

## Pradeep Kumar Dhawan Vs State of Madhya Pradesh

**Court:** Madhya Pradesh High Court

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

**Acts Referred:** Penal Code, 1860 (IPC) â€” 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

### 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.