



2026:AHC:91866

**RESERVED ON: 25.03.2026**

**DELIVERED ON: 24.04.2026**

**A.F.R.**

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL APPEAL No. - 11406 of 2025**

Mahesh Tiwari

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

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Counsel for Appellant(s) : Sr. Advocate, Vineet Kumar Singh  
Counsel for Respondent(s) : Avijit Saxena, G.A.

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**Court No. - 39**

**HON'BLE ABDUL SHAHID, J.**

1. Heard Sri H.N. Singh, learned Senior Advocate, assisted by Sri Vineet Kumar Singh, learned counsel for the appellant, Sri Vinay Saran, learned Senior Advocate, assisted by Sri Avijit Saxena, learned counsel for the Respondent No. 2 and Sri Acharya Rajesh Tripathi, learned A.G.A. for the State.

2. The present Criminal appeal under Section 14-A(1) of the Scheduled Castes Act and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been filed against the impugned order dated 14.10.2025 passed by Special Judge (SC/ST Act)/Additional District & Sessions Judge, Mahoba in Special Case No.86 of 2025 (State Vs. Mahesh Tiwari and Another) under Sections 221, 132, 352, 351(2), 127(1) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s), 3(2)(5a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 arising out of Case Crime No.0277 of 2025, Police Station Kotwali Nagar, District Mahoba and the entire proceedings of Special Case No.86 of 2025 (State Vs. Mahesh Tiwari and Another) pending in the Court of Additional District & Sessions Judge/Special Judge (SC/ST Act), Mahoba.

3. The genesis of the case, as per the complainant/opposite party no. 2, Jai Prakash Anuragi, is that he lodged an F.I.R. regarding an incident dated

28.06.2025 at 16:50 hours. The F.I.R. was registered with a delay on 29.06.2025 at 13:26 hours under Sections 221, 132, 352, and 351(2) of the IPC, and Sections 3(1)(r), 3(1)(s), and 3(2)(va) of the SC/ST Act, 1989. The complainant lodged the F.I.R. against two accused persons, namely, (1) Mahesh Tiwari, son of unknown, and (2) Ankit Shukla, son of Devendra Shukla.

4. It is stated in the complaint that on 28.06.2025, during the tender process at the Zila Panchayat, when documents were being deposited in the tender box, at about 4:50 p.m., Mahesh Tiwari (resident of Kabrai, Mahoba) and Ankit Shukla (resident near Vikas Bhawan, Mahoba), along with their associates, entered the premises and approached the tender box. They allegedly instructed that water be poured into the box. Upon protest by a government employee present there, Mahesh Tiwari pushed the employee aside, while Ankit Shukla allegedly caught hold of the complainant/Jai Prakash Anuragi from behind and abused him using caste-based remarks in a loud voice and said where is Kuriya Chairman.

5. On hearing this noise, the complainant, along with Zila Panchayat member Shri Mrityunjay Pratap Ahirwar, came out and questioned the accused. It is further alleged that Mahesh Tiwari threatened the complainant and used caste-based remarks against both the complainant and the said member, and thereafter left the spot, extending threats of future consequences.

6. The present criminal appeal has been filed against the summoning order dated 14.10.2025 issued after submission of the charge sheet against the appellant, Mahesh Tiwari. The charge sheet was also filed against Shailendra Singh, who is not before this Court.

7. At the outset, learned counsel for the opposite party no. 2 raised a preliminary objection that the summoning order has been issued on the basis of the investigation, followed by submission of the charge sheet; hence, the relief sought by the appellant for quashing of the charge sheet, the summoning order, and the entire proceedings is not liable to be quashed.

8. Learned counsel for the opposite party no. 2/complainant had relied on the law laid down by the Hon'ble Supreme Court in **State of Gujarat Versus Afroz Mohammed Hasanfatta (reportable judgement)** passed

**in Criminal Appeal No. 224 of 2019 dated 05.02.2019.** The said appeal was filed before the Honb'ble Supreme Court against the order of the High Court of Gujarat dated 03.05.2017 allowing the Criminal Revision No.264 of 2017 and by which the High Court has set aside the order dated 15.11.2014 passed by the Chief Judicial Magistrate at Surat by which the Magistrate had taken cognizance of the offences punishable under Sections 420, 465, 467, 468, 471, 477A and 120-B IPC on the basis of the second supplementary charge sheet filed by the police in Criminal Case No.62851/2014 and ordered issuance of process to the respondent-accused. The impugned judgment which was challenged before the Hon'ble Supreme Court was against the criminal revision.

9. Learned counsel for the appellant has objected that the present criminal appeal is maintainable and the entire relief sought by him in the said appeal could be granted by this Court. This is not a criminal revision rather this is a criminal appeal under section 14-A(1) of the Scheduled Castes Act and Scheduled Tribes (Prevention of Atrocities) Act, 1989. (later referred as "Act, 1989" for the sake of brevity). It is as follows:

*“Section 14A. Appeals.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), (corresponding B.N.S.S., 2023) an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.”*

10. There is legal force in the submission made by learned counsel for the appellant. Undoubtedly, the present matter is a criminal appeal under Section 14-A(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, wherein the High Court has jurisdiction to review the order passed by the Special Court, as defined under the said provision, on both facts and law.

11. Learned counsel for the appellant has submitted that there is a considerable delay in lodging the F.I.R. The opposite party is neither illiterate nor uneducated; rather, he is the Chairman of the Zila Panchayat. The F.I.R. was lodged against Mahesh Tiwari (appellant) as well as Ankit Shukla; however, no specific role was subsequently assigned to Ankit Shukla, who has been exonerated during the investigation, and no charge sheet has been filed against him. Ankit Shukla was named in the F.I.R. along with the name of his father; hence, it may be presumed that Jai

Prakash Anuragi (opposite party no. 2) was well aware of him. The F.I.R. was lodged on the next day of the incident, with a delay of approximately 24 hours.

12. Learned counsel for the appellant has further submitted that there are material inconsistencies in the statements made by the complainant during the investigation, and none of the independent witnesses has supported his version.

13. It is further submitted that as per the complainant's own averments, the ingredients of the offences under the SC/ST Act could not be fulfilled as the alleged incident did not occur in a public view. It is contended that the Chairman came out of his chamber only for two minutes and returned shortly thereafter. It is also alleged that the complainant did not want the appellant to participate as a competitor in the tender process and attempted to prevent him from submitting his tender.

14. Per contra, learned counsel for opposite party no. 2 has submitted that there is consistency in the complainant's statements and there is ocular evidence supporting the prosecution case. It is further submitted that the appellant has failed to prove any motive, prima facie case is made out against him and the charge sheet has been duly filed and cognizance taken by the learned Special Court. Accordingly, the present criminal appeal is liable to be dismissed.

15. Learned counsel for the appellant has further submitted that the appellant is a contractor registered with various departments. A tender notice inviting e-tender/e-auction was published by the Zila Panchayat, Mahoba on 11.06.2025 for various tender items and last extended date was fixed 28.06.2025 on that date the appellant went to submit his tender in the tender box. The appellant though is qualified for submitting his tender but was being illegally prevented from submitting his tender in the tender box because the Chairman of Zila Panchayat i.e. the informant was interested in handing over the contract to the person of his choice and for that purpose, he was preventing the appellant from submitting the tender and thereafter to participate in bid. The appellant showed his objection for not permitting to submit the tender, consequently, the Chairman of Zila Panchayat i.e. the informant became annoyed and in spite of that, the appellant had submitted the tender, hence the informant has lodged an FIR.

16. Learned counsel for the appellant has further submitted that the statement of the complainant was recorded under section 161 Cr.P.C. but he has failed to make any statement about the specific use of language relating to caste and further, it is not disputed that the alleged incident has not taken place in public view but is said to have happened in the office of the Zila Panchayat.

17. The statement of the complainant/opposite party no. 2 was first recorded on 29.06.2025 under Section 161 Cr.P.C., wherein he stated that Mahesh Tiwari threatened a government employee and pushed him, while Ankit Shukla caught hold of the complainant from behind and, after issuing threats, hurled abuses and used casteist remarks, stating, "Where is that Kuriya Chairman?" This was heard inside, whereupon the complainant and his associate, Mrityunjay Pratap Ahirwar, came outside and questioned the accused as to why they were abusing. Thereafter, Mahesh Tiwari and Ankit Shukla allegedly said, "Kuriya, we will see, how you run the Zila Panchayat," and further addressed Mrityunjay Pratap Ahirwar, who was standing beside the complainant, with caste-based remarks, threatening him as well. Thereafter, they left the place after extending threats.

18. The informant further stated that Mahesh Tiwari and Ankit Shukla had threatened the government employee, Ram Milan Verma, and had interfered with the tender process and official work. He also stated that the CCTV footage could be examined for verification. In response to a specific query as to how he knew Mahesh Tiwari and Ankit Shukla, the informant stated that he had known both of them for a long time and that they were well acquainted with each other, including knowledge of each other's caste.

19. In reply to a further question as to whether any physical assault (marpeet) had taken place with him or any other person, he stated that no such incident had occurred. When asked whether he was willing to undergo a medical examination, he stated that, since no physical assault had taken place, he did not wish to undergo any medical examination of his own accord.

20. Learned counsel for the appellant has further submitted that another relevant witness, Shiv Shankar Vyas, who was posted as Nazir in the office of the Zila Panchayat, has narrated the incident dated 28.06.2025

only to the extent of submission of the tender and has not supported the allegations made by the Chairman of the Zila Panchayat regarding the use of caste-related language or any humiliation on the basis of caste.

21. Learned counsel for the appellant has further submitted that another relevant statement of Ram Milan an employee of the Zila Panchayat do admit that the appellant had got an apprehension that he is being prevented from submitting his tender, in the circumstances, he was caught hold by Ankit Shukla and the appellant has submitted his tender in tender box but regarding other alleged incident of use of language relating to caste was not supported by Ram Milan and Rajesh Kumar.

22. Learned counsel for the appellant has further submitted that the police recorded the statement of Opposite Party No. 2/complainant on 21.07.2025 vide CD-8, wherein he stated that he had omitted to mention the name of Ravi Tiwari in the First Information Report along with the appellant and Ankit Shukla, and that Ravi Tiwari was also present at the scene of occurrence. In this regard, a true copy of the statement of the complainant recorded vide CD-8 dated 21.07.2025, along with the statement of witness Mrityunjay, has been jointly filed by the appellant.

23. Further, the third statement of the informant was recorded by the Investigating Officer on 19.09.2025 vide CD-17, wherein he stated that Ankit Shukla, who was earlier alleged to have caught hold of Ram Milan Verma, was not present at the scene of occurrence, and that the person who had caught hold of Ram Milan Verma was some other individual. He further stated that Ankit Shukla was not involved in the offence.

24. The statement of Ram Milan Verma was again recorded on 19.09.2025, wherein he also changed the prosecution version by stating that Ankit Shukla was not the person who had caught hold of him, but that the said person was Shailendra Singh, the driver of Mahesh Tiwari.

25. After concluding the investigation, the Investigating Officer submitted the charge sheet on 22.09.2025 against the appellant and Shailendra Singh, and concluded that Ankit Shukla and Ravi Tiwari were not involved in the alleged offence and were not present at the scene of occurrence.

26. Learned A.G.A. has filed a counter affidavit sworn by Arun Kumar Singh, who is the Circle Officer (City), District Mahoba. He has deposed

that the Zila Panchayat, Mahoba, had invited tenders on 11.06.2025, and the last extended date for submission was fixed as 28.06.2025. On that date, the appellant and other persons were present at about 4:50 p.m.

27. It is further submitted that the Investigating Officer conducted further investigation. On 06.09.2025, the deponent, being the Deputy Superintendent of Police, was given charge of the Circle (City), and the investigation of the present case was taken up by him on 08.09.2025. Thereafter, the case diary and other evidence were examined. In the course of investigation, further statements of the complainant, Shri Jaiprakash Anuragi, the victim, and other witnesses were recorded. The CCTV footage of the spot was also examined and the site was inspected.

28. During investigation, it was found that on 28.06.2025, in the premises of the District Panchayat, Mahoba, after being pushed by the accused Mahesh Tiwari, the victim Ram Milan Verma above was pushed.

29. The person who hold the above mentioned person, it was Ankit Shukla son of Devendra Shukla has been told to be some other person Shailendra Singh (driver of Mahesh Tiwari) and the person involved (holding) has been identified by the accused and witnesses as Shailendra Singh, the complainant and witnesses above have confirmed that Ankit Shukla son of Devendra Shukla above named and Ravi Tiwari son of Ram Manohar Tiwari above named who came to light, were not involved (participants) in the said incident. From the consideration of CCTV footage related to the above mentioned case, all the persons seen except the named Mahesh Tiwari and Shailendra Singh above named were found to be in normal posture and their expressions appeared to be normal.

30. Thereafter, Ankit Shukla and accused Ravi Tiwari have been exonerated and the charge sheet was filed against Shailendra singh and Mahesh Tiwari and section 127(1) B.N.S. has been added. The Investigation Officer had relied on the third statement of the complainant under section 161 Cr.P.C. (corresponding section 180 B.N.S.S., 2023) dated 19.09.2025 where in the third statement of the complainant, the complainant stated that I closely minutely observed the video related to the incident and enquired from other people, then I came to know that I have written and mentioned the name of the person who caught the employee Rammilan Verma after pushing him, as Ankit Shukla. However, that person is not Ankit Shukla, the person who caught him is

someone else, about whom not much information is available, perhaps he was the driver of Mahesh Tiwari, Ankit Shukla was not involved in the incident.

31. However, in his earlier statements dated 29.06.2025 and 21.07.2025 recorded under Section 161 Cr.P.C., as well as in the F.I.R. lodged by him, the complainant had specifically named Ankit Shukla along with his father's name, Devendra Shukla. When the I.O. has specifically questioned, then the complainant stated that he knows very well to Mahesh Tiwari and Ankit Shukla for a long time and also aware of their caste identities.

32. The complainant is neither illiterate nor uneducated; rather, he is a responsible person holding the position of Chairman of the Zila Panchayat. It cannot be assumed that such a person would make statements that change materially over time. However, from 29.06.2025 to 21.07.2025 and thereafter on 19.09.2025, there have been material changes in his statements, despite the F.I.R. having been lodged one day after the incident by himself.

33. The tender process was to be completed by 5:00 p.m. on 28.06.2025, and the alleged incident is stated to have occurred at about 16:50 hours. It is evident that the appellant came, submitted his tender, and thereafter left the premises.

34. When a specific query was put to the complainant in his third statement dated 19.09.2025 by the Investigating Officer as to why he had earlier named Ankit Shukla in the F.I.R., in his statements, and in the supplementary statement, and had even identified him in the video, but was now stating that another person was involved and Ankit Shukla had no role in the incident, the complainant replied that Ankit Shukla had approached him and asked him to verify the video. Upon re-examining the footage, he realized that Mahesh Tiwari had pushed Ram Milan and the person holding him was not Ankit Shukla but another individual/wearing a round-neck black T-shirt, lowers, and slippers. He then stated that Ankit Shukla is innocent and declined to say anything further.

35. Thus, the entire genesis of the prosecution case has been materially altered during the course of investigation. There is no question of relying

solely upon subsequent perusal of video footage for identification of the accused, when the complainant was admittedly present at the spot and had initially named and assigned specific roles to each accused in the F.I.R.

36. While electronic evidence is admissible, it is ordinarily considered in addition to ocular or circumstantial evidence. In the present case, the complainant/Opposite Party No. 2 was present at the spot and had made serious allegations against the appellant under the provisions of the B.N.S. as well as the special provisions of the Act of 1989. The consistent changes in his version and his increasing reliance on electronic evidence over his own ocular account cast serious doubt on the prosecution case.

37. Similarly, the injured Ram Milan Verma, an employee of the Zila Panchayat, has also recorded two statements under Section 161 Cr.P.C., dated 29.06.2025 and 19.09.2025, which are contradictory to each other. Being an employee under the administrative control of Opposite Party No. 2/complainant, who is the Chairman of the Zila Panchayat, the possibility of influence cannot be completely ruled out, particularly in the facts and circumstances of the present case.

38. Thus, both the complainant and the injured witness have consistently changed their versions from their earlier statements under Section 161 Cr.P.C., as well as from the contents of the F.I.R., which was lodged on the next day of the incident by complainant/opposite party no. 2 himself.

39. The State has filed a counter affidavit and has relied more upon the CCTV footage than the ocular evidence. It is stated that the CCTV footage dated 28.06.2025 is available from 16:00 hours to 17:40:19 hours, though the footage does not contain any audio.

40. As per the version in the F.I.R., the alleged incident took place at 16:50 hours. However, as per the CCTV footage, which forms the basis of the filing of the charge sheet, it is recorded that at 16:51:09 hours certain persons entered the office of the Zila Panchayat, namely Mahesh Tiwari, Himanshu Shukla, Sanjay Tiwari and Mohit Tiwari. Thereafter, at 16:51:45 hours, Himanshu Shukla took some papers from Mohit Tiwari and dropped in the box. On which some objections has been raised by the injured Ram Milan then Mahesh Tiwari had pushed injured Ram Milan Verma at 16.51.49 hours and another person wearing a black colour half round-neck T-shirt, appeared to be holding Ram Milan. The CCTV

footage shows that Mohit Tiwari dropped the papers at 16:52:09 hours.

41. The complainant, Jai Prakash Anuragi failed to identify the person who was holding the injured Ram Milan and specifically stated that the said person was not Ankit Shukla, who had been previously named in the F.I.R. On the other hand, the injured Ram Milan stated that the person holding him was Shailendra Singh, the driver of Mahesh Tiwari. Thus, the prosecution story has undergone a material change.

42. Since the registration of the F.I.R. on 29.06.2025 and the statements of the complainant recorded under Section 161 Cr.P.C. on 29.06.2025, 21.07.2025 and 19.09.2025 as well as the statement of Ram Milan was recorded on 29.06.2025 and on 19.09.2025, there have been material inconsistencies. Another person standing near Sanjay Tiwari, wearing a sky-blue shirt, has been identified by all as Ankit Shukla, and another person wearing a saffron (bhagwa) kurta has been identified as Krishna Kant Mishra.

43. As per CCTV footage, at 16:52:47 hours, two persons were seen coming outside the office of the Chairman of the Zila Panchayat; the complainant has stated that one of them was himself and the other was Mrityunjay Pratap Ahirwar, a Member of the Zila Panchayat. Thereafter, some conversation appeared to take place between the complainant/Chairman and his colleague, Mrityunjay Pratap Ahirwar, with Mahesh Tiwari and his associates, and their demeanor appeared normal.

44. Thereafter, at 16:54:50 hours, Mrityunjay Pratap Ahirwar was seen entering the office of the Zila Panchayat, and at the same time the complainant/Opposite Party No. 2 also entered his office. Subsequently, Mahesh Tiwari and his associates remained present in the premises, standing and sitting there, and ultimately left the premises at 16:57:27 hours.

45. This forms the basis of the filing of the charge sheet after the third statement of the complainant/Opposite Party No. 2 under Section 161 Cr.P.C., which is based on the CCTV footage. The complainant has thereby denied and materially departed from the ocular averments made at the time of registration of the F.I.R. and in his earlier statements under Section 161 Cr.P.C. dated 29.06.2025 and 21.07.2025.

46. The said CCTV footage is also contrary to the ocular evidence of the injured Ram Milan himself, an employee of the Zila Panchayat. His first statement under Section 161 Cr.P.C., based on ocular evidence, and his subsequent statement dated 19.09.2025 based on CCTV footage, are contradictory to each other.

47. As per the F.I.R., the incident occurred at 16:50 hours, whereas the CCTV footage, which forms the basis of the charge sheet, shows that at 16:52:47 hours the complainant/Chairman and Mrityunjay Pratap Ahirwar came outside their office. A brief conversation then took place between them and Mahesh Tiwari and his associates, during which their appearance, demeanor and conditions are appeared to be absolutely normal.

48. Thereafter, at 16:54:50 hours, both Mrityunjay Pratap Ahirwar and the complainant/Opposite Party No. 2 are seen re-entering their office. Thus, they remained outside for approximately two minutes, during which only a normal conversation took place with the appellant and his associates and the behaviour and demeanor of the appellant was normal. Even thereafter, the appellant and his associates remained present at the Zila Panchayat premises and left the Zila Panchayat office premises at 16:57:27 hours.

49. These CCTV recordings have ultimately become the basis for filing the charge sheet against the appellant. Whereas, the ocular statement of the complainant and Ram Milan recorded in F.I.R., and their statements under section 161 Cr.P.C. on 19.06.2025, 21.07.2025 and 19.09.2025, respectively, are contradictory to their statement under section 161 Cr.P.C. after seeing C.C.T.V. recording on 19.09.2025. Both are contradictory. It is the ocular evidence which has to prevail, whereas, both are relying on statement after seeing C.C.T.V. footage, which raises serious doubt on entire prosecution story.

50. A counter affidavit has also been filed by Opposite Party No. 2/complainant, wherein it is stated that the said counter affidavit is dated 15.02.2026. He has deposed that the appellant ought to have taken legal recourse against the answering Opposite Party instead of using caste-offensive words and engaging in manhandling with the staff of the answering Opposite Party, which, according to him, shows that the appellant committed the alleged act knowingly and intentionally with the intent to tarnish the reputation of the answering Opposite Party.

51. However, in his statement, the answering Opposite Party has disclosed that specific caste-related words were used by the appellant, namely “Koriya” towards him and “Chamra” towards the Member of the Zila Panchayat, Mrityunjay Pratap Ahirwar. This indicates that, according to the complainant, the appellant used caste-related expressions towards both the answering Opposite Party and the said Member of the Zila Panchayat.

52. In paragraph 8 of the counter affidavit, it is deposed that the appellant was not prevented from depositing his tender document; rather, he was advised by the employee on duty at the tender box to insert the tender envelope directly without folding it. This was allegedly misconstrued by the appellant and his associate, Ankit Shukla, who then pushed the said employee and used caste-offensive words towards the answering Opposite Party as well as the Member of the Zila Panchayat, Mrityunjay Pratap Ahirwar, referring to him as “Chamra.”

53. The complainant, in his third statement recorded under Section 161 Cr.P.C. on 19.09.2025, which is based on the CCTV footage, stated that Ankit Shukla was not involved. However, while filing the counter affidavit dated 15.02.2026, he again named Ankit Shukla.

54. The complainant is not consistent in his version; neither his averments based on ocular evidence nor those based on CCTV footage are consistent, and both are contradictory to each other. He has further deposed in paragraph 9 that the presence of the appellant and his associates at the place of occurrence, as well as the alleged manhandling committed by them, was captured in the CCTV camera installed inside the Zila Panchayat office, where the incident allegedly took place. The footage, which is without audio, is stated to show that a heated exchange and manhandling took place by the appellant and his associates.

55. However, as per the CCTV footage, the entry of Mahesh Tiwari into the premises is recorded at 16:51:09 hours, which has already been clearly explained in detail earlier.

56. The complainant/opposite Party No. 2, along with Mrityunjay Pratap Ahirwar, came outside their office at 16:52:47 hours and returned to their office at 16:54:50 hours. During this interval, the complainant and his associate, Mrityunjay Pratap Ahirwar, were seen talking to Mahesh

Tiwari and his associates, and their demeanor appeared normal. The complainant remained outside his office for only about two minutes, as mentioned above, and there was no apparent altercation between them; rather, their conduct and demeanor appeared entirely normal.

57. Even after 16:54:50 hours, when the complainant and his associate had returned to their office, Mahesh Tiwari and his associates remained seated and standing in the premises and left the premises peacefully at 16:57:27 hours. Thus, the complainant has materially changed his averments, which were earlier based on ocular evidence.

58. He has further relied on the CCTV footage and has changed the complete averments. There is neither consistency nor corroboration in the contentions made in the F.I.R., which was lodged after a delay of about one day. Thereafter, the complainant recorded his statements under Section 161 Cr.P.C. on 29.06.2025 and 21.07.2025. Subsequently, he recorded another statement on the basis of CCTV footage on 19.09.2025. All these statements are contradictory to each other.

59. The statement of Ram Milan Verma (injured), an employee of the Zila Panchayat, was first recorded on the basis of ocular evidence on 29.06.2025, and thereafter his statement under Section 161 Cr.P.C., based on CCTV footage, was recorded on 19.09.2025. Both statements are contradictory to each other.

60. The complainant has further contended that the CCTV footage should prevail over the ocular evidence, which is contrary to the settled principles of law. It is the CCTV footage which ultimately became the basis for the filing of the charge sheet, and thereafter cognizance was taken by the learned Special Court and summons were issued.

61. The statement of the complainant suffers from inherent inconsistencies. No person is permitted to invoke the process of law according to his own wishes, surmises, and conjectures. Such inconsistencies go to the very root of the matter. The entire incident, as narrated and recorded by the complainant in his complaint, is contradicted by his subsequent deviations from his own statements and averments based on alleged ocular evidence.

62. Furthermore, the F.I.R. was lodged on the next day of the incident, after a reasonable lapse of time from the alleged occurrence. The F.I.R.

has been lodged by a responsible person, who is the Chairman of the Zila Panchayat, therefore, the subsequent improvements and inconsistencies in the prosecution story cannot be judicially accepted.

63. In view of all the facts, reasons, circumstances and the provisions of law, the impugned summoning order dated 14.10.2025 passed by the Special Judge (SC/ST) Act/Additional District & Sessions Judge, Mahoba in Special Case No.86 of 2025 (State Vs. Mahesh Tiwari and Another), is hereby set aside and the entire proceedings against the appellant in the said session case is hereby quashed.

64. The criminal appeal is hereby allowed.

65. However, it is observed by this Court that the term “court below” does not appear to be the correct legal terminology for the Special Court or the Exclusive Special Court as defined under Section 14 of the Act, 1989.

66. The impugned order challenged before this Court has been passed by the Special Court as defined under Section 14 of the Act, 1989.

67. The Hon’ble Supreme Court, in **SLP (Criminal) No. 1936 of 2019 (Sakhawat and Another v. State of U.P.)**, dated **08.02.2024**, has held as under:

*“The Registry to call for the soft copy of the record of the Trial Court. The soft copies thereof be provided to the learned counsel appearing for the parties.*

*The learned counsel appearing for the petitioners shall place on record the printed version of all the depositions of the prosecution witnesses and other relevant documents.”*

*It will be appropriate if the Registry of this Court stops referring to the Trial Courts as ‘Lower Courts’. Even the record of the Trial Court should not be referred to as Lower Court Record (LCR). Instead, it should be referred as the Trial Court Record (TCR). The Registrar (Judicial) to take a note of this order. A copy of this order be sent to him.”*

68. In view of the aforesaid order passed by the Hon’ble Supreme Court, the terminology “court below” may be replaced with “trial court.” or the concerned court, as in the present case, is the Special Court under the SC/ST Act.

69. In view of the aforesaid order passed by the Hon’ble Supreme Court, this may be included in the procedure of this Court.

70. A copy of this order, for this purpose only, may be placed before the learned Registrar General for perusal and may be considered for

implementation of these directions of the Supreme Court after due procedure on the administrative side.

**(Abdul Shahid,J.)**

**April 24, 2026**  
K.K. Maurya