Kathua Case Shifted Outside J&K

What is the issue?

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- Kathua Rape Case has been shifted outside J&K in order to ensure a fair trial.
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- Considering the prevailing circumstances in Kathua, the shift of location is a good step by the Supreme Court to ensure a fair trial.
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What is the case about?

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- An 8 year-old girl belonging to the nomadic Bhakerwal Muslim community in Kathua district of J&K was abducted, gang raped for days and killed.
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- Notably, the girl was raped inside a temple and the primary suspects are Hindu men with political connections.
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- Despite the atrociousness of the crime, some saw it through a communal prism and a couple of MLAs even took out rallies in support of the accused.
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- There was also political coercion on the J&K police to not file a case and to release the arrested suspects – which made the atmosphere communal.
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- All these factors seem to have convinced the Supreme Court that a fair trial wasn't possible in J&K and hence, the case got shifted to Pathankot in Punjab.
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What are the implications of transferring the case outside J&K?

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- The transfer of a criminal trial from one State to another is an extraordinary step that the Supreme Court alone is empowered to take.
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- This is done when the law & order situation is not conducive for trial, which hence is a bad remark on the state government's potency in policing.
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- However, kathua Rape Case is a highly sensitive one and its shifting out can't be read as a comment on J&K government's performance.
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- The transfer is a clearly a good move in the interest of a fair and speedy trial where the "victims, the accused and the witnesses" feel safe.
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- Notably, the public prosecutor is usually appointed by the State to which a case is transferred to.
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- But in this case, SC has allowed J&K to continue with its own prosecutor.
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- Further, the court has passed directions like – "day-to-day hearings, no unnecessary adjournments" to make the trial process swift.
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- It has also been mandated for the trial to be recorded.
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- Hence, as judiciary has done to ensure the trial sails smooth, it is now up to the investigators and prosecutors to ensure that justice is done.
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Why was the demand for CBI investigation denied?

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- While sections of civil society, politicians and lawyers, demanded for the case to be transferred to the CBI, this wasn't accepted by the SC.
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- This is probably because of the fact that investigation was already proceeding in a fairly quick manner and the charge sheets are likely to emerge soon.
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- Normally, only deliberate inaction on the part of the State police is a reasonable ground for shifting the probe to another agency.
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Source: The Hindu

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