Sr. No. 108

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(Crl) No. 114/2026

Reena Kumari and Anr. ….Petitioner(s)/Appellant(s)

Through :- Mr. Mayank Gupta, Advocate.

V/s

UT of J&K and Ors. …. Respondent(s)

Through :- Ms. Chetna Manhas, Advocate vice
Mrs. Monika Kohli, Sr. AAG.

Coram: HON'BLE MS JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER
(28.10.2026)

01. The petitioners have filed the instant petition, seeking a direction upon the respondents to take necessary steps for getting their statements re-recorded under Section 183 of BNSS, in connection with the investigation of FIR No. 90/2026 for offences under Sections 137(2) and 61(2) of the Bharatiya Nyaya Sanhita, 2023, Sections 3/4 and 5/6 of the Protection of Children from Sexual Offences Act, 2012, as well as Section 5 of the Immoral Traffic (Prevention) Act, registered with Police Station, Bakshi Nagar, Jammu.

02. It is pleaded in the petition that on an earlier occasion, when the statements of the petitioners were recorded before the concerned Magistrate, they were not made in a proper state of mind. It is also pleaded that the petitioners were passing through a state of considerable mental stress, shock and distress, and were under undue pressure and alleged misguidance at the time of recording their earlier statements. As such, in order to bring the true and

correct facts to light, they now want to get their statements re-recorded. It is further pleaded that the petitioners approached the respondents by way of an application dated 24.08.2026, bearing Registration No. 879/57/PSBN, for re-recording their statements before the Magistrate concerned, but the respondents neither took any decision on the same nor the petitioners were informed of any action taken thereon. Hence, the present petition.

03. The respondents have filed the response/status report, in which it is averred that during the course of investigation, the minor victim was traced and recovered from Amritsar, Punjab, and the investigation is still continuing, as the supplementary challan is yet to be filed.

04. Heard learned counsel for the parties and perused the record.

05. The issue whether the statement of a witness recorded under the relevant Section can be re-recorded, has been dealt with by a Co-ordinate Bench of this Court in a petition titled **Showkat Ali Vs. State of J&K and Anr** (petition bearing 561-A No. 259/2014, decided on 04.09.2014). The Coordinate Bench, while considering the issue, has held that the Code does not contemplate any bar against recording statement of a witness under Section 164-A of the Cr.P.C, corresponding to Section 183 of BNSS, more than once. It was further held that in appropriate cases, there may be a necessity of recording such a statement more than once.

06. In the present case, the petitioners claim that they made their earlier statements under stress and pressure and that they now wish to bring forth the true and correct facts by re-recording their statements before the concerned Magistrate.

07. In the instant case, as already noted, the petitioners perhaps desire to retract from their earlier statements and in this regard, want to get their statements recorded once again. The question whether such witnesses can be relied upon for booking a suspect, is to be considered by the Investigating Officer in the light of the other evidence, that may be collected by him during the course of the investigation.

08. In view of the above, present petition is disposed of with a direction to the respondents to consider and decide the application submitted by the petitioner for re-recording their statements before the concerned Magistrate, in the light of the observations made hereinabove, within a period of three weeks from the date a copy of this order is served upon them.

09. ***Disposed of***.

& KASHMIR

(MOKSHA KHAJURIA KAZMI)
JUDGE

Jammu
28.10.2026
Sushant