

Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.1201 of 2019 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Abhishek Verma, Advocate, for the applicants. Mr. V.K. Jemini, D.A.G. for the State of Uttarakhand. Mr. Mahboob Rahi, Advocate, for the respondent. The controversy arose as a consequence of the registration of the FIR No.44 of 2017, which stood registered at the behest of the respondent no.2, for the alleged involvement of the named accused persons, therein, who are the applicants to the C482 application, for their alleged involvement in commission of the offences under sections 365, 395, 147, 323 and 506 of IPC. At the point of time, when the FIR was registered by the respondent no.2, he was in a close relationship, he contended that the victim Shabana Parveen, has been kidnapped by the named accused person in the FIR i.e. her natural parents and other close relatives. The matter was investigated upon and consequent to which, the Investigating Officer has submitted the Chargesheet No.297 of 2017, dated 25.11.2017, whereby, the Investigating Officer has submitted the chargesheet, as against the five name accused persons, therein, for their involvement in commission of the offence. Upon submission of the said chargesheet, the cognizance has been taken by the court of Judicial Magistrate, Vikasnagar, District Dehradun. But before

		any summoning order could have been issued, the C482 application has been preferred by the applicants on 11.07.2019, without even annexing or challenging summoning order. In fact, at the stage when the C482 application was preferred, there was no challenge given to the summoning order dated 20.08.2018, and the same has been produced today before this Court, which shows the registration of the Criminal Case No.766 of 2018, “State Vs. Noorjahan and others”. As of now, the entire set of allegation as it has been levelled in the FIR has been registered by the respondent no.2, who is not present before this Court despite of the service of the notice, as reported by the Registry on 01.07.2022. In these circumstances this Court has got no other option except to proceed ex parte as against the complainant/respondent no.2, who despite of service of notice is not present before this Court to contest on merits. This matter was taken up in the pre lunch session and the victim wanted to express something, which she could not have divulged in the Court proceedings and hence she was called upon in the Chamber, along with a lady constable, in order to extract as to what she intended to communicate. This Court has interacted with her and she has expressed her agony, that owing to the fact that she got into a friendly relationship with the complainant, who belongs to other religion. The respondent no.3, the father, and the applicants have opposed the relationship, due to which the respondent no.2, has registered the FIR of kidnapping, on the alleged theory of kidnapping of the victim, which is a fact now denied by the victim herself, who is
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			present before this Court and who has also filed her independent affidavit contending thereof, that later on, upon attaining the majority when she realized the error committed by her thus she has voluntarily returned back from company of Respondent No.2, and is residing with her parents, and as such, she contends that the allegation levelled by the respondent no.2, in the FIR, qua the involvement of the present applicants in commission of the offences under sections 365, 368, 147, 323 and 506 of IPC, may not be made out once the actual story as it has been narrated by the victim upon the attainment of the majority before the Court. Owing to the aforesaid changed circumstances and particularly in the wider interest of the victim, who has made a statement, that she is now safe and happy with her parents and she wants to reside with them, quite obviously there could not be any offence as such, made out as against the present applicants for their engagement in the commission of the offences under sections 365, 368, 147, 323 and 506 of IPC. Owing to the aforesaid exclusive statement made by the victim, since there is no case of kidnapping, which is made out against her own parents and rather the FIR which was registered by the respondent no.2, was a motivated FIR, much credence cannot be taken on the same, as such, owing to the aforesaid circumstances, which happens to be peculiar in nature. The C482 application would stand allowed, and as a consequence thereto, the proceedings of the Criminal Case No.766 of 2018, “State Vs. Noorjahan and others”, pending consideration before the court of Judicial Magistrate 1st Class, Vikasnagar, District Dehradun, would hereby stand
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			quashed. Having quashed the proceedings, it goes without saying that as far as the applicants and the natural father respondent no.3, are concerned, who are present in person, they undertake that they will be taking all due care and providing protection to the victim in future. Apart from it, since there had been a professional dereliction on part of the learned counsel appearing for the applicants, he is personally imposed with a cost of Rs.10,000/- to be paid to the victim to meet her expenditure for her to and fro journey from Bijnor to participate in the today's proceedings. Subject to the aforesaid, the C482 application stands allowed. (Sharad Kumar Sharma, J.) 12.09.2023 NR
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