

CHARGES UNDER BNSS (CHAPTER XVIII)

Definition

Section 2(f) of BNSS, 2023

“**Charge**” includes any head of the charge when the charge contains more heads than one.

Meaning

A charge is a **formal accusation** against an individual, describing the **specific offence** he or she is alleged to have committed. It sets the framework for the criminal trial by notifying the accused of the offence and helping them prepare their defence. It must be **precise, legally framed, and based on sufficient evidence**.

Form of charges (Section 234 to 240)

Contents and Formulation of Charge (Section 234)

Every charge must contain:

1. **Name of the offence**
2. **If the law which creates the offence does not give it any specific name, definition of the offence**
3. **The law and section of the law against which the offence is said to have been committed**
4. **Legal provision under BNS or other laws**
5. **Facts constituting the offence**
6. **The charge shall be written in the language of the Court.**
7. **Details of any prior convictions, if relevant**

Section 235 – Particulars of Time, Place, and Person

Charge must specify:

- **Time and place** of the offence
- **Victim’s identity** (if applicable)

When a person is charged with **criminal breach of trust** or **dishonest misappropriation** of money or movable property, the charge **need not mention each specific item or exact date**. It is enough to just mention the **total amount** or give a general **description of the property**, along with the **time period** during which the offense took place. However, this period must **not be more than one year**. The charge will still be considered as **one single offense** under Section 242, even if it covers multiple acts within that one-year period.

Section 236 – Manner of Offence

When an offence (e.g., cheating, giving false evidence) involves a particular manner, the **specific mode of commission** must be stated.

Illustration: If A cheats B, it must state *how* A cheated B.

Section 237 – Interpretation of Words

Words in a charge must be interpreted as per the **law under which the offence is punishable**.

Section 238 – Effect of Errors

- Technical errors in framing a charge do **not vitiate** the proceedings unless they **prejudice the accused** and there is no miscarriage of justice.

Section 239 – Alteration of Charge

Court can alter or add to a charge:

- **Before** judgment
- Must be **read and explained** to the accused.

If the court changes or adds something to the charge, and it feels that continuing the trial immediately may **unfairly harm** either the **accused** or the **prosecutor**, then the court has two options. It can either **start a new trial from the beginning** or **postpone (adjourn)** the trial for some time. This is to ensure that both sides get a fair chance to prepare their case after the change.

If the **new or changed charge** is for an offence that **requires prior government approval (sanction)** to prosecute, then the court **cannot continue the trial** until that **sanction is obtained**. However, if permission had already been taken earlier based on the **same facts**, then there is **no need to get it again**. This ensures that legal procedures are properly followed when dealing with offenses needing special approval.

Section 240 – Recall of Witnesses

If the charge is altered, the prosecutor and the accused shall be allowed

- **to recall witnesses** for further examination.
- call **further witness** if necessary.

Joinder of Charges (Sections 241 To 247)

Section 241 – Separate Charges for Distinct Offences (General Rule)

Each **distinct offence** must have a **separate charge and trial**.

Exceptions:

1. **Accused's Application:**
 - If the accused **applies in writing**, the Magistrate **may allow** joinder of charges.
 - Must not cause **prejudice** to the accused.
2. When charges can be tried together as per the provisions of BNSS.

Section 242- Offences of Same Kind

- Up to **five offences** of **similar nature** within **12 months** may be tried together.
- Must fall under the **same section** or **related law**.
- For the purpose of trying similar offenses together in one trial, the law says that certain offenses will be treated as the same kind even if they fall under different sections. For example, an offense under Section 303(2) of the Bharatiya Nyaya Sanhita will be considered the same kind as an offense under Section 305. Also, if a person is charged with trying to commit a crime, and that attempt is itself a punishable offense, then it will be treated as the same kind as the full offense. This helps the court combine such related charges in one trial to save time and avoid multiple proceedings.

Section 243 – Trial for More than One Offence

Multiple offences may be tried together if:

Arise from same transaction (a series of connected acts)

A. If a person is charged with:

- **Criminal breach of trust** or **dishonest misappropriation of property**, and also with
- **Falsification of accounts** (i.e., changing records to hide the offence),

→ Then **all these charges** can be tried **together in one trial**.

Example:

Let's say Mr. A works in a company and:

- He **steals company money** (criminal breach of trust),
- And he **fakes entries in the accounts** to hide the theft (falsification of accounts).

→ Instead of doing separate trials for theft and fake accounting, the court can try **both offences together** in a single trial.

B. If one action by a person breaks **two or more different legal provisions**, they can be **charged and tried for all those offences together**.

Example:

Suppose a person forges a document:

- This could be **forgery** under one section,
- And also **cheating** under another,
- And maybe even **using a forged document as genuine** under a third section.

→ Instead of doing three separate trials, the court can combine all the charges **in one trial**, because all of them arise from **the same action**.

C. If a person commits **several acts**, and:

- Each act is a **separate offence**, or
- The acts together form a **composite or bigger offence**,

→ Then the person can be **charged and tried**:

- For **the overall combined crime**, and
- For **each individual act** that is an offence.

Example:

Let's say Ms. B:

- Breaks into a house (trespass),
- Steals items (theft),
- Hurts someone during the theft (causing hurt), → All of this together could be treated as **robbery** (a more serious offence).

→ The court can charge and try her for:

- **Robbery** (which includes all the acts), and also
- **Each separate act** – like trespassing, theft, and hurt.

Section 244 – Uncertainty in Offence

When it's **unclear which offence** is committed:

- The accused may be charged with may be charged with **all** or **any** of those offences and any number of those charges may be tried at once; or he may be alternatively charged with the commission of all or any of the offences alleged in the charge.
- If evidence shows commission of a different offence **not charged**, conviction for that offence is permissible.

Section 245 – Minor offence included in Major offence

If the accused is charged with a major offence and evidence proves only a **minor included offence**, conviction for the **minor** offence is valid.

Section 246 – Joint Trials

The following persons can be charged and tried jointly:

- (a) Those involved in **same transaction**
- (b) **Principal offenders and abettors**
- (c) Persons committing **same kind of offences within 12 months**
- (d) Persons committing **different offences** in the same transaction
- (e) Principal offender and persons aiding in **disposal/concealment of property**
- (f) Offences related to **stolen property** under Section 315 BNS
- (g) Persons involved in **counterfeiting** or similar abetment under Chapter X of BNS

Proviso: Court must ensure **no prejudice** is caused to any accused and must receive a **written request** from accused for joint trial in some cases.

Section 247 – Withdrawal of Remaining Charges

- Upon conviction on one/more charges, the remaining charges can be:
 - **Withdrawn by the complainant, prosecutor** with court's permission, or
 - **Stayed by the court of its own accord**
- **Such withdrawal = acquittal**, unless the conviction is set aside.
- If conviction is set aside, the court may **reopen trial** on withdrawn charges.

Case laws

1. Balakrishna v. State

Framing of charge is a vital stage in criminal trial and must be done with utmost care by judges.

2. Kailash Gir v. V.K. Khare

Irregularity in charge is not fatal unless it causes **prejudice** to the accused.

3. Ranchhod Lal v. State of M.P.

Non-inclusion of particulars due to lack of info does **not invalidate** proceedings.

Conclusion

The provisions related to **charges and joinder of charges** under BNSS are designed to **streamline criminal trials**, provide **clarity to the accused**, and ensure **procedural justice**. While the **general rule mandates separate charges for distinct offences**, BNSS introduces **several practical exceptions** that balance **judicial efficiency** and **fairness**. The reformed provisions reflect a shift towards a **simplified, accused-friendly, and less technical** criminal procedure framework.

