

**126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**



**CRM-M-177-2025 (O&M)
Date of Decision: 05.03.2026**

**RANJEET KAUR ... PETITIONER
VERSUS
STATE OF HARYANA AND OTHERS ... RESPONDENTS**

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Ram Kumar Saini, Advocate with
Mr. Ankit Saini and Ms. Ruby Gupta, Advocates
for the petitioner.

Ms. Ruchi Sekhri, Addl. A.G., Haryana.

Mr. G.S.Bedi, Advocate for respondents No.2 and 3.

H.S. GREWAL, J. (ORAL)

CM-8932-2026

The applicant is seeking preponement of the main case which is
stated to be fixed for 22.07.2026.

In view of the prayer made in the application, same is allowed
and the main case is taken up on Board for hearing today itself.

Main case

1. The petitioner has filed the present petition under Section 528
of BNSS for setting aside the impugned order dated 21.11.2024 (Annexure
P-7) passed by the learned Addl. Sessions Judge, Ambala in SC case No.173
of 2019 titled as State Versus Surinder Pal and another in FIR No.454 dated
11.12.2018 under Sections 307, 341, 34 IPC at P.S. Ambala City, District
Ambala (Section 307 IPC was deleted and Section 302 IPC was added), vide

which the learned trial Court held that a prosecution witness, who subsequently appears as a defence witness, cannot be contradicted by the prosecution through his previous statement recorded under Section 161 Cr.P.C., and consequently declined the request of the prosecution to confront DW-1 Sucha Singh with his statement (Annexure P-4) recorded under Section 161 Cr.P.C.

2. The brief facts of the case are that on 11.12.2018, the petitioner, along with her daughter, was tying their buffaloes near the main gate of their house, while the petitioner's husband was proceeding on his tractor to bring grass from the fields. When he reached the main road, respondents No. 2 and 3 stopped his tractor. Respondent No. 2 was armed with an axe and immediately struck a blow on the neck of the petitioner's husband while respondent No. 3 raised a lalkara and instigated respondent No. 2. Thereafter, respondent No. 2 inflicted multiple severe axe blows on the petitioner's husband.

3. During the course of trial, Sucha Singh, who was initially cited as a prosecution witness, eventually appeared as DW-1 on behalf of the defence. After his examination, the prosecution sought permission to confront him with his previous statement recorded under Section 161 Cr.P.C. However, the learned trial Court declined such permission on the ground that he had appeared as a defence witness and not as a prosecution witness.

3. Learned counsel appearing for the complainant/petitioner contends that the prosecution ought to be permitted to confront the said witness with his earlier statement recorded under Section 161 Cr.P.C. during his examination.

4. Per contra, learned counsel for respondents No.2 and 3-accused has placed reliance upon the judgment of the Hon'ble Supreme Court in *Shakila Khader v. Nausher Gama; 1975 AIR Supreme Court 1324*, wherein it has been held that a statement made before the police under Section 161 Cr.P.C. cannot be used for the purpose of cross-examination except in the manner provided under Section 162 Cr.P.C., and that such statements may be used only by the prosecution to contradict its own witness and cannot be utilized to confront a Court witness or a defence witness.

5. In view of the aforesaid position of law, and considering the fact that no prejudice would be caused to the prosecution if DW-1 is not confronted with his statement recorded under Section 161 Cr.P.C., and further that the present petition has been preferred by the complainant and not by the State, this Court finds no illegality or infirmity in the impugned order dated 21.11.2024 (Annexure P-7).

6. Accordingly, the present petition stands dismissed.

7. Pending application(s), if any, shall also stand disposed of.

05.03.2026

Janki

(H.S.GREWAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No