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CRR-2254-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

CRIMINAL REVISION No. 2254 of 2024*MOHAMMAD ASHIQ AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Vivek Singh -Senior Advocate with Shri Rajesh Yadav-  
Advocate for the petitioner.

Shri Hemant Sharma - G.A appearing on behalf of Advocate  
General.

Shri Dilip Kumar Saxena - Advocate for the respondent/  
Objector.

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(Heard on 25.07.2025)

(Delivered on 11.08.2025)

ORDER

This criminal revision under section 397 read with section 401 of the Cr.P.C., 1973 is preferred being aggrieved by order dated 12.03.2024 in ST No.60/2024 by X Additional Sessions Judge, Ujjain whereby charges under sections 294, 323, 377, 498-A, read with section 34 of the IPC & Section 4 of Muslim Women (Protection of Rights on Marriage) Act, 2019 have been framed against revision petitioner no.1 and charges under sections 294, 323 r/w 34, 498-A of the IPC have been framed against rest of the revision petitioners.



2. Facts of the case in brief are that marriage of prosecutrix with revision petitioner no.1 Mohd. Ashik was solemnized on 29.11.2010 as per the Muslim Law. After the marriage she was subjected to cruelty and unnatural sex was committed by revision petitioner no.1 despite her resistance. On resistance she was subjected to filthy language. In the night of 1.10.2023 at about 10 p.m. also she was subjected to unnatural sex despite her resistance. When she objected then revision petitioner no.1/ husband divorced her by pronouncing talaak thrice and she was thrown out of the house. She went to her paternal home and intimated the incident to his brother and father and lodged a report on 15.12.2023 at Police Station Mahakaal District Ujjain and a crime no.653/2023 was registered and final report was submitted against revision petitioner no.1. After completion of investigation, final report was submitted under section 294, 323, 376, 498-A and section 34 of the IPC and Section 4 of Muslim Women (Protection of Rights on Marriage) Act, 2019 against rest of the revision petitioners before JMFC Ujjain on 22.03.2024 where a criminal case no.893/2024 was registered and vide order dated 15.03.2024 case was committed to the court of Sessions Judge, Ujjain. Charges were framed against revision petitioners as mentioned in para-1 of the judgment.

3. Challenging the illegality, this criminal revision was preferred on the ground that revision petitioners no.2 and 3 were not named in the First Information Report registered by the complainant. Revision petitioner no.2 is major and wife of petitioner no.1, accordingly charges under section 377 of the IPC cannot be framed. The petitioners relied in the case of **Kuldeep Singh**



**Vs. State of Punjab and other (2025) SCC Online SC 211 and Umang Singhar Vs. State of M.P. (2023) SCC Online MP 3221: (2023) 251 AIC 457.**

4. Heard.

5. Counsel for the respondent/State opposes the criminal revision.

6. Victim No.2 represented by counsel opposes the revision petition by filing the reply through IA No.19146/2024. She filed the documents which relates to the complaint preferred by respondent no.2 to Ministry of Home Affairs and copy of Domestic Incident Report and the copy of the complaint under section 12 of the Protection of Women from Domestic Violence Act, 2005 seeking various reliefs under the Act.

7. Perused the record.

8. The allegations in the FIR and in the statements recorded under section 161 of the Cr.P.C, 1973 and final report submitted reveals that act of committing unnatural sex was prior to the pronouncement of talaak. In the light of **Umang Singhar Vs. State of M.P. (2023) SCC Online MP 3221: (2023) 251 AIC 457** and **Banty Jatav Vs. State of M.P. (2025) SCC Online MP 4007**, head no.3 of charge framed against revision petitioner no.1 under section 377 of the IPC does not sustain but committing unnatural sex with wife against her wishes and on her resistance, assaulting and treating her with physical cruelty will fall under the definition of cruelty.

9. The allegation against the revision petitioner no.2 and 3 also justify the framing of charge under section 294, 323 read with section 34 and 498-A of the IPC. In the light of the above the criminal revision is partly allowed



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and head no.3 of charges framed against the revision petitioner no.1 under section 377 of the IPC is quashed and trial against the revision petitioners will continue in rest of the charges.

10. With the aforesaid, criminal revision is disposed off.

(GAJENDRA SINGH)  
JUDGE

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