

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Writ Petition No. 47 of 2011

Prashant Tiwari
S/o Gajendra Bhushan Tiwari Petitioner

Versus

State of Uttarakhand and others. Respondents

Mr. Pawan Mishra, Advocate for the petitioner.
Mr. Nandan Arya, A.G.A. for the respondent Nos. 1 and 2.

Hon'ble V.K. Bist, J.

Heard learned counsel for the petitioner on urgency application. The urgency application No. 445 of 2011 is allowed.

Learned counsel for the petitioner contended that in case divorce takes place between the parties and the petitioner is arrested, then there is no chance of compromise. The learned counsel submitted that the allegations levelled in the F.I.R. are contradictory to the statement made by the witnesses. He further submitted that there is a temperamental difference between the husband and wife. He contended that the allegation of beating has been levelled in the F.I.R. by the respondents but the respondent did not file any injury report in support of her case. He further submitted that the police report submitted before the Mahila Help Line clearly indicates that the dispute is only on account of temperamental difference. He also submitted that no prima-facie case u/S 498-A, 323, 504 and 506 I.P.C. and ¾ D.P.Act is made out against the petitioner. On the other hand, the learned A.G.A. submitted that the report submitted by the police is not correct because the investigation has not been completed as yet. He further submitted that it is always open to the investigating officer to investigate the matter and to reach a final conclusion and then file a final report or chargesheet in the matter.

After hearing the learned counsel for the parties and after considering the material evidence brought on record, this court

finds that prima-facie case is made out against the petitioner as disclosed in the F.I.R.

In view of the aforesaid, this court is not inclined to entertain the writ petition. The writ petition is dismissed in limine. The stay application No. 559 of 2011 also stands dismissed.

(V.K. Bist, J.)
Vacation Judge

27.01.2011
Shiv