



2026:AHC-LKO:19198

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 814 of 2026

Rakesh Kumar Pandey

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And 2
Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Siddhartha Sinha, Mohammad Zeeshan
Lari

Counsel for Opposite Party(s) : G.A.

Court No. - 12

HON'BLE PANKAJ BHATIA, J.

1. Heard learned counsel for applicant and learned A.G.A. for State.
2. This petition has been filed seeking quashing of the order dated 27.06.2025 passed by learned Additional District and Sessions Judge/Special Judge, P.C. Act, Court No.8, Lucknow in Sessions Trial No.46070 of 2016, under Section 147, 148, 332, 307, 427, 353 I.P.C. read with Sections 149, 504 and 506 I.P.C. arising out of Case Crime No.430 of 2016 registered at Police Station-Hazaratganj, District-Lucknow.
3. The facts in brief are that an F.I.R. has been lodged against the applicant alleging that the applicant was transferred in exercise of the administrative duties and the applicant, desirous of cancellation of transfer order, sent a slip for meeting the Commissioner through peon. The paper sent in chamber and at about 3:15 p.m. the applicant along with his son was called for meeting. It is alleged that the applicant and his son started pressurising the commissioner for cancellation of transfer and while talking in the fit of anger they started misbehaving with the Commissioner and threw government papers here and there and started obstructing government work. Meanwhile, the applicant and his son called four other persons who had come inside the chamber of Commissioner and with intention to kill they throttled the Commissioner. It was also alleged that son of the applicant broke the glass which was kept on the table and attacked the Commissioner with intention to kill. Somehow the persons outside came inside the chamber intervened and prevented further attack. It was also alleged that the applicant, his son and

other four persons fled away while threatening to kill and abusing the Commissioner. Based upon the said allegation, the investigation was carried out against the applicant and the charge-sheet was filed.

4. The applicant approached this Court by filing an Application (U/S 482 Cr.P.C.) No. 902 of 2017; 'Rakesh Kumar Pandey Vs. State of U.P. and Others', wherein the quashing of the charge-sheet filed against the applicant and cognizance order was challenged. The said application came to be dismissed vide order dated 10.02.2017. It is stated that thereafter the applicant moved an application for discharge which came to be dismissed by the trial court vide order dated 25.07.2019. The said order rejecting the discharge application was challenged by the applicant in Criminal Revision No.1116 of 2019. The said criminal revision was heard and vide judgment and order dated 15.02.2022, the revision came to be dismissed. It is further stated that against the said judgment dated 15.02.2022, the applicant had preferred an S.L.P. before the Hon'ble Supreme Court bearing S.L.P. (Criminal) No.8084 of 2022 which came to be dismissed on 07.01.2025.

5. It is stated that subsequent to the dismissal of the S.L.P. by the Supreme Court, the order dated 27.06.2025 was passed by the Special Judge whereby the charges were framed against the applicant. The said order is under challenge.

6. Subsequently, an amendment application was filed by the applicant on 25.02.2026 in which an additional prayer was sought to the effect that on the same charges, a departmental inquiry was also held against the applicant on 18.02.2020 and the said allegations were found to be not proved in the inquiry. It is thus argued that the order dated 13.07.2016 being contrary to law and the proceedings are liable to be quashed as on the same allegations, the departmental proceedings were initiated and in the inquiry report the allegations could not be substantiate.

7. It is further argued that the departmental proceedings are initiated and continued on the principles of preponderance of probability whereas in the criminal proceedings the charges have to be proved beyond reasonable doubt and once on the preponderance of probability principle the inquiry report did not find the applicant to be guilty, the criminal proceedings are liable to be quashed.

8. Learned counsel for applicant, places reliance upon the judgment of Supreme Court in case of ***Ashoo Surendranath Tewari Vs. Deputy Superintendent of Police, EOW, CBI and another***, reported in (2020) 9

SCC 636. In the said case allegations were levelled alleging diversion of funds from accounts of one bank to the another bank. The said allegations led to lodging of an F.I.R. The C.V.C. (Central Vigilance Commission) also went into the merits of the case and held the appellant before the Supreme Court to be negligent without any criminal culpability. Based upon the said, the Hon'ble Supreme Court held that once the C.V.C. report was on record, the appellant ought to have been exonerated as chances of conviction in the criminal trial involving the same facts appear to be bleak. Further reliance is also placed upon the judgment of Supreme Court in case of **Radheyshyam Kejriwal Vs. State of West Bengal; (2011) 3 SCC 581**, where in paragraph-38 and 39 the Supreme Court held:-

“38. The ratio which can be culled out from these decisions can broadly be stated as follows :-

- (i) Adjudication proceeding and criminal prosecution can be launched simultaneously;*
- (ii) Decision in adjudication proceeding is not necessary before initiating criminal prosecution;*
- (iii) Adjudication proceeding and criminal proceeding are independent in nature to each other;*
- (iv) The finding against the person facing prosecution in the adjudication proceeding is not binding on the proceeding for criminal prosecution;*
- (v) Adjudication proceeding by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20 (2) of the Constitution or Section 300 of the Code of Criminal Procedure;*
- (vi) The finding in the adjudication proceeding in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceeding is on technical ground and not on merit, prosecution may continue; and*
- (vii) In case of exoneration, however, on merits where allegation is found to be not sustainable at all and person held innocent, criminal prosecution on the same set of facts and circumstances can not be allowed to continue underlying principle being the higher standard of proof in criminal cases.*

39. In our opinion, therefore, the yardstick would be to judge as to whether allegation in the adjudication proceeding as well as proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceeding is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceeding, the trial of the person concerned shall be in abuse of the process of the court.”

9. Learned counsel for the applicant drew my attention to the inquiry report wherein the Enquiry Officer has considered the evidence of three persons and has held that on the basis of evidence by witness no.1 and 2,

no criminal incident could be proved which is said to have happened on 13.07.2016. In the inquiry report the charges no.1, 2 and 3 were found to be not proved as applicant had denied the same and the evidence did not support the allegations. Further proceedings in terms of inquiry report could not seem to have taken place. In light of the aforesaid, it is argued that once the inquiry report, based upon the evidence clearly indicates that the alleged incident dated 13.07.2016 could not be established, the continuation of criminal proceedings on the same set of charges is contrary to law laid down by the Hon'ble the Supreme Court in case on ***Ashoo Surendranath Tewari (supra)***.

10. Sri Ran Vijay Singh, learned A.G.A. appearing for the State controverted the submissions by arguing that the application is liable to be dismissed on more than one grounds.

11. Firstly it is submitted that the applicant has not disclosed the facts with regard to approach this Court by filing Application (U/S 482) No.902 of 2017. It is thus, argued that the applicant is guilty of concealing the material facts and the present application is liable to be dismissed on that ground alone. It is further argued that with regard to framing of charges, this Court while deciding the Criminal Revision No.1116 of 2019 had specifically considered all the ground with regard to framing of charges against the applicant and had rejected the same, which judgment was affirmed by the Supreme Court, as noted above.

12. It is further argued that submission of the applicant that on the same allegations, the inquiry report in so far as the criminality of the act which was committed on 13.07.2016 is concerned, can not be a deciding factor as, for proving the charges against the applicant reliance is placed upon as may as 15 witnesses, including four eye witnesses, who were not examined by the Enquiry Officer. It is further argued that application is liable to be rejected on the ground that the Hon'ble Supreme Court in the case of ***State Vs. Ajay Kumar Tyagu (2012) 9 SCC 685*** has categorically held that exoneration in the disciplinary proceedings by itself would not be a ground for quashing of criminal proceedings.

13. It is further argued that this aspect was specifically considered by the

Supreme Court once again in S.L.P. (Criminal) No.13057 of 2025; '***The Karnataka Lokayuktha Bagalkote District, Bagalkot Vs. Chandrashekar & Anr.*** decided by judgment on 06.01.2026 in which specific averments were to the effect that once the disciplinary proceedings are concluded, whether the criminal proceedings on the same allegation can continue or not. The Supreme Court on the facts of the said case held that the evidence that led to the discharge in disciplinary proceedings was defective and insufficient, and the charges against the appellant therein had to be established based upon the independent and distinct set of evidence in the criminal trial. The Supreme Court also referred to their earlier judgment passed in case of ***Ashoo Surendra Nath Tewari (supra)***, the relevant paragraphs as contained in paragraph-17, 18 and 19 which are quoted herein below:-

17. We looked at the evidence laid at the enquiry, not to regulate the order in the departmental proceedings which is not challenged before us, but to satisfy ourselves and to understand whether there is total exoneration on merits, which we find to be absent. In the present case, the witnesses proffered by the department where, (i) the complainant; the contractor who complained of the demand of bribe and (ii) two independent witnesses, government officers in two different departments who accompanied the Crl. Appeal @SLP Crl. No. 13057 of 2025 trap team. PW-1, the complainant categorically stated that a bribe was demanded from him of Rupees ten thousand to clear five bills at the rate of Rupees two thousand each. He complained to the ACB whose Inspector marked the notes, powdered them and put them in a packet, after noting down the numbers to later identify them. The trap team along with the complainant and two witnesses went to the office of the delinquent employee. The complainant went inside the office room wherein he handed over the packet containing the money to the delinquent employee, who counted and put it in his pant's pocket, clearly spoken of by the complainant at the enquiry. The complainant gave the signal as agreed upon, a missed call on the mobile, when the trap team went in, checked the pockets of the delinquent employee, recovered the packet with the money and when the hands of the delinquent employee were dipped in the solution earlier prepared, the colour changed bringing forth the taint.

18. PW-2 and PW-3 were the independent witnesses who were standing outside the office room when the complainant went in. They deposed that on the signal being given, the Crl. Appeal @SLP Crl. No. 13057 of 2025 officers went inside the room and the witnesses followed. They witnessed the money being taken out from the pocket of the delinquent and the delinquent's hands being dipped in a solution which displayed the tainted colour. Even without the examination of the Inspector who laid the trap we are of

the opinion that there was sufficient proof on the standard of preponderance of probabilities to find the delinquent guilty of the charge of demand and acceptance of bribe. The complainant and the independent witnesses have spoken about the incident of the successful trap laid.

19. On the principles of law as stated hereinabove and also on the peculiar facts coming out from the above case, we are not convinced that this is a fit case where the criminal proceedings can be quashed on the exoneration of the delinquent employee in a departmental enquiry. We find the decision in Ajay Kumar Tyagi³ to be squarely applicable. The appeal stands allowed permitting the continuation of criminal proceedings. We make it clear that since the disciplinary authority has accepted the enquiry report, there cannot be reopening of the same based on the findings hereinabove; but a conviction in the criminal case CrI. Appeal @SLP CrI. No. 13057 of 2025 would bring in consequences as mandated by rules regulating the service, specifically reserved in the order of the disciplinary authority, Annexure R-1.

14. It is thus argued that the application is liable to be rejected.

15. I have considered the submissions of learned counsel for parties, perused the record and judgments quoted above. The contentions of learned counsel for applicant are two fold.

16. Firstly that the charges could not be framed as was done by the Sessions Court. On the said, the arguments were advanced that the charges specifically under Section 307 I.P.C. could not be made. The said contention merits rejection, as in the discharge application the same contention were raised and rejected by this Court in its judgment and order dated 15.02.2022, against which the S.L.P. has also been dismissed. From the chargesheet and evidences including the medical report, it can not be said that no material existed for trying the applicant under Section 307 I.P.C., as has been argued. Thus, the said contention is liable to be rejected.

17. With regard to the next contention that in the inquiry proceedings, nothing was found against the applicant and, thus, the criminal trial on the same charges were liable to be dropped, is further liable to be rejected on the ground that it is very well settled that the findings of the Enquiry Officer are preliminary in action and it is upon the disciplinary authority to either accept the same or not. In the present case, the opinion for continuation of disciplinary proceedings against the applicant did not arise as he had retired by then. The two witnesses, relied upon by the

Enquiry Officer although did not support the contention, however, the present charges are to be established and proved against the applicant based upon the evidences proposed by the prosecution as many as 15 witness which includes witnesses apart from the witnesses who have deposed before the Enquiry Officer. Thus, the contention that Enquiry officer did not find applicant guilty of the act which took place on 13.07.2016 would not, by itself, lead to conclusion that the criminal proceedings are liable to be quashed in view of the law laid down by Hon'ble Supreme Court in cases of *Ajay Kumar Tyagi (supra)* as well as the *Karnataka Lokayuktha Bagalkote District, Bagalkot (supra)*. Thus, the second contention also can not be accepted and is liable to be rejected.

18. As incident is of the year 2016, the trial court is directed to ensure that the trial is concluded expeditiously without any unnecessary adjournment to any of the parties.

19. With the aforesaid, the application is **rejected.**

(Pankaj Bhatia,J.)

March 17, 2026

Arti/-