

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**CRM(M) No. 1153/2026
CrlM No. 2077/2026**

Lata Bai Ogare

.....Appellant(s)/Petitioner(s)

Through: Mr. Sachin Gupta, Advocate

V/s

U.T of J&K & Anr.

..... Respondent(s)

Through: Ms. Chetna Manhas, Advocate vice
Mr. P.D. Singh, Dy. AG

CORAM: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

**ORDER
(07.10.2026)**

1. In this petition, filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the petitioner is seeking a direction to respondent No. 1 to get her statement re-recorded under Section 183 of the BNSS in connection with FIR No. 0148/2026, dated 09.08.2026 for offences under Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).
2. It is the case of petitioner that the aforesaid FIR was registered on 09.08.2026 against respondent No. 2 at her instance. It is submitted that the petitioner is the mother of the prosecutrix, her husband and the prosecutrix reside at Sarore, Tehsil Bishnah, District Jammu. As per the complaint, on 09.08.2026, when the petitioner was in the washroom and her husband was out for work, respondent No. 2, who is a neighbour of the petitioner, entered the house and committed the offence against the prosecutrix. When the petitioner rushed towards the room of the prosecutrix, it was found

locked, and on being asked, the prosecutrix told her about the incident. The petitioner tried to catch hold of respondent No. 2, but he managed to get away.

3. It is further submitted that the petitioner got her statement recorded under Section 183 of the BNSS before the learned Magistrate, but the said statement was not made voluntarily out of her own free will. According to the petitioner, it was made under considerable pressure and influence of her relatives and certain other persons, who wanted to settle their personal scores with respondent No. 2 and forced her to implicate him in a case under Sections 8 and 10 of the POCSO Act. It is also submitted that the earlier statement made by her did not disclose the complete set of facts relating to the incident. The petitioner is now willing to make a fresh statement voluntarily, without any influence or coercion from any person, so that the true facts are brought on record.
4. The petitioner moved an application dated 26.09.2026 before respondent No. 1 seeking permission for re-recording of her statement. It is submitted that respondent No. 1 did not entertain the application and declined the request on the ground that there is no provision for re-recording of a statement. Hence, the petitioner has approached this Court by way of the instant petition.
5. The question whether statement of a witness under section 183 of BNSS (corresponding to Section 164 Cr.PC) can be recorded more than once, has been dealt with by this Court in the case of ***“Showkat Ali V. State and others”*** (561-A No. 259/2014 decided on 04.09.2014). Para 11 of the said judgment is relevant to the context and the same is reproduced as under:

“11. The Code does not contemplate any bar against recording statement of a witness under Section 161 of the Code and correspondingly under Section 164-A more than once. Such a bar as a matter of fact cannot be imposed because cases may not be rare where necessity of recording such statement more than once arises and even contradictory statements are made. However, if statement is recorded more than once, the I.O. will have to arrive at a conclusion having regard to other evidence and material collected by him.”

6. From the afore-noticed enunciation of law on the subject, it is clear that there is no bar to recording statement of a witness under section 183 of BNSS more than once.
7. In the instant case, it has been narrated by the petitioner that her earlier statement was made under pressure and influence of her relatives and other persons and was not voluntary in nature, and that the complete and true facts could not be disclosed therein.
8. In the aforesaid backdrop of the facts and circumstances of the case, this petition is disposed of with a direction to the respondent No. 1 to consider the desirability of re-recording of statement of the petitioner under Section 183 of the BNSS and take an informed decision in this regard at the earliest. The respondent No. 1 shall ensure proper safety and security of the petitioner at the time when she is produced before the concerned Magistrate for recording of her statement.

9. ***Disposed of.***

(MOKSHA KHAJURIA KAZMI)
JUDGE

Jammu
07.10.2026
Rahul Sharma

Whether the order is speaking: Yes
Whether the order is reportable: No