HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 3600 of 2026 (M/S)

Chandrapal .....Petitioner

Versus

Sheetal .....Respondent

Present:-

Mr. Deepak Sharma, Advocate for the petitioner, through video conferencing.

Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this petition is made to the order dated 18.03.2026, passed in Family Case No.41 of 2025, Chandrapal v. Smt. Sheetal, under Section 21 of the Uniform Civil Code of Uttarakhand, 2024, by the court of Principal Judge, Family Court, Rudrapur, District Udham Singh Nagar ("the case"). By it, the court issued bailable warrants against the respondent.

2. Heard learned counsel for the petitioner and perused the record.

3. The petitioner filed the case for restitution of conjugal rights. Notices were issued in the case, which could not be served on the respondent. On 18.03.2026, the impugned order records that in view of the law, as laid down by the Hon'ble Supreme Court in the case of Jagraj Singh v. Birpal Kaur, (2007) 2 SCC 564, bailable warrants be issued against the respondent.

4. Learned counsel for the petitioner submits that yet summons or notices have not been served on the respondent. Therefore, straightway issuance of bailable warrants is not as per law.

5. In the case of Jagraj Singh (*supra*), wife had filed a petition for divorce under Section 13 of the Hindu Marriage Act, 1955 ("the Act"), on the ground of desertion and cruelty in the Court of District Judge, Faridkot. An objection was taken with regard to the territorial jurisdiction of the court. The Court, in that case, observed that the District Judge, Faridkot, had no jurisdiction to decide the petition, and further after considering the evidence on record, it was observed that, "the husband neither treated the wife with cruelty nor deserted her. " and the petition was dismissed, accordingly. In the appeal before the Hon'ble Punjab and Haryana High Court, the court tried to make attempt to reconciliation between the parties, and directed the parties to remain personally present. On behalf of the husband, multiple assurances were given to the court that the respondent-husband would remain present, but he did not appear. Under those circumstances, the Hon'ble Punjab and Haryana High Court directed issuance of non-bailable warrants against the respondent-husband. It was challenged.

6. The Hon'ble Supreme Court in the matter considered the provisions of Order 32 A of the Code of Civil Procedure, 1908, particularly Rule 3, which casts a duty on the court to make efforts for settlement.

7. The Hon'ble Supreme Court also observed that **"..... Sub-section (2) to Section 23 of the Act expressly states that where a petition of divorce is filed under Section 13 of the Act on certain grounds, before proceeding to grant any relief, the Court, "in the first instance" should make an endeavour to bring about reconciliation between the parties."**

8. In that case, it was observed that despite assurance given to the Hon'ble Punjab and Haryana High Court, the respondent-husband did not appear, and the Hon'ble Supreme Court, in Para 29 last line observed that, **".....Since we are of the view that the Court has jurisdiction to pass such order, it cannot be said that the direction issued by the High Court is without authority of law."**

9. In the present case, the facts are little different. Summons were issued to the respondent, which were never served. It is not the case that the respondent had put an appearance and took time to participate in the reconciliation proceedings.

10. Learned counsel for the petitioner submits that, at the first instance, summons ought to have been served, and, thereafter, efforts should have been made for reconciliation between the parties, but, it is argued that instead, straightway bailable warrants have been issued; straightway issuance of bailable warrants would further delay the proceedings; it is not a case where the respondent has already put the appearance so as to attract the principles of law, as laid down by the Hon'ble Supreme Court in the case of Jagraj (*supra*).

11. Perusal of the ordersheet of the case reveals that, in fact, notices were never served on the respondent. Straightway, on 18.03.2026, bailable warrants have been issued. Therefore, the order dated 18.03.2026, may not be termed as one passed in accordance with law. Accordingly, the order dated 18.03.2026, passed in the case, deserves to be set aside, and the writ petition deserves to be allowed.

12. The impugned order dated 18.03.2026 is, hereby, set aside.

13. The writ petition is allowed.

14. The court below is requested to ensure service of summons on the respondent, and, thereafter, proceed in accordance with law.

(Ravindra Maithani, J)
25.11.2026

Ravi Bisht