

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>WPCRL No. 1476 of 2022 With WPCRL No. 1479 of 2022</p> <p><u>Hon'ble S.K. Mishra, J.</u></p> <p>Mr. Bhupesh Kandpal, the learned counsel for the petitioners.</p> <p>Ms. Manisha Rana Singh, the learned A.G.A. for the State.</p> <p>Heard learned counsel for the parties.</p> <p>By filing these two writ applications, the writ petitioners have sought issuance of writ in the nature of certiorari quashing the FIR dated 21.07.2022, registered as FIR No. 0017 of 2022, registered under Section 75, 66C, 66D of the Information Technology Act 2000 and under Section 120B and 420 of the Penal Code at P.S. Cyber PS, District Dehradun. The petitioners also prayed for issuance of writ in the nature of mandamus directing respondent nos. 1 to 3 to comply with the mandatory provisions of Section 41A of the Code as well as the directions given by the Hon'ble Supreme Court in the case of <i>Arnesh Kumar vs. State of Bihar</i>, (2014) 8 SCC 273, in relation to the FIR as mentioned above.</p> <p>It is brought to our notice that a separate contempt petition has been filed bearing CLCON No. 233 of 2022, which was listed before this Bench today and notice has been issued to respondent no. 3, i.e., informant of the case who happens to be the investigating officer.</p> <p>After hearing the learned A.G.A. for the State, this Court is of the opinion that there appears to be material against the petitioners, though they are not named in the FIR, in the shape of the co-accused persons that they were the managers of the call</p>

		<p>centre. Thus, this Court of the view that though the FIR does not name the petitioners but same cannot be quashed only on that basis, as further investigation regarding their involvement is necessary.</p> <p>Hence, this Court is not inclined to quash the FIR as mentioned above. As all the offences mentioned in the FIR are punishable with imprisonment not exceeding seven years, this Court is of the opinion that provisions of Section 41, 41A of the Code as well as ratio decided by the Hon'ble Supreme Court in the case of <i>Arnesh Kumar (supra)</i> should be complied before proceeding with the arrest of the petitioners.</p> <p>In that view of the matter, the writ petition is allowed in part, though this Court is not inclined to quash the FIR, it directs that respondent no. 3 or any other police officer investigating the IFR no. 0017 of 2022 dated 21.07.2022 registered at P.S. Cyber PS, District Dehradun, shall comply the provisions of Section 41, 41A of the Code as well as the ratio laid by the Hon'ble Supreme Court in the case of <i>Arnesh Kumar (supra)</i> affecting any arrest of the petitioner.</p> <p>In that view of the matter, both the writ petitions are disposed of.</p> <p>Pending applications also stand disposed of.</p> <p style="text-align: right;">(S.K. Mishra, J.) 03.08.2022 (Grant certified copy as per Rules.)</p> <p>PV</p>
--	--	---

--	--	--	--