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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8903/2017

X (ASSUMED NAME OF THE PETITIONER) ..... Petitioner

Through: Ms Sajni Kachwaha and Ms Chanan  
Parwani, Advocates.

versus

STATE OF DELHI ..... Respondent

Through: Mr Santosh Kumar Tripathi, ASC  
with Mr Rizwan, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **10.10.2017**

**CM No. 36416/2017**

1. Allowed, subject to all just exceptions.

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2. The petitioner is a citizen of India aged about 20 years. The petitioner alleged that she was raped on numerous occasions between 14.02.2017 to 29.08.2017. It is further averred that a FIR (FIR No.288/2017) was also registered with PS Pahar Ganj on 17.09.2017. The petitioner also underwent a medical examination at Lady Hardinge Medical College (LHMC) Hospital on 17.09.2017 and the petitioner was informed that she was pregnant.

3. The petitioner desires to have the pregnancy terminated and for the said purposes had filed an application dated 20.09.2017 before the Court of the Additional Chief Metropolitan Magistrate (District Central), Tis Hazari, seeking permission for medical termination of pregnancy. The said

application was rejected as not maintainable and this led the petitioner to file the present writ petition. In this petition, the petitioner has made a further prayer that the tissues drawn from the foetus be preserved for DNA identification and be transferred to the Investigating Agency for onward transmission of the same to the concerned Forensic Science Laboratory.

4. Insofar as the petitioner's prayer for permission to terminate the pregnancy is concerned, no such permission is required. In terms of Section 3 of the Medical Termination of the Pregnancy Act, 1971 pregnancy which does not exceed twelve weeks (as is the case in the present facts), can be terminated if a Medical Practitioner is of the view that continuance of the pregnancy would involve risk to the life of the pregnant woman or of grave injury to her physical or mental health. It has been held that in cases of unwanted pregnancy due to failure of birth control measures, in cases of rape and in cases of unwanted pregnancy, non termination of pregnancy is likely to cause trauma to the pregnant woman. In the present case, the petitioner has alleged that she was raped and, therefore, there can be little doubt that continuance of pregnancy is likely to adversely affect her mental condition. This Court has no reason to believe that a medical practitioner would not accept the same and conduct the procedure for medical termination of the pregnancy as desired by the petitioner.

5. As far as the petitioner's prayer for preservation of tissues drawn from the foetus is concerned, there can be no objection to this prayer.

6. Accordingly, it is directed that the petitioner may approach the LHMC Hospital (as is desired by the petitioner) for medical termination of her pregnancy. It is directed that the petitioner would be accompanied by a lady official from the PS Pahar Ganj. It is further directed that the tissues of

foetus would be preserved, one or more samples would be retained by the hospital and other samples of the tissues would be forwarded to the Investigating Officer from PS Pahar Ganj who shall take necessary steps for forwarding the same for DNA testing to the Central Forensic Laboratory in accordance with law.

7. Since the petitioner belongs to economically weaker section, the cost of medical procedure shall be borne by the state.
8. The petition is disposed of with the aforesaid directions.
9. Order *dasti* under signatures of the Court Master.

**VIBHU BAKHRU, J**

**OCTOBER 10, 2017**  
**MK**