

The offence is
punishable with
imprisonment of



**ASSIGN
BUSTER**

The offence of making a false criminal charge (false charge of an offence) as contemplated here consists in: — (1) Instituting or causing to be instituted any criminal proceeding; or (2) Falsely charging any person with having committed an offence; (3) Knowing that there is no just or lawful ground for such proceeding or charge; (4) Doing as above with intent to cause injury to any person. The offence is punishable with imprisonment of either kind upto two years or fine or both. If a criminal proceeding be instituted on a false charge of an offence punishable with death, imprisonment for life, or imprisonment for seven years or upward, the punishment will be imprisonment of either description for seven years and fine (Section 211).

The expression “ falsely charges” in Section 211, I. P. C.

, cannot mean giving false evidence as a prosecution witness against an accused person during the course of a criminal trial. “ To falsely charge” must refer to the criminal or initial accusation putting or seeking to put in motion the machinery of criminal investigation and not when seeking to prove the false charge of making deposition in support of the charge framed in that trial. The words “ falsely charges” have to be read along with the expression “ institution of criminal proceeding”. It may be seen that under this section, there must be an intention to injure another. It must be a primary and dominant motive of the offender. A criminal proceeding as contemplated here is merely setting the criminal law in motion, but it must be either before the police or a Magistrate competent to inquire into the case. A person who sets the criminal law in motion by making to the police a false charge in respect of a non-cognizable offence institutes criminal proceedings. But the police as being not empowered to take any proceeding

in non-cognizable cases without orders from Magistrate a false charge of such offence made to the police is not an institution of criminal proceedings, but merely a false charge (Karim Bux).

The word “ charge” here is something different from “ gives information”. The test is whether the person making the statement alleged to constitute the ‘ charge’ did so with an intention to set the criminal law in motion against the person against whom the statement was made. Such charge must desire the authority concerned to use the power to – the prejudice of the complainant. A bare statement made to the police regarding some suspicion on a person is not a false charge. The expression “ knowing that there is no just or lawful ground” is equivalent to the English phrase “ without reasonable or probable cause”, that is, without an honest belief in the guilt of the accused based upon a false conviction founded upon reasonable grounds of existence of a state of circumstances, which assuming them to be true, would reasonably lead any ordinary prudent and cautious man, placed in the position of the accused, to the conclusion that person charged was probably guilty of the crime imputed.