

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15404 of 2017
Date of Decision: 27.07.2017

Rekha Rani

....Petitioner

Vs.

State of Haryana and another

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Keshav Pratap Singh, Advocate,
for the petitioner.

Ms.Nimarta Singh, Advocate, for
Mr.Rajesh Garg, Panel Counsel of the PGI.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed by an alleged rape victim, who is 21 years of age. She has made a prayer for seeking a direction for conducting her medical examination for the purpose of termination of her pregnancy. The first order was passed by this Court on 17.7.2017, which read as under: -

“The petitioner is a rape victim who has prayed for a direction for termination of her pregnancy allegedly of a period of 19 weeks. She is 21 years of age, therefore, she can give consent for the purpose of termination of her pregnancy. The petitioner is a resident of District Palwal and is in Chandigarh at present. In order to ascertain as to whether it would be conducive at this stage for

termination of her pregnancy which is stated to be 19 weeks old, I find it just and expedient to get her medically examined by two Senior Gynecologists of the PGI who would report about the physical condition of the petitioner and as to whether she can undergo at this stage for termination of her pregnancy. Accordingly, the Director of PGI is directed to constitute a panel of two Senior Gynecologists forthwith on receipt of copy of this order who would medically examine the petitioner and report about her physical condition that as it would be safe to terminate her pregnancy at this stage. Registry is directed to send a copy through email to the Director of PGI. The petitioner is directed to appear before the Director, PGI on 18.07.2017. On the oral request of counsel for the petitioner, PGI is also impleaded as respondent No.3 through its Director only for this purpose.

Notice of motion for 24.7.2017.

The petitioner shall appear before the Director PGI for the purpose of her examination. I am told that Mr. Rajesh Garg is a panel counsel of the PGI, therefore, he is

requested to intimate the Director about the order passed and further necessary action.

A copy of this order be also sent to Mr. Rajesh Garg, Advocate.”

The subsequent order dated 25.7.2017 read as follows: -

“Pursuant to my order dated 17.7.2017, the Director, PGI., Chandigarh has submitted the report on the physical health of the petitioner who is asking for termination of pregnancy. Two Senior Gynaecologists of the PGI have reported that “as per the above mentioned findings the patient Rekha Rani is 25 weeks pregnant which is beyond the permissible limit for Medical Termination of Pregnancy as per the MTP Act, 1971. She needs regular antenatal follow-up and supervised delivery.”

No doubt that as per the MTP Act and as per the report obtained from two Senior Gynaecologists, the pregnancy can be terminated if the foetus is about 12-20 weeks old and at the time when the petition was filed it was projected that the foetus is about 20 weeks old but ultimately it has been found to be 25 weeks old. The PGI., Chandigarh has not given any kind of opinion as to

whether it is feasible at this stage to terminate the pregnancy without harming the health of the petitioner.

The said opinion is still awaited, therefore, the doctors who had examined the petitioner are directed to give positive finding in this regard.

Adjourned to 27.7.2017.

Copy of the order be given dasti to the learned counsel appearing on behalf of the PGI under the signatures of the Special Secretary attached to the Bench.”

In pursuance to the order dated 25.7.2017, the panel of doctors of the PGI have made the following report: -

“Opinion of Gynaecologists of PGIMER, Chandigarh in the case of Rekha Rani Vs. State of Haryana and another.

Dated: 26.7.2017

This is in response to the case as mentioned above forwarded to HOD (ObST. & Gyanae) from the Director, PGI, Chandigarh.

As required by the Hon’ble High Court regarding feasibility of termination of pregnancy and risk to health of mother it is opined that at present: Rekha Rani is having 26-27 weeks of pregnancy according to

Ultrasound findings of 18.7.2017.
Termination of pregnancy at this period of
gestation is more hazardous for the health of
pregnant woman than continuation of
pregnancy and delivery at term (Ref.
Annexure I & II).

Sd/- *Sd/-*
(Dr. Minakshi Rohilla) (Dr. Seema Chopra)
Professor Associate Professor”

In view of the aforesaid report, this Court cannot issue direction for the termination of pregnancy of the petitioner as it has been opined that the termination at this stage would be hazardous for the health of the petitioner and as per the literature attached with the latest report dated 26.7.2017, risk of morbidity and mortality is higher.

Consequently, the prayer made by the petitioner is declined considering her own health and wellbeing.

Disposed of.

27.07.2017
Vivek

(RAKESH KUMAR JAIN)
JUDGE

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