
FRAMING OF CHARGES AND PROSECUTION EVIDENCE IN A SESSIONS TRIAL

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ABSTRACT

The right to a fair trial, which is protected by Article 21 of the Indian Constitution, is the foundation for the administration of criminal justice within adversarial systems. The Sessions Trial holds a crucial position in criminal jurisprudence, handling serious crimes with harsh punishments. A Sessions Trial's course and integrity are determined by two crucial phases: the recording of prosecution evidence and the formulation of charges. The procedural rules guiding the formulation of charges under the Code of Criminal Procedure, 1973 (CrPC) and its contemporary statutory successor, the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), are thoroughly examined in this study. It looks at the legal standard needed to prosecute an accused person, moving from the assessment of prima facie suspicion to the demanding standard of proof beyond a reasonable doubt. Additionally, three significant landmark rulings from the Indian Supreme Court are examined in this article (*Union of India v. Sajjan Kumar v. CBI*, *State of Orissa v. Debendra Nath Padhi*, and *Prafulla Kumar Samal*) to assess the limits of judicial discretion, the rule prohibiting pre-trial prejudice, and the initial exclusion of defense documents. Lastly, the study looks at the prosecution's evidence phase, assessing procedural safeguards, witness examination, and statutory timelines.

Keywords: Judicial Discretion, Prima Facie Case, Prima Facie Suspicion, Framing of Charge, Discharge, Prosecution Evidence, CrPC, and BNSS.

1. INTRODUCTION

The criminal justice system aims to preserve the delicate balance between the constitutional guaranty of individual liberty and societal security. The Sessions Trial is the highest level of original criminal jurisdiction at the district level in India, where criminal processes are organized according to the seriousness of the alleged offense. A trial before a Court of Session is a carefully controlled process intended to guaranty that an accused person has full notice of accusations, a sufficient opportunity to defend, and a trial free from procedural arbitrariness. It is not just a legal formalization for establishing guilt. There are distinct phases to the trial procedure. The parties' substantive rights are determined by two procedural pillars: (1) the Framing of Charges, where the court moves from pre-trial inquiry to formal trial by determining whether the material reveals grounds for presuming guilt; and (2) the Prosecution Evidence Stage, where the state bears the heavy burden of proving every element of the offense beyond a reasonable doubt through oral, documentary, and forensic evidence.

2. STATUTORY FRAMEWORK GOVERNING SESSIONS TRIALS

The procedural framework governing a Sessions Trial was traditionally codified under Chapter XVIII (Sections 225 to 237) of the Code of Criminal Procedure, 1973 (CrPC), and has been modernized under Chapter XIX (Sections 248 to 260) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).

STAGES OF SESSIONS TRIAL PRE-TRIAL & EVIDENCE

Commitment (S.209 CrPC / S.232 BNSS) → Opening Case (S.226 CrPC / S.249 BNSS) →
Discharge / Charge (S.227/228 CrPC)

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Plea of Accused (S.229 CrPC / S.252 BNSS) → Prosecution Evidence (S.231 CrPC / S.253 BNSS)

The trial opens under Section 225 CrPC (Section 248 BNSS), which mandates that the prosecution be conducted exclusively by a Public Prosecutor. Under Section 226 CrPC (Section 249 BNSS), the prosecutor opens the case by describing the charges and stating the evidence intended to prove guilt.

3. STATEMENT OF THE PROBLEM

Errors at the charge stage may leave the accused uncertain about the case to be met, while premature assessment of evidence may turn a preliminary inquiry into a mini-trial. At the evidence stage, delay, witness non-attendance, defective investigation, unreliable identification, improper handling of electronic records and inadequate opportunity for cross-examination may affect fairness. The problem is how procedural law can balance efficient trials with the accused's right to a fair hearing and the public interest in prosecuting crime.

4. OBJECTIVES OF THE STUDY

- To explain the BNSS framework for framing charges and recording prosecution evidence;
- To distinguish discharge from framing of charge;
- To examine the procedure for scheduling witnesses and producing evidence
- To analyse leading decisions on charge, fair trial and proof; and
- To suggest measures for improving fairness, clarity and timeliness.

5. RESEARCH METHODOLOGY

This article uses doctrinal legal research. Primary sources include the BNSS, 2023 and reported judicial decisions; secondary sources include standard criminal-procedure commentaries and legal research materials. The analysis is qualitative and interpretive. No interviews, field survey or statistical dataset has been used, so the conclusions are doctrinal rather than empirical.

6. STATUTORY FRAMEWORK UNDER THE BNSS, 2023

6.1 Public Prosecutor and opening of the case

Section 248 provides that every trial before a Court of Session shall be conducted by a Public Prosecutor. Under Section 249, when the accused appears or is brought before the court pursuant to commitment, the prosecutor opens the case by describing the charge and stating the evidence by which the prosecution proposes to prove guilt. The opening assists the court in understanding the prosecution theory; it is not itself proof of the allegations.

6.2 Discharge - Section 250

Section 250 permits the accused to apply for discharge within sixty days from the date of commitment under Section 232. After considering the record and documents and hearing both sides, the judge must discharge the accused and record reasons if there is no sufficient ground for proceeding. This safeguard prevents a trial where the material does not justify continuation. The judge should apply judicial mind without conducting a full trial or finally deciding the credibility of every witness.

6.3 Framing of charge Section 251

Section 251 is the principal provision. If, after considering the material and hearing the parties, the judge finds ground for presuming that the accused has committed an offence, the consequence depends on whether the offence is exclusively triable by the Court of Session. If it is not exclusively triable there, the judge may frame a charge and transfer the case to the Chief Judicial Magistrate or another Judicial Magistrate of the First Class for trial according to law. If the offence is exclusively triable by the Court of Session, the judge must frame the charge in writing within sixty days from the date of the first hearing on charge. The charge must be read and explained to the accused, physically or through audio-video electronic means, and the accused must be asked whether they plead guilty or claim trial.

"Ground for presuming" does not mean proof beyond reasonable doubt. It calls for a judicial assessment of the record to decide whether the case should proceed. The judge must not accept the prosecution story mechanically, but should avoid weighing the evidence as if delivering the final judgment. The charge should identify the offence and material particulars with sufficient clarity to enable the accused to understand and answer the accusation.

6.4 Plea of guilty Section 252

Where the accused pleads guilty, Section 252 requires the judge to record the plea and permits conviction in the judge's discretion. The plea should be clear, voluntary and understood by the accused. Because a guilty plea may result in conviction, the court should ensure that the accused understands its substance and consequences and that no ambiguity or coercion affects it.

6.5 Date for prosecution evidence - Section 253

If the accused refuses to plead, does not plead, claims trial, or is not convicted under Section

252, Section 253 requires the judge to fix a date for examination of witnesses. On the prosecution's application, the court may issue process to compel a witness's attendance or production of a document or other thing. This enables the prosecution to present its case while giving the court control over the trial timetable.

6.6 Evidence for prosecution - Section 254

Under Section 254(1), the judge takes the evidence produced in support of the prosecution on the date fixed. Witness evidence may be recorded through audio-video electronic means. Section 254(2) permits the deposition of a public servant to be taken through audio-video electronic means. Under Section 254(3), the judge may permit cross-examination of a witness to be deferred until other witnesses have been examined, or recall a witness for further cross-examination. These powers must be exercised judicially, preserving the accused's meaningful opportunity to test the evidence.

6.7 Related stages

The sequence continues with Section 255 (acquittal where there is no evidence that the accused committed the offence), Section 256 (entering upon the defence), Section 257 (arguments) and Section 258 (judgment of acquittal or conviction). These stages show why prosecution evidence must be recorded fairly: the decision must follow from the evidence and applicable standard of proof.

7. PRINCIPLES GOVERNING THE FRAMING OF CHARGES

7.1 Preliminary assessment, not final finding

At the charge stage, the judge asks whether the material discloses sufficient ground for proceeding. The court may sift the record to a limited extent, examine whether the statutory ingredients are disclosed and reject a case that is legally unsupported. It must not decide disputed questions that properly belong to the trial or require proof beyond reasonable doubt before evidence is recorded.

7.2 Clarity and particulars

A charge serves as notice. It should identify the offence and relevant legal provision and state the particulars required by law. A vague or materially misleading charge can impair preparation

of the defence. The consequences of a defect depend on the governing provisions and whether prejudice or failure of justice has occurred; not every technical defect automatically invalidates a trial.

7.3 Reasons and fairness

A reasoned order at the discharge stage promotes transparency and enables review. The judge should consider the record and submissions of both parties. The prosecution is not entitled to an automatic trial merely because an allegation has been made; conversely, the accused is not entitled to discharge merely because the defence offers an alternative explanation that requires evidence.

8. PROSECUTION EVIDENCE: PROCEDURE AND SAFEGUARDS

8.1 Types of evidence

Prosecution evidence may include oral testimony, documents, medical and forensic reports, expert opinion, physical objects and electronic or digital records, subject to applicable rules of admissibility and proof. The prosecution must establish relevant facts through legally admissible and sufficiently reliable evidence. The mere inclusion of an item in police papers does not necessarily establish its truth or admissibility at trial.

8.2 Examination-in-chief and cross-examination

Examination-in-chief allows a witness to give evidence supporting the party calling that witness. Cross-examination gives the opposing party an opportunity to test accuracy, memory, perception, credibility, bias and consistency. Re-examination may clarify matters arising in cross-examination. The discretion under Section 254(3) to defer cross-examination or recall a witness must be exercised carefully, particularly where sequencing may affect the defence's ability to test testimony.

8.3 Documentary and electronic evidence

Documents and electronic records must be proved in accordance with the Bharatiya Sakshya Adhiniyam, 2023 and other applicable law. For electronic records, the court must consider statutory requirements relevant to the record's form, authenticity and integrity. Investigators and prosecutors should preserve source data where required, document chain of custody and

satisfy applicable admissibility requirements.

8.3 Witness participation

Witness attendance is essential, but witnesses should not be intimidated or subjected to unnecessary delay. Courts should use lawful processes to secure attendance, maintain orderly scheduling and consider protective measures where legally justified. The accused must remain able to observe and challenge the evidence, subject to lawful arrangements for vulnerable witnesses.

8.4 Standard of proof

The prosecution ordinarily bears the burden of proving guilt beyond reasonable doubt. Suspicion, however strong, is not a substitute for proof. The court must assess the evidence as a whole, distinguish material contradictions from minor discrepancies and give reasons for its conclusions. Failure to prove an essential ingredient requires the court to apply the law governing acquittal.

9. LEADING JUDICIAL DECISIONS

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

The Supreme Court explained that at the charge stage, the court considers whether the material gives rise to a strong suspicion that the accused committed the offence. The judge does not conduct a meticulous evaluation as at final trial. This decision is commonly cited for the limited nature of the charge-stage inquiry.

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

The Court explained that the judge may sift and weigh the material for the limited purpose of determining whether a prima facie case exists, while avoiding a roving inquiry or final assessment of guilt. The court must exercise judicial discretion rather than act as a post office for the prosecution.

9.3 Sajjan Kumar v. Central Bureau of Investigation, (2010) 9 SCC 368

The Supreme Court summarised considerations relevant to framing a charge, including whether

the material creates grave or strong suspicion and whether proceeding to trial is justified. The assessment must be based on the record and cannot become a full evaluation of evidence

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

The Court discussed the limited scope of judicial interference at the charge stage and cautioned against conducting a mini-trial. It is useful for distinguishing preliminary assessment from final determination of guilt.

9.5 State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568

In the context of the CrPC charge stage, the Supreme Court held that the accused ordinarily cannot introduce defence material as of right to seek discharge under Section 227. The decision reflects the statutory focus on the record and documents before the court at that stage. Its application must be read with the governing provision and later law.

9.6 Hardeep Singh v. State of Punjab, (2014) 3 SCC 92

Primarily concerning the power to summon additional accused under Section 319 CrPC, the decision discusses stages of a criminal trial and evidentiary thresholds applicable to different procedural decisions. It is relevant by analogy to the need to apply the correct standard at each stage.

9.7 Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158

The Supreme Court emphasized that a fair trial is central to criminal justice and that the court must ensure the process is not distorted by intimidation, unfairness or suppression of truth. It supports a balanced approach to prosecution evidence and witness participation.

9.9 State of U.P. v. Krishna Gopal, (1988) 4 SCC 302

The Court discussed proof beyond reasonable doubt and distinguished reasonable doubt from fanciful or speculative doubt. The prosecution must prove its case to the required standard, while the court evaluates evidence rationally and as a whole.

10. CRITICAL ANALYSIS

The BNSS retains the essential sequence familiar from the CrPC while expressly recognising

audio-video methods and prescribing a sixty-day period for framing a charge from the first hearing on charge in a Sessions case. These features may support clearer scheduling and reduce avoidable adjournments. However, time limits alone cannot guarantee timely justice if forensic reports, witness attendance, legal representation or court resources are unavailable.

The charge stage presents a tension. If the threshold is applied too strictly, cases supported by material requiring trial may be prematurely terminated. If applied too loosely, an accused may face a lengthy trial without sufficient grounds. The proper approach is neither automatic acceptance of the police report nor a premature final verdict; it is a reasoned assessment of the statutory ingredients and available material.

At the evidence stage, efficiency must not override fairness. Audio-video depositions may reduce logistical barriers, but technology must not compromise the ability to observe a witness, consult counsel where permitted or conduct effective cross-examination. Deferring cross-examination may be appropriate for case management, but must not create unfair tactical disadvantage.

The reliability of prosecution evidence also depends on investigation quality. Proper documentation, forensic integrity, accurate witness statements and transparent disclosure reduce the risk of wrongful conviction and unnecessary acquittal. Judicial scrutiny at the charge stage cannot cure every investigative defect; both sound investigation and a fair evidence process are necessary.

11.COMPARATIVE NOTE: CrPC, 1973 AND BNSS, 2023

The BNSS continues the broad structure of the former CrPC while updating certain procedures, including express reference to audio-video electronic means. The following table is a general guide; consult the official enacted text and applicable amendments for any live case.

STAGE	CRPC, 1973	BNSS, 2023
Sessions trial chapter	Sections 225–237	Sections 248–260
Discharge	Section 227	Section 250; application within 60 days of commitment
Framing of charge	Section 228	Section 251; written charge within 60

		days from first hearing on charge in Sessions-triable cases
Date for prosecution evidence	Section 230	Section 253
Evidence for prosecution	Section 231	Section 254; expressly addresses audio-video recording

12. FINDINGS

- Framing of charge is a judicial screening stage, not a final adjudication of guilt.
- Section 251 requires a written charge in Sessions-triable cases within the specified sixty-day period and requires the charge to be read and explained to the accused.
- Sections 253 and 254 bridge the accused's plea and production of prosecution evidence.
- Cross-examination is a key safeguard and discretion to defer or recall witnesses must be exercised fairly.
- The prosecution must prove the offence through admissible and reliable evidence and meet the criminal standard of proof.
- Technology can improve efficiency only when authenticity, participation and fairness are preserved.

13. SUGGESTIONS

Courts should give clear reasons when deciding discharge and framing charge, identifying the essential ingredients and supporting material. Prosecutors should ensure charges are precise and witnesses and documents are organised before evidence dates. Trial courts should use structured witness schedules and limit avoidable adjournments while preserving effective cross-examination. Investigating agencies should maintain chain-of-custody records for physical and electronic evidence. Audio-video procedures should include reliable identity verification, recording integrity and safeguards against improper influence. Judicial training should focus on the distinction between suspicion at the charge stage and proof beyond reasonable doubt at judgment. Legal aid and interpretation should be available where needed.

Researchers should verify statutory texts, case citations and quotations against official or authorised sources before submission.

14.CONCLUSION

Framing of charges and prosecution evidence are foundational components of a fair Sessions trial. Section 251 BNSS determines whether the case should proceed on a properly formulated accusation, while Sections 253 and 254 govern scheduling and recording prosecution evidence where the accused claims trial. The judge must distinguish the preliminary charge-stage inquiry from the final evaluation of guilt. The prosecution must establish its case through admissible, reliable evidence, subject to meaningful testing by the defence. Audio-video methods and the specified period for framing charges may assist administration of justice, but their success depends on judicial vigilance, competent investigation, witness participation, effective legal representation and adequate court infrastructure. The objective is a trial that is efficient and fair, protecting society while preserving the presumption of innocence and the rule of law.

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