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**(1994) 09 MP CK 0021**

**Madhya Pradesh High Court**

**Case No:** Criminal Revision No. 512 of 1994

Pradeep Kumar Dhawan

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

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**Date of Decision:** Sept. 22, 1994

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 304B

**Citation:** (1995) CriLJ 2623

**Hon'ble Judges:** M.P. Singh, J

**Bench:** Single Bench

**Advocate:** Rajan Banerjee, for the Appellant;

**Final Decision:** Allowed

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**Judgement**

@JUDGMENTTAG-ORDER

M.P. Singh, J.

This revision application is directed against the order dated 18-7-1994, framing of the charge u/s 304B of the Indian Penal Code against the applicants by Xth Addl. Sessions Judge, Jabalpur in Sessions Trial No. 122/87.

2. Shri Ranjan Banerjee, learned counsel for the applicants has contended that the alleged offence was committed on 6-4-86 much prior to coming into force the provision of law contained in Section 304B of the Indian Penal Code. Section 304B, IPC is the new provision of law and it was inserted in the Indian Penal Code by amendment Act No. 43/86 and it came into force on 9-11-86 and it has no retrospective effect. Therefore, the framing of the charge u/s 304B of the Indian Penal Code cannot be sustained. The contention of Shri Banerjee is well founded.

3. It is well settled that a person cannot be made an accused for an offence which was not an offence under the law when the alleged offence was committed.

4. In the instant case the alleged offence was committed on 6-4-86 whereas Section 304B, IPC was brought on the Indian Penal Code by an amendment of the Act which came into force w.e.f. 9-11-86 and it has no retrospective effect.

5. Therefore, the charge could not have been framed against the applicants u/s 304B, IPC for the alleged commission of the offence which took place on 6-4-86. The framing of the charge is bad in law. Reference may be made in the case of [Soni Devrajibhai Babubhai Vs. State of Gujarat and others,](#)

6. For the reasons mentioned aforesaid, the impugned order framing of the charge u/s 304B, IPC is concerned cannot be sustained. Accordingly it is set aside and in the result the revision petition is allowed.

7. It is however made clear that it will be open to the Court below to proceed against the applicants if any other offence under the law is made out against them.