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Charge sheet under section 173 crpc

Author: Shreya Sahoo Charge-Sheet Introduction An investigation report is covered under Section 173, CrPC, indispensable in its terms. By exercising power under Chapter XII, CrPC materials relating to the investigation must be collected to form the premise of the report and this is a continuous process beginning with the assembly of evidence purchased on the basis of the exercise of power within the meaning of Section 156 and ends with the submission of the report pursuant to Article 173. [1] This report, which is commonly referred to as a power sheet or challan, is the final report presented by the investigating officer to a competent magistrate, after the completion of his investigation. According to Section 173(2), the following must be indicated in such a police report- Name of the parties Nature of the information Names of persons who appear to be familiar with the situation of the case If any crime appears to have been committed and, if not, by whom the accused was arrested If he was released on his bond and, if not, , if with or without qualifications He has been sent to custody in accordance with Section 170 Section 173 requires that a report be prepared in the event of a non-cognitive offence, even if the magistrate did not direct the preparation of that report after the magistrate instructed the police to investigate a non-cognitive offence within the meaning of Article 156. The case cannot be eliminated without obtaining the magistrate's order. However, the police receive information of a cognitive crime and the case is recorded, although the inquisition officer cannot be discredited from investigating any unrecognisable or subsidiary offences that may emanate from the facts. He may include these latter results in the final report referred to in Article 173. [2] According to Section 173 the investigation must be completed without unnecessarily the process and that as soon as the report is prepared, the investigating officer must forward it to the magistrate. [3] In addition, if the officer discovers that one of the facts is false, he is not obliged to submit a debit sheet. For example, if the officer at the time of the investigation discovers that the injuries were administered under the right of private defence, it is not an imperative duty of the officer to submit a debit sheet. [4] In addition, an incomplete charge sheet cannot be considered a police report as inhabited in section 173 (2), to authorize the magistrate to become aware of the crime. The Code of Criminal Procedure states that, the authority to determine whether a case is made against the accused or is not the responsibility of the police officer conducting the investigation. [5] The magistrate cannot force the police officer to change their point of view to respect his opinion. [6] In addition, after magistrate has his final report he cannot become aware of a crime on a complaint about the same facts that constitute the crime as this will produce two irreconcilable court orders. [7] Failure by the police to act in accordance with the provisions of this Section shall not, however, result in a compromise of the procedural procedure, however, such irregularity will affect Article 465. [8] In addition, in cases where a case and his counter-case regarding a crime is recorded by the police, based on a conflicting narrative, the inquiring officer is not required to submit two separate charge sheets in both cases. After the completion of the investigation, when the crime commission's report was made to the magistrate, he has no right under Article 159 or Section 202 to make an additional investigation into the same matter[9] or to ask the police to carry out such investigations. [10] Notice of informant when the judge does not take note The Supreme Court in the historical judgment of Balwant Singh ruled that if after the police report was made pursuant to Section 173(2), the magistrate does not take the knowledge of the crime and decides to abandon the case due to the absence of adequate evidence and reasons to hold proceedings against some of the persons mentioned in the F.I.R. , he shall give a notice and the possibility for the whistleblower to be heard when the report is being considered. But the sending of such notices is not mandatory by the magistrate or relative of the deceased. [11] Section 173 (2) (ii) requires that the officer in charge of the police station also inform the first informant, the action taken by him in accordance with the information provided to him by the informant. [12] Sub-section 4: No discharge power of Section 173 (4) appears to concern cases exclusively provided for in Section 169, i.e. if the police officer of the building who has no reasonable suspicion or evidence is present against a defendant can release the accused in bonds as indicated by the magistrate. The prosecution may then appeal to Section 321 to seek permission to withdraw. However, a discharge within the meaning of this Section is illegal. [13] Furthermore, the words or not indicate that the magistrate may order the prosecution of the accused who has been released on bail under Section 169 because his powers are independent of the question of whether or not the police have arrested the accused who, in his opinion, should be tried. [14] Sub-section (5) Section 173 (5) states that if Section 170 applies to a police report forwarded to the magistrate under Section 173 (2), the police officer must send the report with all relevant documents or details to the magistrate on The charge will be based on the one they sent during the investigation. In addition, copies of the declarations registered pursuant to Section 161 of the witness the prosecution presents to examine must be attached to those documents that are forwarded to the magistrate. The provision is purported to be noted for the defendant compared to what he must meet during the trial. In addition, this sub-section is applicable to such declarations that have been registered. In addition, even when any document has not been attached with a police report, the prosecution can still produce the document at trial. This provision governs the terms of reference and summons cases. [17] Failure to comply with this provision where a result of which statements recorded by witnesses for examination should not be provided should not be allowed to have a far-reaching effect to spoil the process. [18] In addition, the defendant must prove that he has been prejudiced and the miscarriage of justice took place due to non-compliance with Section 173 (5), before a trial can be rendered ineffective. Sub-report (6) If the police officer is of the opinion that part of the statement is not relevant to the subject matter of the proceedings or that the disclosure has no meaning in the interests of justice and is not relevant in the public interest, he may ask the magistrate to exclude such a statement together with corresponding reasons. Sub-section (7) The police officer inquire, if possible, must provide the accused with copies of all or one of the documents referred to in Section 173 (5). If a conversation between the complainant and the accused was recorded on a tape and the tape was also deposited in court, the judge cannot refuse the tapes to the accused. [19] Sub-section (8): Filing of two charge sheets It is inevitable that the main police report will be submitted to the magistrate after the conclusion of the Section 173 investigation (2). However, if the investigating police officer discovers additional evidence of the defendant's innocence or guilt, the officer must be authorised in the interests of justice to carry out further inquiries and submit the additional report to the magistrate concerned. And this bill was enacted under Sub-Section 173 (8). This provision delegates explicit and specific power to the investigating officer to continue the addition investigation even after the court has taken over. In Nataraj Jin Periasami v. Police inspector, it has been noted that: Section 173(8), has just been added in order to make it expressly clear that simply because an investigating officer has sent a police report to the magistrate, he would not be barred from making further inquiries in the case and presenting a further report or reports to the magistrate regarding the additional evidence gathered by him Investigation. Because of this express provision, it should not be that if a police officer had made a mistake in giving full details of the names of the parties, the nature of the information, the names of witnesses, etc. in his first report, he cannot correct the error by submitting a second report. When the Code has provided for further investigation after a report has been filed before a magistrate, there can be no bar for the police presenting a second or revised report on materials already collected during the investigation specifically when the second report is intended to correct certain errors or omissions in the first report. Two charge sheets may be filed by the police against the same offender under Section 409, 467, 471, 477 and 420 of the Indian Criminal Code (here IPC). Just because further investigations have been ordered and the debit card has been filed by the police, the previous charge sheet will not be cancelled. [21] This subsection is only permissive that neither the defendant nor the prosecution cannot implore as a matter of law a command by the court to direct further investigation by the investigating officer under Section 173 (8) after an indictment sheet had been filed. [22] Procedure for submitting charge-sheet 1. Filing Of First Information Report Section 154 (i) requires an officer in charge of a police station to record all information he receives in writing if it is evident or revealed that the crime committed qualifies as a conscious crime. However, in the event of an unconscious crime, the information is recorded in a book dedicated for this purpose and the police officer in charge of that station must refer the informant to a competent magistrate in accordance with Section 155 (1). The police officer shall not carry out any investigation until such orders are received. After these orders have been received, the police officer may exercise his power to investigate, except that he cannot exercise his power of arrest without a warrant. 2. Initiation of investigation: a cognitive offence In the event of a cognitive offence, a current official may initiate investigations without the magistrate's order. If prima facie the commission of a cognitive crime is revealed, the police officer must prepare a police report or commonly known as a charge sheet on the basis of the investigation conducted by him or his competent subordinates. The magistrate therefore has the right to become aware of the case. 3. Initiation of the investigation: Non-cognitive crime In case of unconscious crime, the officer referred to in Article 155 (1) must refer the informant to the magistrate with the right jurisdiction and initiate further investigations in accordance with the orders of the magistrate. A further of a police officer after an investigation contrary to Section 155 (2) could be considered a complaint within the meaning of Section 2 (d) and Section 190 (1) (a) of the Code provided that at the beginning of the investigation the police officer concerned is led to assume that the case involved the commission of a cognitive crime or if there is any suspicion regarding the same and for investigation it turns out that the case involves the commission of a non-cognitive crime. However, the report cannot be treated as a complaint within the meaning of Section 2 (h) or Section 190 (1) (a) of the Code, if the police at the beginning of the investigation had known that the case concerned the commission of an unrecognisable offence. In the case of P. Kunhumammed v. State of Kerala[23] the judge established the following rule: Whenever a police officer's report of a non-cognizable crime is brought to the notice of a magistrate he must examine the matter and apply his judicial mind and find out if (a) it is a case in which the re-investigation must be ordered under Section 202 of the Code or (b) whether it could be treated as a case in which the new investigation must be ordered under Section 202 of the Code or (b) whether it could be treated as a case where the new investigation is to be ordered under Section 202 of the Code or (b) whether it could be treated as an application under Section 2(h) and Section 190(1)(a) of the Code and, in the case of such knowledge, or if it is a case where the report cannot be treated as a complaint within the meaning of Section 2(A) and Section 190(1)(a) of the Code or (d), all circumstances that have been taken into account should be taken into account. Framing of charge forms of charge is basically that stage of a pre-trial procedure in which it is passed on to the defendant who does not have to be discharged and therefore has to face trial or admit guilt. The charge is the conclusion of the preliminary proceedings and a final order is exosive. [24] In V.C. Shukla v.C.B.I.,[25] Desai, J., agreeing with the majority opinion, said: The charge serves the purpose of notice or notice to the accused, drawn up in specific language of law, giving a clear and unequivocal or precise notice of the nature of the charge that the accused is called upon to satisfy during the trial. Article 211 clearly prescribes what the prosecution should contain and a naked reading of it, and the section that is supposed to be violated by the name of the law in which it is contained. The fact that the charge is made amounts to a statement that any legal condition required by law to constitute the offence accused has been fulfilled in this case. It is therefore an intimation or a notice for the accused of specific crime or of what charges of facts he is called to meet. The subject of an accusation is to warn an accused person of the case to which

he must answer. A prima facie case must be established before the caricature can be framed. Here is a breakdown of the sections under the code relating to framing the frame case or trial charges: Section 227 and Section 228 – Session process; Section 239 and Section 240 – Warrant cases; Section 245 (1) and (2) – Summon cases. The main reason behind Sections 211, 212 and 213 is certainly to authorise the accused to know the charges against him and to be prepared before the evidence is presented. [26] The Section basically provides for the requirements of an indictment that have been enumerated below – the offence by which the accused has been charged must be declared against that charge. The accused charge must correspond to a crime committed under the CPI. [27] The charge thus framed must include the words used in the IPC Section on which the charges were framed. Sir Asutosh Mookerjee, J., noted that it is a sound rule that the court should respect the language of the statute as far as possible, when an indictment is made; nothing is gained from a paraphrase, while the prosecution has the opportunity to make an exception to the form of the prosecution. The prosecution must indicate in an imperative way the intention if it constitutes the ade worthily of the crime, otherwise, the failure to mention the intention will spoil the charge. [28] The charge does not have to be indefinite and vague. [29] The charge must also contain the law and the section against which the crime was committed. It must also include details such as the time and place of the offence which the accused has been accused of committing. Article 212 gives judges the responsibility to give reasonably sufficient notice to the accused, otherwise he could be implicated in acts he has not committed. In cases where the charges are framed separately against the accused, the person will be tried for each separate crime. [30] Section 223 is the only section related to framing the charges that speaks of a joint trial of more than one person. This section lays down the rule for the departure of several defendants in a single trial for committing the same or different crime in the same course of the operation. This section is an exception to the general principle established in Section 220, according to which for each separate offence, the charge and trial must be separated. Furthermore, in the event of an error or omission in stating the crime or the necessary details, it is considered substantial, except in cases where such error or omission has deceived the accused and led to a failure of justice. [31] Sardar and Others v. The State, AIR 1961 Cal 181. Shri Ram Krishana Dalmia vs. State, 1958 Cr LJ 683. [3] R.P. Kapur v. State of Punjab, AIR 1960 SC 866. [4] Valummel Thommachan v. State, 1994 Cr LJ 1738 (Ker). [5] Union of India v Sushil Kumar Modi, JT 1997 (1) SC 679. Abhinandan Jha vs. Dinesh 1968 Cr LJ 97 (SC) [7] Bhuneshwar Prasad Sinha v. Stato del Bihar, 1981 Cr LJ 795 (Pat) [8] 1962 1962 Cr LJ 544 (545) (J&K). [9] 1899 AWN 87. AIR 1932 Lah 611. Bhagwant Singh against. Police Commissioner, 1985 Cr LJ 1521 (SC) [12] Amar Singh Tyagi v. Indra Pal Gautam, 1995 Cr LJ 1639 (All). 48 Cr LJ 774. [14] 7 Cr LJ 414 [15] AIR 1957 SC 623 [16] M. Moses Nadar v. Stato, 1982 Cr LJ 555 (Mad) [17] 1957 Cr LJ 188 [18] 1959 Cr LJ 959 [19] State of Maharashtra v. S. P. Munje, 1999 Cr LJ 1510 (Bom) [20] Anil A Lokhande v State of Maharashtra, 1981 Cri LJ 125.130 [21] Sharafat v. Station Officer P.S. Kotwali, Muzaffarnagar, 1999 CrJ 283 (All). Shyama charan Dubey v. State of UP 1990 Cri LJ 456, 459 [23] 1981 Cri LJ 356 [24] Jarnail Singh v. State, 1992 Cr LJ 810 (Raj). [25] 1980 Cr LJ 690 (SC) [26] Ishwar Das v. Sikkim State, 1998 Cr LJ 4447 (Sikkim). 9 WR (Cri) 23. [28] 14 Cr LJ 129 [29] 25 Cr LJ 1186 [30] Section 218, Code of Criminal Procedure. [31] Section 215, Code of Criminal Procedure. About the author: Shreya is a 2017-22 batch student at Nationa Law University Odisha. Disclaimer: Although we seek to ensure that the information provided, whether in relation to the products, services, or otherwise provided (here below mentioned as INFORMATION) on the website is correct at the time of publication, we or any third party shall not provide any guarantee or guarantee regarding the accuracy, timeliness, performance, completeness or suitability of the information and materials found or offered on this website for any particular purpose. It is your responsibility to ensure that all products, services or information available through this website meet the specific requirements. Neither the website nor any person/organization acting on its behalf can assume any legal responsibility/responsibility. Terms and conditions/ (Click here) Here)

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