



USHA VATS
& ASSOCIATES

FRAMING
OF
CHARGE
IN CRIMINAL TRIAL

PREPARED BY ADV. USHA VATS & ADV. MANOJ PARASHAR

Here's a **clear, structured, and detailed explanation** of the **power and procedure of framing of charge** under criminal law, including **relevant sections, stages, magistrate's role, and key case laws (supra judgments)** — all in **simple English** as you asked.

1. What is “Framing of Charge”?

Framing of charge is the stage in a criminal trial where the Magistrate or Sessions Court formally informs the accused of the **specific offences** they are being tried for.

It is **not a finding of guilt**, but a **prima facie satisfaction** of the court that there is enough material to proceed with a trial.

2. Relevant Sections of Cr.P.C.

The law relating to framing of charge is laid down under:

Sections 239–240 Cr.P.C. (Magistrate Trial – Warrant Cases)

- **Sec 239** – Discharge if the charge is groundless.
- **Sec 240** – Framing of charge if there is sufficient ground to presume offence.

Sections 245–246 Cr.P.C. (Complaint Cases)

- **Sec 245** – Discharge
- **Sec 246** – Charges framed after evidence

Sections 227–228 Cr.P.C. (Sessions Cases)

- **Sec 227** – Discharge
- **Sec 228** – Charge framed if prima facie case exists

Sections 211–214 Cr.P.C.

These sections talk about **form and content of the charge** — what details must be mentioned (time, place, offence, particulars).

3. Stage of Framing Charges

The charge is framed **after**:

- Taking cognizance (u/s 190 Cr.P.C.)
- Supplying documents to the accused (u/s 207 Cr.P.C.)
- Considering the police report (u/s 173 Cr.P.C.)
- Hearing both sides (accused + prosecution)

No detailed evidence is required at this stage.

The Court only sees:

FIR

Statements u/s 161

Chargesheet

Case diary

Documents filed

4. Standard Applied by Court

At this stage, the court does **not evaluate evidence minutely**. It only sees if there's a **prima facie case**.

Court applies the “**strong suspicion test**.”

Not required: Proof beyond reasonable doubt

Only required: Whether there is material to proceed

5. Powers of Magistrate in Framing Charge

The Magistrate can:

Frame Charge

If material shows that:

- Accused is probably involved
- Ingredients of offence exist

Discharge

If:

- The allegations are baseless
- No material points to guilt

Alter or Add Charges (Sec 216 Cr.P.C.)

The Court may change or add any charge **at any time before judgment.**

Proceed on Lesser Offence (Sec 222 Cr.P.C.)

6. Rights of the Accused at This Stage

Accused may:

- Seek **discharge application** u/s 239/227
- Argue **no prima facie case exists**
- Challenge the framing of charge through:
Revision Petition u/s 397 CrPC
Sec 482 CrPC (High Court – inherent powers)
- Claim *no mens rea, civil nature of dispute, no role, delay, etc.*

7. Important Supreme Court Judgments (Supra Judgments)

Here are landmark rulings explaining magistrate's powers at the charge framing stage:

1. Union of India v. Prafulla Kumar Samal (1979) 3 SCC 4

- Court must apply judicious mind
- Not a mechanical exercise
- If grave suspicion arises → frame charge

2. State of Bihar v. Ramesh Singh (1977) 4 SCC 39

At this stage, only prima facie view is required
Detailed evaluation is not proper

3. Sajjan Kumar v. CBI (2010) 9 SCC 368

If there is **strong suspicion**, charge must be framed
Court cannot conduct a mini-trial

4. State of Tamil Nadu v. N. Suresh Rajan (2014) 11 SCC 709

Probative value of evidence should not be examined here
Only look for sufficient suspicion

5. Amit Kapoor v. Ramesh Chander (2012) 9 SCC 460

Discharge only when accusations are absurd
Even circumstantial material is sufficient for charge

6. Sheoraj Singh Ahlawat v. State of U.P. (2013) 11 SCC 476

Defence documents cannot be looked at during this stage

7. Onkar Nath Mishra v. State (2008) 2 SCC 561

Court cannot weigh probability of conviction now

8. Example to Understand

Case Example:

An FIR is filed under **Sections 420, 406, 34 IPC** for cheating and breach of trust. The chargesheet is filed, and documents are given to the accused.

Accused argument: The matter is civil in nature; no dishonest intention at the beginning.

Court Reaction:

Court will see:

- ✓ FIR
- ✓ Statements
- ✓ Case diary
- ✓ Prima facie ingredients

If strong suspicion exists → charges will be framed

If no material → accused discharged

9. Revision or Challenge Against Wrongful Charges

If the Magistrate wrongly frames the charge:

The accused can file **Revision** u/s 397 Cr.P.C.

Or file petition u/s 482 Cr.P.C. in High Court

High Court may quash the charges if:

Allegations are false

No material exists

It's a civil dispute dressed as criminal case

Case Law:

Bhajan Lal Case (1992 Supp (1) SCC 335) – court can quash abuse of process.

10. Difference Between Discharge and Framing Charge

Point	Discharge	Framing of Charge
Stage	Before charge	After prima facie case
Criteria	No sufficient ground	Existence of strong suspicion
Section	227 / 239 / 245	228 / 240 / 246
Result	Accused released	Trial starts

11. Key Principles Summarized

Court must apply **judicial mind**

Only **strong suspicion** required

No detailed scrutiny of evidence

Defence evidence is **not considered**

If no material → **discharge**

If error → **alter charge** (Sec 216 CrPC)

Revision/482 CrPC available

12. Conclusion

The power of the Magistrate at the framing of charge stage is:

- **Wide but controlled**
- **Based on prima facie view**
- **Not a trial or evaluation**

If material exists → charge is framed

If no material → discharge is mandatory

Accused has remedies like:

Discharge application

Revision

Sec 482 CrPC

Supreme Court has consistently held that at this stage:

"Only suspicion, not proof, is needed"