CASE ANALYSIS

India’s Supreme Court Transfers Kupwara Custodial Violence Trial to Srinagar

The Court held that a victim’s ability to participate without avoidable hardship matters under Article 21 when deciding a criminal trial transfer under Section 447 BNSS.

By Shahbaz Shah · 26 November 2026

Khursheed Ahmad Chowhan v. Union Territory of J&K · 2026 INSC 1274

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India’s Supreme Court moved the trial of alleged custodial violence against Khursheed Ahmad Chowhan from Kupwara to Srinagar. It held that a fair trial under Article 21 includes the victim’s ability to take part in proceedings without avoidable hardship. The Court decided the transfer appeal on 20 November 2026 and published the judgment on 25 November. Paragraphs 16–22.

How the case reached the transfer stage

Chowhan, a serving police constable at the time, alleged that police personnel subjected him to custodial violence in 2023. His wife sought registration of a case and an independent investigation. An earlier Supreme Court judgment directed the Central Bureau of Investigation to take over the investigation. The CBI filed a chargesheet invoking Indian Penal Code provisions, and the case was committed to the Sessions Court at Kupwara. Paragraphs 3–10.

Chowhan sought transfer to Srinagar under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The High Court of Jammu and Kashmir and Ladakh declined the request on 25 March 2026. The appeal before the Supreme Court concerned where the case should be heard. Paragraphs 2 and 11–13.

Why the victim’s access to trial mattered

The Supreme Court considered the steps Chowhan had already taken to obtain an independent investigation, the alleged physical and psychological trauma, the travel required to attend the proceedings and the prospect of facing the accused, who were on bail. It held that a fair and accessible process protects the victim under Article 21 while preserving the accused’s procedural rights. On these facts, a transfer could ease the hardship without determining any issue of guilt. Paragraphs 14–19.

The Court directed the Principal District and Sessions Judge at Srinagar to take over the proceedings and asked the trial court to endeavour to finish the trial within two years. The trial court will decide the allegations on the evidence before it. Paragraphs 20–23.

Official court PDF · Supreme Court judgment list.

Frequently asked questions

Which provision governed the transfer application?

Chowhan applied under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Paragraph 11.

Can a victim’s hardship matter when a court considers transfer?

Yes. The Court considered the travel, alleged trauma and circumstances in which the victim would have to attend trial. Paragraphs 14–19.

Which court will hear the case?

The Court transferred the proceedings to the Principal District and Sessions Judge at Srinagar. Paragraph 20.

What did the Court say about the trial timetable?

It directed the trial court to endeavour to complete the proceedings within two years. Paragraph 21.