2026:AHC-LKO:53821

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

AFR

CRIMINAL REVISION No. - 427 of 2026

Dhanendra Kumar Pandey

.....Revisionist(s)

Versus

State Of U.P. Thru. Prin. Secy. / Addl. Chief Secy. Home Lko And Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Atul Krishna, Kartikeya Shukla, Prajjwal Harsh, Praveen Kumar Yadav
Counsel for Opposite Party(s)	:	G.A.

Reserved on 15.05.2026
Delivered on 05.08.2026

Court No. - 31

HON'BLE RAM MANOHAR NARAYAN MISHRA, J.

1. Heard submissions of Shri Purnendu Chakravarty, learned Senior Advocate assisted by Ms. Aishwarya Saxena, Atul Krishna, Prajjwal Harsh, Praveen Kumar Yadav, Ashish Sharma, learned counsels appearing for the revisionist and learned A.G.A. appearing for the State on admission as well as on merits of the present revision.

2. Instant criminal revision has been directed against the impugned order dated 06.02.2026 as well as order dated 13.02.2026 passed by the learned Special Judge, Prevention of Corruption Act, PC-1, Lucknow in Sessions Case No.1769 of 2025 "State versus Dhanendra Kumar Pandey", arising out of FIR/ Case Crime No.08 of 2024, under Section 7 Prevention of Corruption Act, 1988, Police Station Lucknow-Sector (Vigilance Establishment), District UP Vigilance Establishment, whereby the impugned order 06.02.2026, the learned trial Court has dismissed the discharge application filed by the revisionist under Section 227 Cr.P.C. and by subsequent order dated 13.02.2026, framed charges under Section 7 PC Act (hereinafter referred to as "Act") as amended by Amendment Act, 2018 for trial of the revisionist.

3. The factual matrix of the case in brief are that the revisionist was posted as Deputy Commissioner in Commercial Tax/ GST Department, Lucknow Sector 20. He was competent officer to entertain claims of refund filed by an assessee. Applicant, Diship Kumar, Accountant in Ardem Data Services Pvt. Ltd., filed a complaint before SSP (Vigilance), UP Vigilance Establishment, Lucknow, against the revisionist on 05.03.2024 with the allegation that he filed a claim of refund of I.T.C. on export of goods and services without payment of I.G.S.T. as per requirement of the company for financial year 2021-22 for Rs. 17,54,248/- and for financial year 2022-23 for Rs. 1,93,539/- (Total Rs. 19,47,787/-), before competent officer/ Deputy Commissioner Commercial Tax, Sector 20, Shri Dhanendra Kumar Pandey and for that purpose he had also filed an online application on 26.02.2024. However, said Deputy Commissioner Shri Dhanendra Kumar Pandey has been demanding Rs. 2,00,000/- to clear the refund claim. He prayed for arranging a trap so that said Deputy Commissioner may be caught red-handed while taking bribe. He had also filed refund ARN receipt cum amount of refund claim in INR for Rs. 1,93,530/- and Rs. 17,54,288/-.

4. SSP (Vigilance), taking cognizance of said complaint, passed an order on same day i.e., 05.03.2024 to Inspector Shri Rajiv Kumar Yadav to submit a pre-trap report, whereupon Shri Rajiv Kumar Yadav visited the spot and after carrying out a discreet inquiry, submitted a report on 06.03.2024 with effect that said Deputy Commissioner has been demanding Rs. 2,00,000/- for clearing refund claim of the complainant. Thus, the matter is fit for trapping. This report was forwarded by SSP, Vigilance to Director Vigilance on 06.03.2024 with recommendation for necessary action. Director Vigilance forwarded the inquiry report to Principal Secretary, Vigilance, Government of U.P. with recommendation on which Principal Secretary passed an order "approved as proposed". Thereafter on 07.03.2024, SSP Vigilance constituted a trap team which was led by Inspector Bhanu Pratap Singh and it consisted of several other

inspectors, head constables and police personnel. A meeting was convened in room number 54 of Vigilance Headquarters on 18.03.2024. The informant, Inspector Bhanu Pratap Singh, met District Magistrate Lucknow at his residence and requested for providing two independent witnesses. District Magistrate Lucknow authorized CDO Lucknow to secure two independent witnesses. The informant met Police Commissioner Lucknow for providing appropriate police force to conduct a trap on 19.03.2024 at 2:00 P.M. Prior to this at 10:30 A.M., CDO Lucknow nominated two independent witnesses to accompany the trap team, which included Shri Rajesh Kumar, District Program Officer, Child Development and Shri Jitendra Kumar Gaur, Assistant District Panchayat Raj Officer (ADPRO).

5. The informant alongwith said independent witnesses and police team reached room number 154 of Vigilance Headquarters and all the members of the trap team were apprised of the proposed action. The complainant verified his complaint dated 05.03.2024 before the trap team. The signature of two independent witnesses were taken on complaint letter filed by Diship Kumar who also provided four wads of currency notes of denomination of Rs. 500/- and each of them consisted 100 currency notes. Serial number of currency notes were also reduced in writing and the currency notes worth Rs. 2,00,000/- were covered with rubber band which were to be handed over to the revisionist by the complainant on his demand. Phenolphthalein powder was sprinkled on currency notes. The complainant and persons who handled the currency notes were made to pour their hands in Sodium Carbonate solution and its colour became pink. The hand wash solutions were kept in separate bottles. Requisite exhibits were prepared in different small glass bottles and chits were affixed thereon. This process was completed at 13:20 hours. The trap team was bifurcated in two parts. First team was led by informant Inspector Bhanu Pratap Singh, the informant and second team was led by Inspector Anil Kumar Yadav and others. Both the teams proceeded, by

two different Bolero jeeps from Vigilance Headquarters to Commercial Tax Bhawan, Mirabai Marg, Hazratganj, Lucknow. Complaint accompanied first team on way to Commercial Tax Bhawan, Police team led by SI Lallan Pal was also taken on the way which was left near Adarsh Koshagar Bhawan in stand by position. Both the teams reached on third floor of Commercial Tax Bhawan by lift. The complainant moved towards chamber of the revisionist on which his name plate was being displayed. All the police personnel and independent witnesses stayed in the hall and near gallery of the chamber of the revisionist in alert mode; after some time, complainant came out from the chamber of the revisionist and on having received his signal, the trap team entered into the room alongwith the independent witnesses. They found that a person standing on back side of long table was keeping the wads of currency notes in the drawer who was caught red-handed. Inspector Anil Kumar Yadav checked the currency notes found in his hand and being kept in the drawer and it was learnt that these were same currency notes on which phenolphthalein powder was sprinkled for a red trap. The numbers of currency notes which were already reduced in writing were found same on currency notes recovered from the revisionist. On personal search of the revisionist an Apple watch, an iPhone, a Samsung mobile phone, his Aadhaar Card and Identity Card were recovered alongwith Rs. 6,760/- cash in a money purse as the revisionist had taken from the complainant Rs. 2,00,000/- as bribe on demand for clearing his refund claim. He was formally arrested at 16:15 hours after apprising him of grounds of arrest. The police investigated the case and submitted the charge sheet against the revisionist of finding his complicity in the offence on the basis of evidence collected during investigation.

6. Learned counsel for the revisionist submitted that the learned trial court dismissed the discharge application filed by the revisionist without considering the grounds taken therein in right perspective and failed to appreciate the fact that the charge against the revisionist is groundless.

The framing of charge on aforesaid facts and material was contrary to settled proposition of law. As a matter of fact, no offence under section 7 of the Act has been made out against the revisionist, as in order to bring home the charge of section 7 PC Act against the person, the prosecution has to prove demand of illegal gratification and subsequent acceptance. However, the material available on record failed to establish demand of illegal gratification by the revisionist. From a very perusal of FIR version, the trap team was constituted on 07.03.2024 pursuant to order passed by Senior Superintendent of Police (Vigilance), UP Vigilance Establishment, Lucknow, whereas the date of trap is 19.03.2024. The prosecution story becomes highly improbable due to lapse of 12 days' period between constitution of trap team and conducting of actual trap. This delay of 12 days long period has not been explained by police as to what happened between 07.03.2024 to 19.03.2024 on day to day basis. According to prosecution version, after trap of the revisionist, a recovery memo and arrest memo was prepared which reflects that the trap was laid at 4:15 P.M. and the trap team as well as the witnesses were waiting outside the place of trap and none of the witnesses heard and witnessed the alleged transaction. The charge sheet in the case was filed on 19.09.2025 under section 7 PC Act, as amended in the year 2018. In the charge sheet as many as 19 witnesses are mentioned including two independent witnesses and the complainant, Diship Kumar. The perusal of statements of the witnesses recorded under section 161 Cr.P.C., it is obvious that the assertions made by them is verbatim except the names and addresses. It is pertinent that all the witnesses of trap team including the independent witnesses have admitted that they neither heard nor witnessed the alleged negotiation of bribe between the complainant and the revisionist. In entire case diary, there is lack of specific averments regarding point of time when the complainant entered the room of accused, when complainant came outside and for how long team members and independent witnesses remained on the stairs and near the bathrooms situated near the chamber of the accused.

7. He next submitted that as per rules regarding G.S.T. refund as provided in serial number 125 dated 18.11.2019 issued by Government of India, Ministry of Finance, Department of Revenue, C.G.S.T. Policy Wing the refund of unutilized I.T.C. on account of exports without payment of tax is a fully electronic refund process through Form GST RFD-01 and single disbursement. The process consists of several steps as provided in the circular. The claim of refund of I.T.C. of Rs. 17,54,248/- for 2021-22 was already rejected on 28.02.2024 at 4:50 P.M. by the revisionist due to non-uploading of additional supportive document with deficiency memo in their refund claim of Rs. 17,54,248/- with ARN which was applied by the same person i.e. complainant. Another refund claim of Rs. 1,93,530/- was allotted to C.T.O. on 26.02.2024 which was forwarded by him to the revisionist on 11.03.2024, as the said refund claim also involved same deficiency, the same was rejected on 12.03.2024 at 1:23 P.M. by accused revisionist. A copy of ARN receipt with deficiency memo for said both amounts have been annexed as Annexure No. 11 and 12 to the affidavit. Thus, it is clear that at the time of complaint i.e. 05.03.2024 and at the time of pre-trap report and approval of trap team, there was no pendency of any claim regarding the company of the complainant. The complainant stated in his supplementary statement under section 161 Cr.P.C. to the investigating officer that he met the revisionist on 28.02.2024 at 5:00 P.M. in his office and discussed about the refund when he demanded Rs. 2,00,000/- as bribe for refund, whereas the refund claim for Rs. 17,54,248/- was already rejected by the accused on 28.02.2024 at 4:50 P.M. Hence, there was no occasion to demand bribe as there was no pendency of work with regard to refund with the revisionist at the time of alleged demand. Thus, in the absence of *mens rea*, no *actus reus* may happen, which is *sine qua non*. In case diary it is mentioned that at the time of trap, there was no claim of company, there was no pending refund claim of the company with the revisionist, which creates a strong doubt

regarding bonafides of alleged action taken against the revisionist. So far as the refund claim of Rs. 1,93,530/- is concerned, the same is immaterial in the present case because the trap was laid on 19.03.2024 for the alleged illegal gratification demanded on 28.02.2024 at 5:00 P.M. It is evident from prosecution papers that the refund claims of the complainant were already rejected by the revisionist on 28.02.2024 and 12.03.2024 due to deficiency of mandatory documents. There is no credible evidence in the entire case diary which can demonstrate that the revisionist has demanded illegal gratification from the complainant i.e. bribe giver, and therefore, in the instant case section 7 PC Act is not attracted. Even prosecution sanction order dated 12.09.2025 given by sanctioning authority is bad in law as sanctioning authority granted sanction of prosecution in a cursory manner without application of mind. Neither in the complaint nor in the first statement of the complainant under Section 161 Cr.P.C. any date, place and time has been mentioned by the complainant when he met the revisionist and bribe was demanded. Location of mobile phone of the revisionist was found at Deep Complex 1- Jopling Road, Lucknow.

8. To rebut the contentions of learned Senior Counsel appearing for the revisionist, learned A.G.A. submitted that in the present case charges are already framed, thus the trial of the revisionist for said charges is required to be proceeded to come to its logical conclusion. No question of discharge arises after framing of charge. Complainant met the revisionist on 28.02.2024 and 01.03.2024 and requested for clearance of his both the refund claims for which the revisionist demanded Rs. 2,00,000/- as bribe and on that day the refund claims were pending and finally rejected. The charge against the revisionist is that he demanded Rs. 2,00,000/- as bribe from the complainant Diship Kumar, who is Accountant in Ardem Data Services Pvt. Ltd., Vibhuti Khand, Lucknow and he was caught red handed while taking bribe of Rs. 2,00,000/- from the complainant in the presence of trap team on 19.03.2024. Prior to carrying out trap, a thorough inquiry and legal process was carried out to make it foolproof.

There is ample evidence against the revisionist that he demanded Rs. 2,00,000/- as bribe from the complainant to clear his claim of refund of Rs. 19,47,778/- for financial year 2021-22 and 2022-23. He accepted the bribe while being subjected to trap from the complainant. Thus, the ingredients of demand and acceptance as required under section 7 of the Act are fulfilled in the case.

9. From perusal of recovery memo, it is evident that on indication of the complainant, trap team entered in the room of the revisionist while he was caught keeping the bribed currency notes in the drawer of his table as the conversation of monetary transaction of bribe took place in the room of the revisionist between him and the complainant. It was not possible for the members of the trap team to overhear their conversation who were standing outside the room at different places who were hiding themselves outside room at different points on the floor where the room of the revisionist situated. On 28.02.2024 refund claim for a sum of Rs. 17,54,248/- was not rejected as such but a deficiency memo was issued to the complainant's company wherein the taxpayer was advised to file a fresh refund application after rectification of deficiencies noted in the memo, whereas refund ARN receipt was issued on 26.02.2024 for refund claim of Rs. 1,93,530/- in respect of refund claim of Rs. 17,54,248/- said deficiency memo was issued. When the complainant approached the accused after issuance of deficiency memo, he demanded bribe from him as option of filing second refund application was still open to the complainant as per advice given in deficiency memo.

10. Section 227 of the Code of Criminal Procedure provides as under:-

> *"227. Discharge.—If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing."*

11. In nutshell, the trial court may discharge an accused if no prima facie case is found against him to put him on trial and the trial court is of the considered opinion that there is no sufficient ground for proceeding against the accused.

12. In the present case, upon consideration of the record of the case and the documents available thereon and after hearing the submissions of learned counsel for the revisionist and the State Counsel in this behalf, I find no illegality, irregularity or perversity in the impugned order passed by learned Special Judge, whereby discharge application filed by the revisionist has been dismissed and charge under Section 7 PC Act, as amended by Amendment Act, 2018, has been framed against him.

13. In the present case, on perusal of the statements of independent witnesses, namely, Jitendra Kumar Gaur and Rajesh Kumar, it appears that they were involved in pre-trap process and they accompanied the trap team on indication of the complainant and they have stated in their statement under section 161 Cr.P.C. that the revisionist was caught red-handed in their presence while keeping the bribed money in a drawer. Accused caught red-handed in their presence, thus it cannot be said that they had not witnessed the alleged incident.

14. Section 7 of Prevention of Corruption Act, 1988 is being reproduced as under:-

> *"7. Offence relating to public servant being bribed. [Substituted by Act No. 16 of 2018, dated 26.7.2018.]*
> *—Any public servant who,—*
>
> *(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or*
>
> *(b) obtains or accepts or attempts to obtain, an undue advantage from any*

person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1.— For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

Illustration.— A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section.

Explanation 2.— For the purpose of this section,—

(i) the expressions "obtains" or "accepts" or "attempts to obtain" shall cover cases where a person being a public servant, obtains or "accepts" or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party."

15. Hon'ble Supreme Court in **V. Kannan versus State, (2009) 9 SCC 87** held that in corruption cases, prosecution must prove both demand and acceptance of bribe amount.

16. In the present case, the prosecution case is prima facie established on the basis of trap, recovery of money and chemical test and report of forensic science laboratory after chemical examination of material exhibits, whereby prosecution version relating to demand and acceptance of bribe stand by itself.

17. The essential ingredients of Section 7 are:

(i) That the person accepting the illegal gratification should be a public servant;

(ii) That he should accept the gratification for himself and the gratification should be as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official function, favour or disfavour to any person (**A. Subair v. State of Kerala, (2009) 6 SCC 587**).

18. So far as the plea of the revisionist in regard to non-corroboration of the statement of the complainant with regard to demand of bribe by any independent evidence is concerned, Hon'ble Supreme Court in Constitution Bench judgment of **Neeraj Dutta versus State (Govt. of NCT of Delhi), (2023) 4 SCC 731** reaffirmed the view that proof of demand and acceptance of illegal gratification is a sine qua non for establishing corruption charges under Sections 7 and 13 of the Act. However, while clarifying the law on the subject the Apex Court answered the question referred for consideration of the Constitution Bench as under:-

> *"In the absence of evidence of the complainant (direct/primary, oral/ documentary evidence), it is permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(d) read with Section 13(2) of the Act based on other evidence adduced by the prosecution."*

19. It is needless to add at this juncture that at the stage of consideration

of question of discharge of the accused/ revisionist a roving inquiry into material collected during investigation is not called for by the court. Charge can be validly framed against the accused on the basis of grave suspicion raised against him on the basis of material available on record as produced by prosecution.

20. In the case of **Amit Kapoor Vs. Ramesh Chander and Others (2012) 9 SCC 460**, Hon'ble Supreme Court held that even in the case of strong suspicion, charge can be framed. Paragraph 19 of the said judgment is quoted as under:-

> *"19. Having discussed the scope of jurisdiction under these two provisions, i.e., Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:*
>
> > *1) Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.*
> >
> > *2) The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can*

ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

3) The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

4) Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loathe to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

5) Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.

6) The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

7) The process of the Court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

8) Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a 'civil wrong' with no 'element of criminality' and does not satisfy the basic ingredients of a criminal offence, the Court may be justified in quashing the charge. Even in such cases, the Court would not embark upon the critical analysis of the evidence.

9) Another very significant caution that the courts have to *observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction, the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.*

10) It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

11) Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.

12) In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed with by the prosecution.

13) Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.

14) Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

15) Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that interest of justice favours, otherwise it may quash the charge. The power is to be exercised ex debito justitiae, i.e. to do real and substantial justice for administration of which alone, the courts exist."

21. At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that an accused had committed an offence, which, if put to trial could prove him guilty. All that the court has to see is that whether the material on record and the facts would be compatible with the innocence of the accused or not. The final test of proof of guilt is not to be applied at that stage.

22. Consequently, I find no force in present revision and it deserves to be dismissed.

23. In view of above, the present revision is **dismissed**.

(Ram Manohar Narayan Mishra,J.)

August 5, 2026
Mohd. Sharif