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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8004 OF 2018

"X" Minor through her father .. Petitioner
Vs.
The State of Maharashtra, through
Secretary, Women and Child Development
Department and ors. .. Respondents

Ms. Ameeta Kuttikrishnan for petitioner.
Ms. Kavita N. Solunke, AGP for State.

CORAM: NARESH H. PATIL &
G. S. KULKARNI, JJ.

JULY 30, 2018.

P.C.

1. We have perused the report dated 28/7/2018 submitted by the Medical Board attached to KEM Hospital, Mumbai. The final analysis of the said Medical Board is as under :-

> "Based on the above findings, the board has concluded that:
>
> 1. Current pregnancy is about 28 weeks by clinical and sonographic evaluation.
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> 2. If the pregnancy is terminated now after correction of anemia as per the patient's and her family's request:
>
> (a) The baby has about 65% - 70% chance of survival as per weight and about 60-70% chance of survival as per gestational

age;

(b) The risk of failure of induction of labour is about 6% to 7% (as per available statistics);

(c) The risk of obstetric complications is 25% (as per available statistics);

(d) If induction fails, the patient may require Cesarean Section for maternal indication;

(e) If cesarean section is required to terminate this pregnancy, in future pregnancy, there is small chance of rupture of scar (about 1%), the relative risk of morbidly adherent placenta is 3 to 5% (as per available statistics);

(f) We also have to take into account the fact that this child has a good chance of survival and problems of prematurity if delivered now such as

- Respiratory distress syndrome
- Patent Ductus Arteriosus
- Metabolic problems (hypocalcemia, hypomagnesemia, hyperbilirubinemia, hypoglycemia and electrolyte distrubances)
- Intraventricular haemorrhage
- Infections

The child may have a prolonged stay in neonatal intensive care and may have neurological impairment due to above complications.

The future liabilities and problems of prematurity depend

on the condition of the baby at birth and the problems baby develops due to prematurity after birth.

In case the family decides to give up the child; there may be difficulties in adoption of a sick child. This will be iatrogenic prematurity (due to medical intervention). It is a huge unwarranted price to pay.

If the child dies due to the intervention of induction, it is a reportable death according to the state requirements. It is also violation of child's human rights.

Due to advanced gestational age and high chance of survival of the baby ethically it would be wrong to induce labour at this gestation.

In view of the above, the Medical Board is of the opinion that the patient should be advised to continue pregnancy with medical and psychological support and to wait for spontaneous onset of labour. Her nutrition should be focused on and anemia should be corrected. The pregnancy should be managed as per her obstetric condition. If the patient and her family desires, the baby may be given up for adoption through proper channel after delivery."

2. In view of the report dated 28/7/2018 submitted by the Medical Board attached to KEM Hospital, Mumbai, it is made clear that this court is not inclined to permit termination of pregnancy as prayed by the petitioner.

3. The learned counsel appearing for the petitioner submits that the petitioner is resident of Solapur and it would not be possible for him to keep the victim girl here in Mumbai as there is no facility, neither any relative with whom he can stay till the child is delivered. On the instructions of the father of the victim girl, who is present in the court, the learned counsel submits that the victim girl will be taken back to Solapur and would be subjected to further medical treatment in Chatrapati Shivaji Mahararaj Rugnalay (Civil Hospital), Solapur. The counsel prays for directions to the Dean/Superintendent of the said hospital for providing necessary medical treatment to the victim girl and for the delivery procedure.

4. We direct the Dean/Superintendent of the Chatrapati Shivaji Maharaj Rugnalay (Civil Hospital), Solapur to constitute a team of Experts in the field who would monitor the pregnancy of the victim girl, daughter of Vitthal Shivaji Madane. The Experts of the Medical Board would then at an appropriate stage take necessary steps for effecting delivery of the child. The counsel submits that with these directions, petition can be disposed of.

5. The Investigating Officer is present. It is submitted that the charge-sheet has been filed in the court. The blood sample of the accused

and the victim girl has been collected and sent for DNA analysis at Forensic Laboratory, Pune.

6. We direct the In-charge of the Forensic Laboratory, Pune to submit the DNA report on priority to the Investigating Officer.

7. The Registrar (Judicial) shall take necessary steps to forward copy of this order to the Dean/Superintendent of Chatrapati Shivaji Maharaj Rugnalay (Civil Hospital), Solapur by fastest mode of communication.

8. We appreciate the assistance rendered by Ms. Ameeta Kuttikrishnan, the learned counsel appearing for the petitioner.

9. With the aforesaid directions and observations, petition is disposed of.

(G. S. KULKARNI J.) **(NARESH H. PATIL,J.)**