2026:AHC:230570-DB

A.F.R.

Reserved on: 11.08.2026

Delivered on: 05.11.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 2567 of 2026

Neeraj Pathak

..... Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

With

CRIMINAL MISC. WRIT PETITION No. 1777 of 2026

Raju

..... Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

With

CRIMINAL MISC. WRIT PETITION No. 1937 of 2026

Ravi Kant Mishra

..... Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

With

Criminal Misc. Writ Petition No. 1323 of 2026

Nikhil Mathur

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 1713 of 2026

Akhilesh Kumar Dubey

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 1854 of 2026

Ram Sewak Singh

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 6025 of 2026

Upendra Kumar Dixit

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 6396 of 2026

Dudhnath Prasad

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 1852 of 2026

Raghuveer Singh

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 2934 of 2026

Vinod Singh

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 3019 of 2026

Rahul

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 1772 of 2026

Yogesh Singh Chauhan

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 5271 of 2026

Satish Kumar

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No.1752 of 2026

Rajesh Singh

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 1756 of 2026

Srinivas Singh

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 2110 of 2026

Rajkumar Sharma

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

With

Criminal Misc. Writ Petition No. 2791 of 2026

Arvind Kumar

….. Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Ajay Singh, Ashish Agrawal, Hitesh Kumar Mishra, Hitesh Pachori, Jadu Nandan Yadav, Kapil Dev Singh Rathore, Mayank Chandra, Naveen Kumar Srivastava, Prakhar Saran Srivastava, Pranvesh, Raj Kumar Mishra, Sameer Srivastava, Sanjai Singh, Shivanshu Mehta, Sr. Advocate, Surya Pratap Singh, Uttam Singh, Vijay Tripathi, Vikram Dev Singh Rathore
Counsel for Respondent(s)	:	Baleshwar Chaturvedi, G.A.

Court No. - 48

HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE TARUN SAXENA, J.

(Per : Hon'ble Chandra Dhari Singh, J.)

1. Since all the afore-captioned writ petitions arise out of same Case Crime Number and involve common question of fact and law, the same have been heard together and are being decided by this common judgment. For the purpose of the present judgment, the brief facts, as noticed hereinbelow, are those of Writ Petition No. 2567 of 2026.

FACTUAL MATRIX

2. The controversy arises from the functioning of the Electricity Distribution Division, Fatehabad, Agra, under Dakshinanchal Vidyut Vitran Nigam Limited. The allegations relate to tendering and execution of electrical works during the financial years 2023–24, 2024–25 and 2025–26.

3. On the basis of allegations concerning irregularities in tender-related work, a three-member enquiry committee was constituted vide Office Memorandum No. 9789/CE/Agra Zone/Agra/Camp dated 12.11.2025. The committee comprised Raj Kumar, Chief Engineer (Commercial), as Chairman; Rahul Aakad, Deputy Chief Accounts Officer, as Member; and Anju, Accounts Officer, as Member. The committee examined tender records pertaining to the aforesaid financial years and submitted its report on 31.12.2025.

4. The enquiry report, as reproduced in the FIR, recorded several alleged irregularities. The e-tender portal was stated to disclose identical IP addresses of participants in 50 tenders during the financial years 2023–24, 2024–25 and 2025–26, giving rise to an allegation of collusion between bidders. The report further alleged that, in 28 tenders during 2023–24 and 2024–25, the requisite tender fees and earnest money deposits had not been deposited, although receipts purporting to evidence payment had, in certain instances, been attached. It was also alleged that the second part of the tender process had been opened after bidders were treated as qualified on the basis of the first part, notwithstanding the alleged deficiencies. In relation to 12 tenders during the relevant financial years, contracts were allegedly executed without approval of the competent committee. Examination of 29 tenders was stated to have disclosed irregularities involving disregard of the rates quoted by the lowest bidder, execution of multiple contracts where only one was considered necessary, and issuance of contracts or purchase orders reflecting incorrect monetary values. The enquiry report quantified the alleged financial loss in this category at Rs. 1,10,33,845.40.

5. The report also referred to eight tenders in which the first or second part had allegedly not been opened, four cancelled tenders in respect of which contracts were allegedly executed without following the prescribed procedure, and 40 contracts for which the related tender publications were not displayed on the e-tender portal and records of

publication were allegedly unavailable in the divisional office. The report referred, inter alia, to Tenders Nos. 11, 12, 13 and 17 of 2024–25, connected with Office Memorandum Nos. 1720, 1721 and 1722/Vivim-II/Fatehabad dated 14.11.2024 and Office Memorandum No. 1748/Vivim-II/Fatehabad dated 19.11.2024. The enquiry report also recorded alleged irregularities in contracts executed without publication of tenders or compliance with departmental procedures. The FIR referred to an aggregate alleged financial loss of approximately Rs. 30,44,24,074.

6. It is further alleged that a fire broke out in the office chamber of Neeraj Pathak during the intervening night of 06.05.2025 and 07.05.2025, resulting in the burning of tender-related files and other documents. Neeraj Pathak is stated to have submitted information regarding the incident at Police Station Fatehabad on 14.05.2025. The informant alleges that the destruction of the records was deliberate and connected with the irregularities subsequently identified. The petitioners dispute the allegation of deliberate destruction and rely upon the availability of electronic tender data and other records in the concerned departmental offices.

7. On the basis of the enquiry report, Somveer Singh, Superintending Engineer (Distribution), Electricity Distribution Division, Fatehabad, submitted the complaint seeking registration of a criminal case against Neeraj Pathak, other departmental officers and employees, and the contractors allegedly involved. The complaint alleged fraud, forgery,

manipulation of tender documents, collusion with bidders, destruction of official records and abuse of official position. It also recorded that prior approval had been obtained from the competent authority under Section 17A of the Prevention of Corruption Act, 1988, as amended in 2018.

8. Accordingly, Case Crime No. 0014 of 2026 was registered on 10.01.2026 under the provisions mentioned above. The petitioners have approached this Court challenging the FIR and seeking relief against the criminal proceedings.

Arguments on behalf of the petitioners, who were holding the Clerical posts

9. Denial of allegations:- Learned counsel for the petitioners submitted that the allegations as leveled in the impugned first information report are categorically denied as false, baseless and without any foundation and no offence as alleged, is made out against petitioners. Even, if the allegations are taken on their face value.

10. Unexplained and inordinate delay in lodging the F.I.R:- Learned counsel for the petitioners submitted that there are unexplained and inordinate delay in lodging the impugned F.I.R. The alleged period of offence is 01.04.2023 to 01.11.2025, whereas the F.I.R. has been lodged on 10.01.2026 i.e. after more than 70 days from the last date of alleged occurrence, without any plausible explanation for such delay.

The said delay is fatal to prosecution case and shows afterthought and malicious.

11. No power, authority or capacity to commit the alleged offence:- Learned counsel for the some set of petitioners submitted that the petitioners are working on the post of Camp Assistant/Stenographer/Draftsman/Clerks, which is low ranking ministerial posts. The petitioners have never been entrusted with any financial, administrative or technical power. The entire process of tender i.e. including drafting of estimate, technical evaluation, financial sanction and allotment is undertaken by the Competent Tender Awarding Committee constituted by the department and headed by the Superintending Engineer/Chief Engineer. It is submitted that therefore, the petitioners who were holding the posts of Camp Assistant/Stenographer/Draftsman/Clerks neither had the power nor the capacity to initiate or approve such large scale financial transactions. A decision regarding distribution of 12 high value tenders cannot, by any stretch of imagination be taken by an employee holding the post as stated above. Therefore, no criminal liability can be fasten upon the petitioners, who were holding the post of Camp Assistant/Stenographer/Draftsman/Clerks.

12. Petitioners are neither beneficiary nor responsible for any wrongful gain:- Learned counsel for the petitioners submitted that petitioners are not the beneficiary of the alleged fraud/misappropriation. There is no allegation of any wrongful gain accrued to the petitioners or any

wrongful loss caused by them, which is *sine qua non* for constituting offence under Sections 316 and 318 B.N.S.S. In absence thereof, the statutory ingredients of the alleged offences are not satisfied.

13. F.I.R. based solitary on administrative enquiry report is not sustainable:- Learned counsel for the petitioners submitted that the petitioners have been arrayed as an accused solely on the basis of a report submitted by three members enquiry committee constituted by the Chief Engineer. It is settled law that an administrative enquiry report is not a substantive piece of evidence and cannot form the sole basis for initiation of criminal prosecution without independent investigation and without affording opportunity of hearing to the petitioner. The impugned F.I.R. is based on a report violating principles of natural justice is abuse of process of law.

14. Petitioners have no concern with Accounts Department and tender process:- It is vehemently submitted that the petitioners have no role, responsibility or involvement with the process of distribution, evaluation or allotment of tenders. The tenders pertaining to financial year 2023-24, 2024-25 were awarded by duly constitutional departmental committee with which the petitioners had no concern whatsoever and the petitioners were neither the member of the said committee nor had any role in the award of said tender.

15. Attempt to link the petitioner with the fire incident is malicious:- Learned counsel for the petitioners submitted that the attempt to link

some of the petitioners with the fire incident is mis-conceived and malicious. Inquiry report pertaining to the said fire incident itself access responsibility upon the Security Guard on duty and does not record any role, presence or involvement of the petitioners in the said incident.

16. Act done in due discharge of official duty in binding directions:- It is submitted that the petitioners function under the direct administrative control of the Superintending Engineer and discharges their duties strictly in accordance with the instructions and directions issued by the said competent authority. Whatever, work done by the petitioners, were in due discharge of official duties and in binding directions of the competent authority which does not attract any illegality, misconduct or criminal culpability. The petitioners had an unblemished service career and they discharged their work with utmost sincerity and integrity.

Arguments on behalf of the petitioners, who were the Superintending Engineer/Chief Engineer

17. Learned counsel for the petitioner in **Criminal Misc. Writ Petition No.1937 of 2026 (Ravi Kant Mishra Vs. The State of U.P. and 3 others)**, submitted that the entire allegations made in the F.I.R. are false and fabricated. It is submitted that the impugned F.I.R. is basis of some *ex parte* preliminary inquiry report of three members committee dated 31.12.2025 of which details has not been provided to the petitioner at

any point of time, even the petitioner was not given any opportunity of hearing before the said committee, no opportunity of examination or to file evidence or opportunity to cross-examine was ever accorded to the petitioner by the said committee nor was its report ever furnished to the petitioner at any point of time, therefore, it is clear cut violation of principle of natural justice.

18. It is further submitted that in the F.I.R. a tender bearing number 100/2023-24 was also mentioned (at Serial No.82). Various irregularities in said tender was found by the Committee in its report dated 31.12.2025. However, it is hereby stated that agreement under the said Tender No.100/2023-24 was executed by Shri Rajkumar, who also was appointed as Chairman, Inquiry Committee and as such he acted as a '*Judge in his own cause*'. Further, he has though reported irregularities in the said tender but has not named himself as person responsible and guilty.

19. Learned counsel for the petitioner submitted that the impugned F.I.R. is founded solely on the ground of departmental inquiry report, which is vitiated by patent conflict of interest. This amounts to self-adjudication, offending the principle of *Nemo Judex In Causa Sua,* rendering the enquiry *non est* in law. It is further submitted that such enquiry was arbitrary and selective, attracting the doctrine of malice in law.

20. Learned counsel appearing on behalf of the petitioner vehemently submitted that the petitioner was only posted for a short period of 4.5 months i.e. from 04.01.2025 to 23.05.2025 and thereafter he has been transferred and now he is posted as Superintending Engineer (Stores) at Agra.

21. It is further submitted that the allegations with regard to the financial loss amounting to Rs.30,44,24,074/- is not related to the petitioner. The same is in respect of various other contracts/tenders of which reference has been made in the impugned first information report. Only one contract/tender i.e. Tender No.22/2024-25 during the entire tenure of the petitioner has been mentioned which appears at Serial Number 111 (internal page 34 of the F.I.R.).

22. Learned counsel appearing on behalf of the petitioner submitted that in view of the above-said fact as stated in the instant F.I.R. is nothing but gross misuse of process of law and the criminal proceeding initiated against the petitioner is only *mala fide* intention and therefore, it is malicious prosecution. The instant F.I.R. may quash while allowing the instant writ petition.

Arguments on behalf of the petitioners, who were the Contractors

23. Learned counsel for the some set of petitioners submitted that the impugned F.I.R. discloses no criminal offence. It is submitted that the allegations, even if taken its face value, facts disclose departmental irregularity, not criminal conspiracy, cheating or criminal breach of

trust. Award of tender is multi-stage process involving scrutiny at various level i.e. Junior Engineer then Executive Engineer then Superintending Engineer then Tender Opening Committee then Chief Engineer thereafter finance wings and finally E.R.P. - General Purchase Order. Therefore, a Contractor cannot illegally manipulate the same.

24. Learned counsel appearing on behalf of the petitioner submitted that the allegation of award of work, without publication of tender is unsustainable. The said work-fall under 'emergent-works' exception recognized under the departmental manual, were executed within the sanctioned time estimate and have been duly certified as complete and satisfactory by the competent Engineers, the same cannot be termed illegal. It is submitted that the alleged discrepancy of Rs.1970/- in Tender No.95/2023-24 and Rs.14,000/- in Tender No.27/2023-24 between L-1 amount and agreement, amount is too trivial to attribute criminality. At the highest, it is a typographical/clerical error in feeding data in E.R.P., without any wrongful gain to the petitioner or wrongful loss to the Corporation. Criminal prosecution cannot be founded on such minor variance.

25. Learned counsel appearing on behalf of the petitioner submitted that because the allegation of not opening of financial bid is against the internal process of the department, hence the Contractor cannot be held liable for the same. Petitioner has no role or knowledge of internal tender opening. In any case, the order was followed by system

generated E.R.P. purchase order confirming L-1 status and 80% payment has been released after due measurement and certification.

26. It is also submitted that the submission of bids from a common I.P. address by itself, does not constitute criminality. In rural/remote areas, Contractors commonly used a shared Cybercafe. Mere probability of common I.P. Address without any material of meeting of minds or cartelization does not disclose conspiracy under Section 61(2) of B.N.S.

27. Learned counsel appearing on behalf of the petitioner submitted that the entire F.I.R. is founded on an enquiry report vitiated by bias and conflict of interest. The Chairman of the Inquiry Committee is itself the authority, who approved an issue the very LOIs and agreements now impugned to other members i.e. Superintending Engineer, Rajkumar and Rahul Akad, were themselves signatories/approving authorities on some of the very tenders they have indicated. Thus, the report is *Nemo Judex In Causa Sua* was liable to be discarded.

28. Learned counsel appearing on behalf of the petitioner submitted that the principle of natural justice has also been violated as the inquiry report was prepared behind the back of the petitioner without any notice or opportunity of hearing, now it visits them with serious, civil and criminal consequences. It is submitted that in view of above-said facts and circumstances, the instant F.I.R. deserves to be quashed while allowing the writ petitions.

Arguments on behalf of State Counsel

29. *Per contra*, Learned A.G.A. appearing on behalf of the State vehemently opposed the instant writ petition and submitted that the plain reading of F.I.R. discloses commission of cognizable offences. It is further submitted that whatever the arguments advanced by learned counsel appearing on behalf of the respective parties are their defence, therefore, it cannot be seen or adjudicated at this stage. The instant F.I.R. was lodged on the basis of the detailed inquiry report. It is also submitted that the F.I.R. and inquiry report identifies the petitioners by name and by their capacity and attribute to them specific acts, by tender number, date and amount. Whether, they acted dishonestly or derived wrongful gain/benefits are questions of facts for investigation and cannot be adjudicated at this stage. The acts alleged i.e. institution of agreements against cancelled tenders, institution of agreements before publication and generation of purchase orders in favour of non-participants lies outside the discharge of any official function. Learned A.G.A. for the State vehemently submitted that therefore, the writ petitions seeking the quashing of F.I.R. are devoid by merit and it is to be rejected.

30. We have heard learned counsel for the petitioners, learned A.G.A. for the State and perused the record.

Analysis and Conclusion

31. The genesis of the present prosecution is Case Crime No.0014 of 2026, registered on 10.01.2026. The allegations, in brief, as per the detailed three members inquiry report dated 31.12.2025 constituted by the Chief Engineer, are that during the period 01.04.2025 to 01.11.2025, many high value tenders were manipulated causing wrongful loss to the corporation to the tune of Rs.30,44,24,074/-. The *modus operandi* alleged is (i) Institution of agreements against cancelled tenders; (ii) Institution of agreements before publication of NIT; (iii) Generation of ERP - general purchase orders in favour of non-participants/L-2 bidders without opening of financial bids; (iv) Award of works without publication of tender.

32. This Court now proceeds to deal with the arguments raised by seriatim.

A. On Section 17-A of Prevention of Corruption Act, 1988

33. The contention that prior approval under Section 17-A was not obtained is misconceived. A bare perusal of the F.I.R. shows that prior approval was obtained from the competent authority before registration of F.I.R., which is duly mentioned. Moreover, acts alleged entering into agreements against cancelled tenders, ante-dating agreements, generating purchase orders in favour of non-bidders/L-2 *prima facie* do not fall within the ambit of independent

‘recommendation made or decision taken by a public servant in discharge of his official functions or duties’, but rather indicate alleged acts of manipulation and procedural irregularities. Moreover, this provision does not confer blanket immunity upon public servants or extend protection to private contractors against allegations of independent criminal acts. Therefore, protection of Section 17-A cannot be claimed at this thresh-hold. The issue is left open to be examined during investigation.

B. On delay in lodging the F.I.R.

34. The alleged period is up to 01.11.2025 and F.I.R. is dated 10.01.2026 i.e. within 70 days. The delay is explained by the fact that a detailed departmental inquiry was conducted and report was submitted on 31.12.2025. In cases of economic offences and tender frauds, some time is required to collate material. Delay of 70 days cannot be termed as is inordinate or fatal so as to quash the F.I.R. It is the matter to be appreciated during trial.

C. On Argument that petitioners holding clerical posts have no power

35. This Court cannot accept the plea that Camp Assistants/Stenographers/Draftsmen and Clerks had no role, the enquiry report specifically attributes roles by name, capacity, tender number, date and amount. It is alleged that ERP IDs of these petitioners were used for feeding data, generating G.P.Os. and uploading agreements. Whether they acted under binding

directions of Superintending Engineer or on their own, whether their IDs were misused, are all disputed questions of fact which requires investigation. At this stage, this Court cannot conduct a mini trial and hold that they have no capacity.

D. On no wrongful gain and ingredients of Sections 316 & 318 B.N.S., not made out

36. Learned counsel for the petitioners argued that there is no wrongful gain to the petitioners. Section 316 (criminal breach of trust) and Section 318 (cheating) of B.N.S. along with Section 61(2) (criminal conspiracy) and Prevention of Corruption Act, offences are made out, if there is dishonest intention and wrongful loss to any cooperation or institution. The F.I.R. alleges wrongful loss of more than Rs.30,00,00,000/- (Thirty Crores) to the corporation. The beneficiary may be the Contractor, but the conspiracy and abatement by officials is also punishable. The wrongful gain needs not be direct to the public servant himself, this requires evidence.

E. On F.I.R. based solely on Inquiry Report and Violation of Natural Justice

37. It is settled law that an administrative enquiry is not substantive evidence, but it can certainly form the basis for lodging an F.I.R. and settle the criminal law into motion. The F.I.R. is not the enquiry report itself, it is based on materials collected during enquiry. The principle of natural justice *audi alteram partem*

applies to departmental proceedings resulting in civil consequences, but does not applies at the stage of preliminary enquiry which proceeds for registration of F.I.R. The petitioners will get full opportunity during investigation and trial to rebut the same.

F. On arguments of Contractors that works falls under exceptions, minor variance in amounts, use of Common IP Address and non-opening of financial bid being internal process.

38. Whether work falls under “emergent-works” exception under departmental manual and whether it was within sanctioned estimate and satisfactorily completed, is a matter of verification of records.

(b) The plea that discrepancy of certain amounts in various tender is typographical/clerical error and trivial to attribute criminal liability cannot be accepted at this stage. The cumulative effect has resulted in huge loss.

(c) The plea that not opening of financial bid is internal process of department and Contractor has no role, is not tenable, when allegation is of collusion. The generation of ERP purchase under confirming L-1 status despite no financial bid being opened, if proved, shows a deep rooted conspiracy.

(d) The common IP Address argument – submission of bids from a common IP Address in rural areas using shared Cyber Cafe

may be plausible defence, but when coupled with other allegations like L-1 being non-participants, award without tender, it becomes a relevant circumstance to infirmitting of minds under Section 61(2) B.N.S. It cannot be brushed aside as mere probability. Mere use of same Cyber Cafe by different Contractors for completing bids itself is highly unnatural and requires investigation.

G. On Bias *Nemo Judex in Causa Sua,*

39. The argument that Chairman of Inquiry Committee himself and had approved some LOIs and agreements and therefore, report is vitiated by bias, is a defence that can be taken during trial to discredit the report. The enquiry report is not a judicial order. At this stage, the Court has to see whether cognizable offence is disclosed on plain reading of F.I.R. or not. Whether enquiry was vitiated by bias or not, is the matter of investigation to be done by independent investigating officer.

40. The law with regard to quashing of F.I.R. is well settled by Supreme Court in ***State of Haryana v. Bhajan Lal***[1]***,*** and recently in ***Ms. Neeharika Infrastructure Pvt. Ltd. V. State of Maharashtra & others***[2]***.*** The power under Article 226 is to be exercised sparingly and only where on plain reading of F.I.R., no cognizable offence is made out. The Court cannot go into the veracity of allegations or evaluate defence of accused at this stage.

---

1 1992 Supp (1) SCC 335
2 AIR 2021 SC 1918

41. In the present case, a plain reading of F.I.R. discloses cognizable offences. The allegations are serious involving manipulation of ERP system, creation of agreements against cancelled tenders, award of tenders without publication, generation of purchase orders in favour of non-participants. Whatever arguments have been advanced by learned counsel for the petitioners, are their defence, which cannot be adjudicated by this Court while exercising the writ jurisdiction under Article 226 of the Constitution of India. The same are questions of fact for investigation.

42. For the reasons stated above, we find no merit in the writ petitions seeking quashing of F.I.R.

43. Accordingly, all the connected writ petitions are **dismissed**.

44. Before parting with judgment, I would like to express my appreciation to my Research Associate, Ms. Nikhat Fatima for her thorough research and assistance to the Court in the instant case.

(Tarun Saxena,J.) (Chandra Dhari Singh,J.)

November 5, 2026
Atul

Digitally signed by :-
ATUL KUMAR SRIVASTAVA
High Court of Judicature at Allahabad