

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.2007 of 2015

Date of Decision.09.02.2015

Kamla Devi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

Present: Mr. N.K. Malhotra, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The petitioner has adopted a needless procedure which has landed herself in difficulties. There is no provision that requires a person to apply before the Deputy Commissioner for permission to terminate the pregnancy. The medical termination whose foetal gestation is less than 12 weeks requires no permission and the medical practitioner in a Government hospital will be competent to undertake such a procedure. The fact that a person is a victim of rape is itself a circumstance in the Medical Termination of Pregnancy Act to carry out the termination. If it is beyond the period of 12 weeks and less than 20 weeks of foetal gestation, it would require to be placed before a committee of two doctors and the decision will be taken for termination of pregnancy after taking consent from the victim and if she is a minor with the guardian's consent. The issue has already been dealt with by this Court and there is no need to re-state the law. The petitioner may

get herself admitted before the Government hospital in the jurisdiction within which she is a permanent resident and seek for appropriate procedure for termination of pregnancy. The same be done on the medical examination of the person confirming the pregnancy and after the hospital satisfies itself about the mental and physical condition of the petitioner to go through with the procedure.

2. Lessons are not learnt, neither by the parties nor by the State authorities even after decisions of this Court. Even apart from a direction that the order of this Court should be circulated to all the jurisdictional police to assist a victim of rape to secure an immediate attention for medical termination of pregnancy, if a petition seeking for termination of pregnancy is filed, the matter does not appear to have sunk in the manner that it should have been done. There is an urgent call to the police operating within the State of Punjab and Haryana to sensitize the investigating officers to play a positive role and secure full emotional support to relieve the trauma for a rape victim. The exhortation of Court falls to deaf ears and this is yet another case which spells out utter insensitivity to respond to the wailings of a woman who is already traumatized by the act of rape on her.

3. The writ petition is disposed of. On production of this order, the termination of pregnancy will be carried out by the hospital, as referred to above.

(K. KANNAN)
JUDGE

February 09, 2015
Pankaj*