

**Court No. - 9**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 4395 of 2023

**Petitioner :-** Gaurav Pandey

**Respondent :-** State Of U.P. Thru. Addl. Chief Secy. Home Deptt. Lko. And 3 Others

**Counsel for Petitioner :-** Saurabh Yadava, Ankit Mishra, Hema Singh, Poonam Maurya

**Counsel for Respondent :-** G.A.

**Hon'ble Rajnish Kumar, J.**

**Hon'ble Umesh Chandra Sharma, J.**

Heard learned counsel for the petitioner, learned A.G.A. and perused the record.

This writ petition has been filed with the prayer to quash the First Information Report registered as Case Crime No.0206/2023, under sections 406, 308, 504, 506 I.P.C. Police Station- Madiyaon, District-Lucknow North (Commissionerate Lucknow).

Submission of learned counsel for the petitioner is that the petitioner has been falsely implicated in the present case. The petitioner on the alleged date of incident was not present in the town and he had already left the town, which is apparent from the order dated 13.05.2023, a copy of which is annexed as Annexure No.2 to the writ petition.

The petition is being opposed by learned A.G.A.

The correctness or otherwise of the allegation made in F.I.R. need not be examined by us in view of the law settled inasmuch as such issues are required to be examined at the stage of investigation. The petitioner shall be at liberty to place all materials in support of his defence before the Investigating Officer.

Since the First Information Report prima facie discloses commissioning of cognizable offence, therefore, it cannot be quashed in view of the law laid down by the Supreme Court in the case of *State of Telangana Vs. Habib Abdullah Jellani, (2017) 2 SCC 779* and *Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others; (2021) SCC Online SC 315*. Prayer for quashing the F.I.R. is declined.

As the offences alleged in the F.I.R. provide for maximum sentence upto seven years, the provisions of Section 41-A of the Code of Criminal Procedure have to be complied with in view of ***Satender Kumar Antil versus Central Bureau of Investigation and Another; (2022) 10 SCC 51*** and the same shall be complied.

The writ petition is, accordingly, **disposed of**.

**Order Date :- 6.6.2023**

Gurpreet Singh