

**Court No. - 46**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 4640 of 2021

**Petitioner :-** Mansha Ram And 3 Others

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Ajay Kumar

**Counsel for Respondent :-** G.A., Dinesh Chandra Tripathi

**Hon'ble Naheed Ara Moonis, J.**

**Hon'ble Pankaj Bhatia, J.**

Heard learned counsel for the petitioners and the learned A.G.A. for the State.

This writ petition has been filed seeking following prayers:-

*"(i) Issue a writ, order or direction in the nature of certiorari by quashing the first information report dated 08.06.2021 lodged by the respondent no. 4 against the petitioners in this writ petition in Case Crime No. 221 of 2021, under Sections 452, 364 I.P.C. and Section 3(2)(v) SC/ST Act, P.S. Narkhi, District Firozabad.*

*(ii) issue a writ, order or direction in the nature of mandamus directing/commanding the respondent no. 3 not to arrest the petitioner in case crime no. 221 of 2021, under Section 452, 364 I.P.C. and Section 3(2)(v) SC/ST Act, P.S. Narkhi, District Firozabad."*

It is submitted by the learned counsel for the petitioners that the petitioners are the victim of election rivalry of Zila Panchayat and in the impugned first information report, frivolous allegations have been made against them that three persons were abducted at the gun point. Learned counsel further submits that no such incident has ever taken place. The complainant is only trying to deter the petitioners to participate in the election and hence, the first information report based on false allegations deserves to be quashed.

Per contra learned A.G.A. contended that the allegations made in the first information report cannot be aborted at this stage. The petitioners will have sufficient opportunity to rebut the allegations.

The Full Bench of this Court in **Ajit Singh @ Muraha Vs. State of U.P., 2006 (56)ACC 433** reiterated the view taken by the earlier Full Bench in **Satya Pal Vs. State of U.P., 2000 Cr.L.J. 569**, after considering the various decisions including **State of Haryana Vs. Bhajan Lal, AIR 1992 SC 604** that there can be no interference with the investigation or order staying arrest unless cognizable offence is not ex-facie discernible from the allegations contained in the FIR or there is any statutory restriction operating on the power of the police to investigate a

case.

From the perusal of the FIR, prima facie it cannot be said that no cognizable offence is made out. Hence no ground exists for quashing of the FIR or staying the arrest of the petitioners.

The writ petition is accordingly ***dismissed***.

However, it is provided that if the petitioners i.e. **Mansha Ram, Dharmendra, Anil and Ram Gopal @ Kallu** appear or surrender before the Court concerned and apply for bail in the aforesaid case, their prayer for bail shall be considered by the court below in accordance with law.

**Order Date :- 30.6.2021**

Saurabh