not fall within any of the general exceptions of the said Code; and that it did not fall

within any of the five exceptions to section 300, or that, if it did fall within Exception 1, one or other of the three provisos to that exception applied to it

(b) A is charged under section 326 of the Indian Penal Code (45 of 1860) with voluntarily causing grievous hurt to B by means of an instrument for shooting This is equivalent to a statement that the case was not provided for by section 335 of the said Code, and that the general exceptions did not apply to it

(c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definition, of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge

(d) A is charged under section 184 of the Indian Penal Code (45 of 1860) with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant The charge should be in those words

Section- 212. Particulars as to time, place and person -

(1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or other moveable property, it shall be sufficient to specify the gross sum or, as the case may be, described the movable property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of **section 219**: Provided that the time included between the first and last of such dates shall not exceed one year

Section - 213. When manner of committing offence must be stated -

When the nature of the case is such that the particulars mentioned in sections 211 and 212 do not give the accused sufficient notice of the matter with which he is charged, the charge shall

also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose

Illustrations :-

(a) A is accused of the theft of a certain article at a certain time and place The charge need not set out the manner in which the theft was effected

(b) A is accused of cheating B at a given time and place The charge must be set out the manner in which A cheated B

(c) A is accused of giving false evidence at a given time and place The charge must set out that portion of the evidence given by A which is alleged to be false

(d) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place The charge must set out the manner in which A obstructed B in the discharge of his functions

(e) A is accused of the murder of B at a given time and place The charge need not state the manner in which A murdered B

(f) A is accused of disobeying a direction of the law with intent to save B from punishment The charge must set out the disobedience charge and the law infringed

Section - 214. Words in charge taken in sense of law under which offence is punishable

In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable