

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.1480 of 2022</p> <p><b><u>Shri S.K.Mishra, J.</u></b></p> <p>Mr. Bhupesh Kandpal, learned counsels for the petitioner.</p> <p>Ms. Manisha Rana, learned AGA for the State.</p> <p>Heard learned counsel for the parties.</p> <p>By filing writ application, the writ petitioner has 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 petitioner also prays 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 centre. Thus, this Court is of the view that though the FIR does not name the</p>

		<p>petitioner 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>It is brought to the notice of the Court that the co-accused has been arrested by the Investigating Agency without complying the provisions of Sections 41, 41A of the Code and in that view of the matter in a connected WPCRL No. 1476 with WPCRL No. 1479 of 2022 an order has been passed to comply the order.</p> <p>In that view of the matter, the order has been passed to comply the order.</p> <p>In that view of the matter, the writ application is disposed of.</p> <p style="text-align: right;"><b>(S.K.Mishra, J.)</b> 23.08.2022</p> <p style="text-align: right;">(Grant urgent copy of this order as per Rules)</p> <p>Kaushal</p>
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