2026:AHC:208630

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 8131 of 2026

Vipin Tiwari

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Anjeet Singh
Counsel for Respondent(s)	:	G.A.

Court No. - 91

HON'BLE SANTOSH RAI, J.

1. As per the office report dated 5.10.2026, notice has been served upon opposite party no.2 personally.

2. Despite service of notice, none appears on behalf of opposite party no.2.

3. Heard learned counsel for the appellant/applicant and learned AGA for the State.

4. The present criminal appeal has been filed by the appellant with a prayer to set aside the entire proceedings, charge-sheet no.1 of 2024 dated 31.12.2024 as well as the impugned cognizance/summoning order dated 30.5.2026 passed by Special Judge, SC/ST (PA) Act, Fatehpur in Special Trial No.683 of 2026 (State vs. Vipin Tiwari), arising out of Case Crime No.214 of 2024, under Section 137(2) B.N.S. and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, P.S.- Asothar, District- Fatehpur.

5. Learned counsel for the appellant submits that the victim voluntarily went alongwith the accused-appellant to Fatehpur and, in her statement recorded under Section 183 BNSS, has categorically stated that she went with the appellant of her own free will. It is further submitted that there is no allegation or evidence of force, coercion or inducement on the part of the

appellant. Learned counsel further submits that the victim herself disclosed her age differently at different stages and, therefore, her age was not conclusively established. Accordingly, it is submitted that the order taking cognizance against the appellant is unsustainable and the appeal deserves to be allowed.

6. Learned AGA has opposed the appeal and submits that the victim is a minor and there is no reliable evidence on record to establish that she was major at the time of the alleged incident. It is further submitted that the victim, in her statements recorded under Sections 180 and 183 BNSS, consistently disclosed her age to be around 16 years and admitted that she went alongwith the accused-appellant to Fatehpur. It is, therefore, submitted that the learned trial court has rightly taken cognizance against the accused-appellant and the appeal is liable to be dismissed.

7. The accused-appellant is named in the First Information Report, and the allegation against him is that he enticed away the minor daughter of the informant. In her statement recorded under Section 180 BNSS, the victim stated that she was about 16 years of age. She further stated that she had met the accused-appellant and thereafter went alongwith him to Fatehpur on his motorcycle. The victim reiterated the same version in her statement recorded under Section 183 BNSS, stating that she had gone along with the accused-appellant. However, there is no reliable material on record to establish that the victim was a major on the date of the alleged incident. Though she declined to undergo medical examination, at the time of her examination before the competent authority, she stated her age to be about 16½ years. Further, in her statement recorded under Section 180 BNSS, she disclosed her age as 16 years. Thus, the material available on record does not support the contention that the victim was major at the relevant time.

8. For the reasons recorded above, this Court finds that the learned trial court has rightly summoned the accused-appellant under the aforesaid provisions. The impugned order is well reasoned and does not suffer from any illegality or infirmity warranting interference in appellate jurisdiction.

9. The instant appeal, being devoid of merit, stands **dismissed**.

10. Registrar (Compliance) is directed to serve a copy of this order by FAX/e-mail to the court concerned through District & Sessions Judge concerned within 48 hours.

(Santosh Rai,J.)

October 6, 2026
RA

Digitally signed by :-
RAZIQ ALI
High Court of Judicature at Allahabad