

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.590 of 2018

Miss AB

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Home, Govt. of Bihar, Patna
4. The Principal Secretary, Department of Health, Patna
5. The District Magistrate, Saran at Chapra.
6. The Superintending of Police, Saran at Chapra
7. The Superintendent, Patna Medical College and Hospital, Patna.
8. Member Secretary, Bihar State Legal Service Authority.
9. The Director, All India Institute of Medical Sciences, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh Mr. Satya Prakash Mr. Kumar Manvendra, Advocates.
For the Respondent/s	:	Mr. SHEO SHANKAR PRASAD -SC8 Mr. Patanjali Rishi, Adv. Mr. Vinay Kumar Pandey, Adv.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

8 31-01-2018 Heard learned counsels for the parties.

The present writ application has been filed by the petitioner under the guardianship of her father, with a prayer for a direction to the respondent no. 7, the Superintendent, Patna Medical College Hospital to terminate the pregnancy of 21 weeks 6 days (+/- two weeks) and for further directing the respondents to pay adequate compensation, since the petitioner



is suffering from grave mental and physical trauma as she conceived after being sexually assaulted. Paragraph 1 of the writ application contains the prayer, which is as follows:

“1(i) For issuance of writ in the nature of mandamus or any other appropriate writ for directing the respondent no.7 to terminate the pregnancy of the petitioner who is victim of rape and carrying pregnancy of 21 weeks 6 Days +/- 2 weeks.

(ii) For issuance of writ in the nature of mandamus or any other appropriate writ for directing the respondents to pay adequate compensation to the petitioner as she is suffering from grave mental and physical injury due to trauma of rape and pregnancy.

(iii) For issuance of any other appropriate writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

The factual matrix of the case would unveil the background in which the prayer for medical termination of pregnancy and payment of compensation have been prayed for. The petitioner submitted a written report on 24.10.2017 at 2.30 P.M. to the S.H.O., Mashrak Police Station, to the effect that the petitioner, being aged about 17 years, resides at her native village with her grand parents and mother, while the father used to earn his livelihood by doing some private job in Bombay. On one occasion, the mother and sister of the petitioner went to her maternal uncle's house, while the petitioner stayed back in her house along with her grand parents. On 3.8.2017 at 9 P.M. the informant-petitioner was sleeping in her courtyard on a cot



when co-villager Vikash Sah, son of Bhikhari Sah, aged 22 years entered into her house but, in the meantime, the petitioner woke up and tried to raise alarm, whereupon the accused placed a knife on her neck and threatened of dire consequences after gagging her. On the point of knife, Vikash Sah ravished her and threatened to kill her, if she dared to disclose about the incident to anyone else. It is further alleged that out of fear and being threatened by the accused, the petitioner did not disclose about the incident to anyone, but subsequently she informed her father at Bombay, who came and went to the house of the accused, to protest against the incident, whereupon the father of the petitioner was driven out of the house, while rebutting the accusation. Consequently, the petitioner along with her father went to the police station and submitted the written report.

On the basis of the written report, Mashrak P.S. Case No. 302 of 2017 was registered on 24.10.2017 at 2.30 P.M. under section 376 of the IPC and section 4 of The Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the 'POCSO Act, 2012'). Subsequently, the FIR reached to the court of the Incharge ADJ-I, Saran on 26.10.2017, which is Annexure P/2.

The petitioner subsequently got her statement recorded



under Section 164 of the Code of Criminal Procedure (hereinafter referred to as the Cr.P.C.) on 3.11.2017, wherein the petitioner reiterated the accusation levelled in the written report.

Though the victim was examined by the doctor of Sadar Hospital, Chapra on 26.10.2017 at 2.45 P.M. but the report was prepared on 09.11.2017 suggesting the pregnancy without specifying gestation period, however, age of the petitioner was assessed above nineteen years, but the copy of the said report has not been brought on record, though illegible photo copy of the same has been produced today by the counsel for the petitioner, after being insisted by the Court. Let it be kept on record. On 4.1.2018, an ultrasound test of the petitioner was done at Lifeline Imaging Centre, Patna by Dr. Mamta Singh, the report of which reflects that the petitioner is carrying a fetus of 21 weeks 6 days +/- two weeks.

Thereafter, the present writ application was registered on 9.1.2018. A slip was filed in late hours of 9.1.2018 for the matter being listed. This Court directed the matter to be listed on 11.1.2018. On 11.1.2018 the matter was listed before this bench at Serial No. 1, though after criminal roster of 256 cases. On the prayer made by learned counsel for the petitioner, vide



order dated 11.1.2018, the matter was fixed for 12.1.2018 at 10.30 A.M. as the first case. On 12.1.2018, after hearing learned counsels for the petitioner and the respondents, this Court directed the office of the Registry to conceal the name of the petitioner all over the records and that her name be offloaded from the website of Patna High Court. The petitioner's name was codified by labelling her name as Miss AB.

The Superintendent of PMCH, Patna, respondent no. 7 was directed to constitute a Medical Board consisting of the Head of Department of Gynaecology, Head of Department of Forensic Science, Head of Department of Medicine for examining the physical and mental condition of the petitioner as well as the fetus, keeping in view the relief prayed for by the petitioner. The learned counsel for the petitioner submitted that the petitioner who is present in the Court is ready to undergo for medical test on 13.1.2018 at 10.30 A.M. (though it has wrongly been typed as 10.30 P.M. in the order). However, the Superintendent of PMCH, Patna was given liberty to include other members in the Medical Board, if he thinks it proper. He was further directed to get the report submitted in a sealed cover through a responsible officer on 19.1.2018 at 10.30 A.M. The Chief Secretary, Government of Bihar, Patna, respondent no. 2 was also directed



to file counter affidavit, stipulating specifically, regarding the funds being allocated under the Bihar Victim's Compensation Scheme. The Member Secretary, Bihar State Legal Services Authority, respondent no. 8 was also directed to file counter affidavit with regard to quantum of the compensation being allocated to various districts in the State including the District – Saran, as also the details of other rehabilitation scheme for rape victims, being monitored by the Bihar State Legal Services Authority.

Since it was submitted that the investigation has not been concluded, the respondent no. 6, the Superintendent of Police, Saran at Chapra was directed to transmit a report as to under what circumstances, the investigation of the case has not been concluded as yet and the time frame in which the investigation will be concluded. The learned District and Sessions Judge, Saran was directed to transmit a report with regard to time frame, for conclusion of trial after conclusion of investigation. In the meantime, the learned S.C. 8 was permitted to file counter affidavit meeting the contentions raised in the writ application.

The matter was listed on 19.1.2018. The medical report of the petitioner was produced by the Deputy Superintendent of PMCH in sealed cover suggesting that the petitioner was



examined by Head of Department of Gynaecology, Head of Department of Forensic Science and Head of Department of Medicine and it was opined “the gestational age of foetus is about 24 weeks and all the pathological reports are within normal unit. As the gestational age is about 24 weeks, MTP cannot be done according to MTP Act, 1971”.

The finding and report of the Medical Board, PMCH reads as:

“Finding and Opinion – On perusal of ultrasound report of Miss AB dated 13.1.2018 of Dept. of radiology PMCH, Patna and Pathological report, the medical board is of the opinion that the gestational age of foetus is about 24 weeks and all the pathological reports are within normal limit.

As the gestational age is about 24 weeks MTP cannot be done according to MTP act 1971.”

Learned counsel for the petitioner being not satisfied with the multidisciplinary medical report of PMCH, requested for the fresh medical examination of the petitioner by a Medical Board consisting of the doctors of All India Institute of Medical Sciences, Patna (hereinafter referred to as AIIMS, Patna). This Court was also not satisfied with the report submitted by Medical Board of PMCH, since the report did not suggest the



life risk factor of the petitioner, keeping in view the age of the fetus, in case, this court considers to direct for the medical termination of the pregnancy of the petitioner. Since learned counsel for the respondents also agreed to the prayer of the learned counsel for the petitioner for fresh medical examination of the petitioner, the Director, AIIMS, Patna was impleaded as respondent no. 9 and was directed to medically examine the petitioner by a Multi-disciplinary Board consisting Head of Department of Gynaecology, Head of Department of Forensic Science, Head of Department of Medicine, with regard to the physical and mental condition of the petitioner as well as the fetus, keeping in view the relief prayed for by the petitioner, particularly, the life risk factor of the petitioner in view of the age of the fetus, in case termination of pregnancy is being considered by this court. The Director, AIIMS, Patna was given liberty to include other member or members in the Medical Board, if he thinks it proper and was further directed to submit a report in a sealed cover through a responsible officer on 25.1.2018 at 10.30 A.M. in court.

On 25.1.2018, the medical report of AIIMS, Patna was produced by Mr. Vinay Kumar Pandey, Advocate in sealed cover but the report disclosed the name of the victim though the



direction was already given to conceal the name of the victim by labelling her as Miss AB. Hence, learned counsel for the AIIMS, Patna was permitted to submit fresh medical report of the victim depicting her name as Miss AB, in sealed cover, on affidavit.

Though this court was not inclined to adjourn the matter but since it was jointly prayed for by learned counsels for the parties to seek further instruction, the matter was further adjourned to 30.1.2018 at 10.30 A.M., as the first case. Since the report of learned Additional District Judge I-cum-Special Judge, POCSO, Saran at Chapra was not available, hence the Registrar General was directed to obtain the report forthwith.

On 30.1.2018, the matter was taken up but the learned counsel for the respondents submitted that an application being I.A. No. 721 of 2018 has been filed on behalf of the petitioner, with prayer for amendment of the relief prayed for. Hence, prayer was made on behalf of the petitioner with consent of the respondents to place the application at 2.15 P.M. along with the aforesaid I.A. Accordingly, the office was directed to place said I.A. at 2.15 PM.

The matter was then taken up at 2.15 P.M. on 30.1.2018. Learned counsel for the petitioner argued at length with regard to prayer for termination of pregnancy of the petitioner, while



amendment of the prayer was sought through I.A., to the effect of issuance of a direction to the concerned respondents for making payment of compensation under the provisions of Bihar Victim Compensation Act, 2014, under the provision of POCSO Act and other schemes. The I.A. No. 721 of 2018 was allowed. During the course of argument, learned counsel for the AIIMS, Patna produced medical examination report of the petitioner conducted by multi-disciplinary team of eight doctors, who examination the petitioner on 23.1.2018 and assessed the age of the petitioner as 17 years, though found the physical condition of the petitioner was found normal except that the victim appeared anxious. The condition of the fetus was also found normal hence feasibility of termination through medicine has been suggested. However, in case of failure or complications, surgery has been suggested. Though some major complications have been suggested, but it has finally been suggested that termination of pregnancy is expected to be uneventful in ordinary course of nature.

The medical opinion of AIIMS, Patna reads as under:-

The medical examination was carried to answer the following issues:-

1. The physical and mental condition of the patient



2. The condition of foetus

3. Feasibility for Medical Termination of Pregnancy and possible complications at this point.

4. Complications of continuation of pregnancy.

Physical Examination

According to the history from patient and her father the patient suffered one episode of dizziness with fall with unclear history of brief loss of consciousness about two years back. She was on treatment for that for few months and thereafter there was no further recurrence. Treatment record is not available. Apart from this no significant past medical problem reported. Now reports palpitations occasionally specially when thinks too much about her problem. On routine general examination physical parameters are normal. ECG normal.

Obstetrical examination:-

1st day of last menstrual period:- 20th August 2017 (as stated by patient.)

Uterus 24 weeks size on palpation.

Radiological examination:-

On Ultrasonography:- Normal live foetus of about 24



weeks 4 days size, cephalic presentation, Normal Grade- 1
mature posterior placenta, amniotic fluid appropriate for age.

Mental condition examination

Informant:- self and her father

Purpose of consultation:- evaluation of mental status and
future mental health well being.

Presenting complains :- nervousness and palpitation
especially when stressed or scolded by someone. Anxiety for
last one month.

Past psychiatric history:- not significant.

Mental status evaluation:- Anxiety about her future
prospect (marital, social, educational). She is presently
indecisive to make her decision regarding continuation of
pregnancy or discontinuation. The patient started weeping when
she was asked whether she wants to terminate the pregnancy or
to continue. The patient is fearful regarding the social impact of
being unmarried mother and fate of the baby, if born. But she
also has emotional attachment with her pregnancy.

Conclusion:-

1. The physical and mental condition of the patient

The physical condition of the patient is normal for her age



and gestation.

She is not suffering from any major psychiatric illness except anxiety.

2. The condition of the foetus

Normal for gestational age

3. Feasibility for Medical Termination of Pregnancy and possible complications at this point.

Termination is feasible at this point of time. Termination of pregnancy may be attempted with medicine but in case of failure or complications surgery may be required.

At this stage following major complications apart from minor may occur:- 1. Failure of procedure 2. Bleeding 3. Infection. Complications may be life threatening also.

However termination of pregnancy is expected to be uneventful in ordinary course of nature in this case.

4. Complications of continuation of pregnancy.

Continuation of pregnancy has no physical complication in ordinary course of nature however, psychosocial complications cannot ruled out.”

Since the learned counsel for the petitioner did not conclude arguments, on the joint prayer the matter was posted for today i.e. 31.1.2018 at 11.30 A.M.



Though, earlier the learned counsel for the petitioner referred to the case of Mrs. X & Ors Vs. Union of India and Others, AIR 2017 SC 1055, and the case of Mrs. X Vs. Union of India, AIR 2016 SC 3525, wherein the pregnancy was directed to be terminated in 23-24 weeks, but in the same, in one case the skull of fetus was not formed and in the other case, both the kidneys of the fetus were not formed. But today, some web copies of the recent judgment of the Supreme Court and the judgment of the High Court of Bombay and Jharkhand has been produced, which has been verified from different websites, where the pregnancy has been terminated in 24-26 weeks, foreseeing the future distressed life of rape victims. In the case of Murugan Nayakkar Vs. Union of India and Ors. In Writ Petition (s) (Civil) No. 749 of 2017, vide order dated 6.9.2017, the termination of pregnancy of 13-years-old rape victim was permitted. However, the order does not suggest the gestation period of the victim. The Supreme Court in the case of Venkatalakshmi Vs. The State of Karnataka & Ors. (Civil Appeal No. 15378 of 2017 arising out of SLP (C) No. 24569 of 2017, termination of 26 weeks pregnancy, with the medical report of mild anemia was permitted. In another case of Chanchala Kumari Vs. Union of India (W.P. No. 871 of 2017



the Supreme Court vide order dated 21.9.2017 directed for termination of pregnancy of 24 weeks of a rape victim in spite of the medical opinion that the ultrasound report shows low lying placenta, hence attempt to terminate pregnancy carries the risk of severe bleeding. It is further submitted that in the case of Sunita Kumari Vs. The State of Jharkhand (W.P. (Cr.) No. 399 of 2017, the Jharkhand High Court, following the above judgments of the Supreme Court, where the petitioner was aged 15 years (+/- one year) and the gestational age of fetus was of about 23 weeks, (+/-1 week), the pregnancy was directed to be terminated. In yet another case of Gausiya Gulam Pathan Vs. Union of India and Ors., the Bombay High Court vide order dated 5.12.2017 in Writ Petition No. 13228 of 2017, directed for termination of 25 weeks pregnancy of 13 years old victim. Hence, it is likewise prayed by learned counsel for the petitioner that the petitioner is also a rape victim, carrying the pregnancy of 24 weeks 4 days, she may also be permitted to get her pregnancy terminated.

It is further submitted by learned counsel for the petitioner that in view of the medical report of AIIMS, Patna, the petitioner be permitted to terminate her pregnancy since non-termination of pregnancy will amount to compel the petitioner



to lead an undignified life, in as much as, the petitioner will be deprived of her fundamental rights of personal liberty and dignified life, as is guaranteed under Article 21 of the Constitution of India. In this regard, reliance has been placed on the ratio laid down in the case of Menaka Gandhi Vs. Union of India reported in 1978 AIR SC 597. It is further submitted that the social critical response to such pregnancy and the social treatment meted out to such child would entail the petitioner as well as the child to lead a miserable, pathetic and distressed life. The petitioner is seriously anxious about the outcome of the pregnancy and the aftermath of the incident has cast havoc on the over all personality of the petitioner. The economic condition of the family is pathetic, hence the petitioner may be permitted to get her pregnancy terminated, as has been permitted in the above referred cases. The petitioner deserves that her prayer for termination of pregnancy, may be distinguished from the normal case of termination of pregnancy since she is victim of rape.

Though the medical report of the AIIMS, Patna suggests that the petitioner was hesitant with regard to termination of pregnancy but the learned counsel for the petitioner submits that she is in tremendous mental traumatic pressure and that in



response to any query being made to her, the petitioner's only response is a pathetic weep. The petitioner and her father give consent for the termination of pregnancy.

Learned S.C.-8 submits that he does not have any objection with regard to the termination of pregnancy of the petitioner provided the court so directs. The investigation has already concluded, final form (charge sheet) has been submitted on 31.12.2017 under section 376 of the IPC and Section 4 of the POCSO Act, 2012 and the prosecution shall produce all the witnesses during trial.

Learned counsel for respondent no. 8, BSLSA submits that Rupees Three crores have been sanctioned under the Bihar Victim Compensation Scheme, 2014, which has been allocated as per requisition made by the DLSA in Financial Year 2017-18.

The report of the learned trial court suggests that considering the final report (chargesheet), cognizance has been taken under section 376 of the IPC and Section 4 of the POCSO Act, 2012 and the matter has been fixed for 7.2.2018. The learned court below has also recommended for payment of interim compensation vide order dated 24.1.2018 and has transmitted the said order to the DLSA, Saran for the purpose of deciding the quantum of compensation under the scheme.



However, a counter affidavit was filed on behalf of the Superintendent of Police, Saran, respondent no. 6 duly sworn by Satya Narayan Kumar, Additional S.P., Saran stating therein that on conclusion of investigation, final report (chargesheet) has been submitted vide Charge sheet No. 414 of 2017 dated 31.12.2017 against the sole accused Vikas Kumar under section 376 of the IPC. and Section 4 of POCSO Act, 2012. It further stipulates that the I.O. of the case vide D.R. No. 8 of 2018 dated 15.1.2018 made a proposal for making payment of compensation in favour of the petitioner.

A counter affidavit has also been filed on behalf of respondent no. 1, the Chief Secretary, Government of Bihar, which was duly sworn by Sunil Kumar, Under Secretary-cum-Deputy L.R., stipulating therein that for payment of compensation to the victims under the Bihar Victim Compensation Scheme, 2014, the funds are being released by the Finance Department on requisition being made by the Bihar State Legal Services Authority (hereinafter referred to as BSLSA). Thereafter, the BSLSA releases funds to concerned District Legal Services Authority (hereinafter referred to as DLSA). In the financial year 2017-18, under the Bihar Victim Compensation Scheme, 2014 altogether Rupees Three Crores



have been allocated to BSLSA.

Counter affidavit was also filed on behalf of respondent no. 8, Member Secretary, BSLSA, Patna duly sworn by Sumit Ranjan, Assistant Registrar, BSLSA, stipulating therein that Rupees Three Crores has been released for financial year 2017-18 under the Bihar Victim Compensation Scheme, 2014. The matter was adjourned for 25.01.2018 at 10.30 AM.

Considering the rival submissions of the parties, this Court is dismayed to record that the writ application was registered on 9.1.2018. A mentioning slip was filed on 9.1.2018 itself in the evening for early hearing and this Court directed the case to be listed on 11.1.2018, but on that day it was listed below the criminal roster in the cause list. Thereafter on request of learned counsel for the petitioner, the case was listed on 12.1.2018, when medical examination of the petitioner was directed. Thereafter the matter was adjourned on request of learned counsel for the petitioner on one pretext or the other.

Learned Counsel for the AIIMS, Patna submits that termination of pregnancy of the petitioner can be done even tomorrow, if the court permits as such.

In view of the fact that the petitioner has been found to be minor by the investigating agency as well as by the learned trial



court, the circumstances in which the petitioner failed to disclose about pregnancy to her family members and to express her desire for termination of the pregnancy for considerable period which caused delay, this Court is foreseeing the enormous social critical response to the petitioner in case she is allowed to complete its full course of pregnancy.

Section 3 of the Medical Termination of Pregnancy Act, 1971 which permits termination of pregnancy not exceeding 12 weeks by a single registered medical practitioner and between 12 weeks to 20 weeks by not less than two registered medical practitioners if in their opinion, formed in good faith, continuation of the pregnancy would involve risk to the life of pregnant woman or of grave injury to her physical or mental health, or if there is substantial risk that if the child is born, it would suffer from such serious physical or mental abnormalities, which would result in physical handicaps.

The above circumstances for terminating the pregnancy of the pregnant woman, or if grave injury to her physical and mental health has further been explained in Explanation I, with regard to the raped victims which suggests, where the pregnancy is caused by rape, the anguish caused by such pregnancy will constitute a grave injury to the mental health of the pregnant



women.

Sub-section (3) of Section 3 of the Medical Termination of Pregnancy Act, further suggests that while determining whether the continuation of pregnancy would involve, such risk of injury to health, as mentioned in Sub-section (2) account may be taken of actual and reasonable foreseeable environment of such pregnant women and only exception to this gestation period is Section 5 of the MTP Act which permits the termination of pregnancy beyond 20 weeks by a registered medical practitioner in case where he is of the opinion, formed in good faith, that termination of such pregnancy is immediately necessary to save the life of of the pregnant woman.

Though, Section 5 of MTP Act, permits termination after 20 weeks of pregnancy, only when it is necessary to save the life of the pregnant women. In such a situation when a minor has been sexually assaulted and she was not even in a position to divulge it to anyone, since she was so traumatic, hence this Court cannot foresee future life of the petitioner.

The life without dignity cannot be imagined. In the present case, this Court feels that if the pregnancy can be terminated safely in opinion of the doctors, then the petitioner can be permitted for termination of such pregnancy, allowing her to



lead a dignified life.

In case of Suchita Srivastava reported in (2009) 9 SCC 1, the High Court of Punjab and Haryana while invoking the doctrine of *Parent Patriae*, directed for terminating the pregnancy of the victim, against her desire, in best interest of the victim. The Apex Court, while setting aside the judgment of the Punjab and Haryana High Court, has held that the doctrine of *Parent Patriae* has been evolved in common law and has been applied in situation, where the state has to take a decision to protect to interest of those persons who are unable to take care of themselves for exercising such jurisdiction, two distinct standards are commonly used. These two standards 'best interest test' and 'substituted judgment test'.

The 'best interest test' requires the Court to ascertain the course of action which would serve the interest of the person in question. In such a situation, the Court must undertake a careful enquiry of medical opinion of the feasibility of pregnancy as well as the social circumstances faced by the victim. In the present case also, in the best interest of the petitioner and the prospective child foreseen the future of both, this Court inclined to permit for the termination of pregnancy at this stage.

So far as the grant of compensation to the petitioner victim



is concerned, in view of the learned trial court's report that the recommendations have been made for interim compensation to the DLSA, Saran, it is expected from the DLSA, Saran to take a decision for grant of compensation under section 357A of the Cr.P.C. as has been held by the Apex court in the case of Suresh & Anr. Vs. State of Haryana reported in AIR2015 SC 518, wherein the Apex Court directed for interim compensation under section 357A of the Cr.P.C. after the court took cognizance of the offence in the matter. However, this will not preclude the learned trial court to consider the provisions of compensation under section 33(8) of the POCSO Act, 2012 and Rule 7 of POCSO Rules, 2012.

This Court is dismayed to record that in spite of best effort to dispose the matter urgently, delay was caused particularly due to the adjournments being taken by the counsel for the petitioner and the Interlocutory application being filed on behalf of the petitioner on 30.01.2018.

However, this Court is constrained to observe that the investigating agency has not investigated the case properly nor the S.P., Saran has filed counter affidavit in accordance with the direction of this court. The learned S.C.-8 has admitted that neither the medical examination of the accused was done under



section 53 A of the Cr.P.C. nor the medical examination of the victim petitioner was done as per the parameters prescribed under section 164A of the Cr.P.C. It is expected from the S.P., Saran to be careful in future and not to allow such police officers to be the I.O. in such cases.

In the circumstances, this Court gives following directions:

1. (i) As per the undertaking of the petitioner, she along with one attendant or her father will make herself present at 9.30 AM on 01.02.2018 in the Chambers of the office of the Director, AIIMS, Patna where the father will identify the petitioner/victim before the medical procedure.

(ii) Director, AIIMS, Patna is expected to get conducted the procedure of termination of pregnancy of the petitioner i.e., Miss AB without charging any fees in lieu thereof after re-evaluating the whole issue afresh on 1.2.2018, taking all necessary precautions for the safety of the petitioner.

(iii) The Director, AIIMS, Patna is to see that the petitioner is provided all medical assistance including fooding and lodging along with one attendant till she is fully cured.

(iv) The AIIMS, Patna shall preserve the terminus foetus for the purpose of DNA testing/matching in connection with the criminal case.



2. The Secretary, Department of Health, Government of Bihar will ensure that no cost should be realized from the petitioner for conducting the procedure of termination of pregnancy by AIIMS, Patna and all the expenses for conducting the procedure and post-procedure of termination of pregnancy shall be borne by the State.

3. The Member Secretary, BSLSA will keep a watch on the condition of the petitioner after termination of her pregnancy and, if need be, may provide adequate financial and medical assistance. The BSLSA from time to time will intimate the petitioner about the beneficial schemes for her rehabilitation.

4. (i) The DLSA, Saran will decide the issue with regard to interim compensation and final compensation keeping in view, the upper limit of Rupees Three Lacs fixed in Bihar Victim Compensation Scheme, 2014 on conclusion of trial. The DLSA, Saran will also ensure the rehabilitation of the petitioner including her education and if need be, provide psychological counselling of the petitioner and depute a para legal volunteer to report frequently about her rehabilitation to the DLSA, Saran.

(ii) The DLSA, Saran will provide a good lawyer to appear on behalf of the petitioner before the learned trial court.

(iii) The DLSA, Saran will consider to condone the delay



in claiming compensation by the petitioner.

5. The Civil Surgeon, Sadar, Chapra is directed to provide all medical assistance to the petitioner and to give necessary instruction to all the Primary Health Care Center of the area to which the petitioner is resident, to provide medical assistance.

6. (i) The learned Trial Court will try to conclude the trial in shortest possible time frame.

(ii) The District Magistrate and S.P., Saran are directed to get all the witnesses produced before the Trial Court on the dates so fixed.

(iii) The learned Trial Court will codify the name of the victim and her parentage and will conceal their real names with respective codes in a sealed cover on record.

Accordingly, this writ application is allowed to the extent indicated above.

Let a copy of this order be served upon the Registrar General, Patna High Court, the counsel for the petitioner, Director, AIIMS, Patna, Secretary, Department of Health, Government of Bihar, Patna forthwith. A copy of this order be also served upon learned District Judge-cum-Director, DLSA, Saran, Additional District Judge-cum-Special Judge, POCSO Act, Saran and the Superintendent, PMCH, Patna for the



needful.

(Dinesh Kumar Singh, J)

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