
(2018) 02 UK CK 0026
In the Uttarakhand High Court
Case No : 211 of 2018

Mohd. Yameen and another	Vs	APPELLANT
State of Uttarakhand and others		RESPONDENT

Date of Decision : 08-02-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 41](#) - When police may arrest without warrant

Citation : (2018) 02 UK CK 0026

Hon'ble Judges : U.C. Dhyani

Bench : Single Bench

Advocate : Mr.Bilal Ahmed, J.S.Virk

Final Decision : Disposed off

Judgement

1. By means of present writ petition, the petitioners seek the following reliefs, among others:

(a) Issue a writ, order or direction in the nature of certiorari quashing the impugned FIR dated 22.09.2017 registered as Case Crime No. 359 of

2017, under Section 323, 504,506,468,420,120-B, 471 IPC, PS Civil Lines Rookee, District Haridwar.

(b) Issue a writ, order or direction in the nature of mandamus commanding the respondents not to arrest the petitioners in case crime no. Case

Crime No. 359 of 2017, under Section 323, 504,506, 468, 420, 120-B, 471 IPC, PS Civil Lines Rookee, District Haridwar till the pendency of

present writ petition.

2. Heard learned counsel for the petitioners, learned counsel for the State, perused the documents brought on record and considered the grounds

taken up in the writ petition.

3. Without commenting upon the merits of the case, this Court proposes to pass the following order, in the interest of justice.

4. It is provided that the petitioners should be arrested only when the Investigating Officer has reason to believe, on the basis of the information and material collected, that they have committed an offence. Before making arrest, the Investigating Officer is required to satisfy himself that the arrest is necessary for one or more purposes envisaged by Sub-Clauses (a) to (e) of Clause (1) of Section 41 of Cr.P.C. It will not be based upon the ipse dixit of the Police Officer. In other words, the petitioners shall be arrested only when the conditions stipulated in Sub- Clauses (a) to (e) of Clause (1) of Section 41 of Cr.P.C. are satisfied.

5. Needless to say that the Investigating Officer of the case shall abide by the aforesaid directions of Hon''ble Apex Court, before affecting the arrest, if any, of the petitioners.

6. Petitioners are directed to contact the Investigating Officer of the case on 15.02.2018, and on such subsequent dates as may be instructed by him (I.O.) for interrogation and investigations.

7. When the investigation of the case will be conducted, it will either culminate into filing of the charge-sheet or submission of final report. This Court has no occasion to interfere in the investigation in between.

8. Unless an extraordinary case of gross abuse of power is made out by that in-charge of investigation, the court should be quite loath to interfere at the stage of investigation, a field of activity reserved for Police and Executive. {State of Bihar and another vs. J.A.C. Saldanha and others, 1980

SCC (CrI .) 272}. 9. Therefore, it will be of no use keeping the present criminal writ petition pending. Criminal Writ Petition is, accordingly, disposed of at the admission stage itself, with the consent of learned counsel for the parties.

10. The Court does not feel it necessary to issue notice to the private respondent, yet opportunity of hearing shall be granted to her if she approaches the Court on her own, either in person or through counsel, and if she feels aggrieved with this Order, which is purely based upon statutory foundation. [Vishnu Agarwal vs. State of Uttar Pradesh and another, (2011) 14 SCC 813 and Asit Kumar Kar vs. State of West Bengal, (2009) 2 SCC 703.]

11. Urgency application also stands disposed of.