

**IN THE HIGH COURT OF UTTARAKHAND AT**  
**NAINITAL**

**Criminal Writ Petition No. 1379 of 2017**

Smt. Zarina Begum and others .....Petitioners

versus

State of Uttarakhand and others ..... Respondents

Mr. Sudhir Kumar, Advocate, present for the writ petitioners.  
Mr. Nandan Arya, learned Deputy Advocate General, assisted by learned  
Mr. S.S.Adhikari, AGA, present for the State/respondent no. 1.

**U.C. Dhyani, J. (Oral)**

By means of present writ petition, the petitioners  
pray for the following reliefs, among others:

*“(a) Issue a writ, order or direction in the nature of certiorari quashing the FIR lodged by the respondent no.2 with the respondent no. 1 being crime no. 184 of 2017, under Section 420 IPC at PS Dalanwala, District Dehradun (Annexure-5).*

*(b) Issue a writ, order or direction in the nature of mandamus commanding the respondent no.1 not to arrest the petitioners in connection with the impugned FIR (Annexure-5).”*

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 07.09.2017, 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 (Crl.) 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 him if he approaches the Court on his own, either in person or through counsel, and if he 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.]

**(U.C. Dhyani, J.)**  
31.08.2017

Kaushal

