

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 2181 of 2018

Date of Decision: 07.02.2018

PARMJEET KAUR AND ANOTHER

.....Petitioners

V/S

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. Vishal Sharma, Advocate,
for the petitioners.

Mr. H.S. Sitta, AAG, Punjab.
for respondent No. 1.

None for respondent No. 2- PGIMER, Chandigarh

RAKESH KUMAR JAIN, J. (Oral)

Petitioner No. 1 is the wife of petitioner No. 2. They got married on 25.04.2012 and were blessed with a male child on 07.11.2014, namely, Lavpreet Singh, who is suffering from neurological disorder (global developmental delay). Now, petitioner No. 1 is again pregnant of 24 weeks and 3 days (as on today) and according to the report of the medical board of the PGIMER, Chandigarh, the foetus growing in her womb is also suffering from the same neurological abnormality.

Since, the pregnancy was more than 20 weeks, therefore, the petitioners have sought permission of this Court to terminate the pregnancy in terms of the provisions of Medical Termination of Pregnancy Act, 1971 (hereinafter referred as 'the Act').

On 01.02.2018, following order was passed by this Court: -

"Petitioner no.1 is the wife of petitioner no.2. They got married on 25.04.2012 as per the Sikh rites and ceremonies. They have already got a male child, aged 3-½ years, born on 07.11.2014. Petitioner no.1 is pregnant. Her pregnancy is allegedly of 23 weeks 4

days as of now. It is alleged that when they visited PGIMER, Chandigarh for a routine check-up, they were orally told that delivery of the child would cause adverse effect on the health of petitioner no.1 as well as the life of the foetus. Since the pregnancy is of more than 20 weeks, therefore, the petitioners are seeking permission to get it terminated in terms of the provisions of the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as the "Act").

Notice of motion for 05.02.2018.

At this Stage, Mr. H.S.Sitta, AAG, Punjab, accepts notice on behalf of respondent no.1-State.

Respondent no.2 -PGIMER, Chandigarh be served through its panel counsel Shri Rajesh Garg, Senior Advocate.

In order to ensure that termination of pregnancy is necessary to save the life of petitioner no.1, the Director, PGIMER, Chandigarh is directed to constitute board of two senior gynecologists to thoroughly examine petitioner no.1 and opine, on or before the next date of hearing, as to whether termination of her pregnancy is possible and necessary at this stage. Petitioner no.1 shall appear before the Director, PGIMER, Chandigarh on 02.02.2018 at 11.00 a.m. for the purpose aforesaid.

A copy of this order be given to the learned counsel for the parties under signatures of the Special Secretary attached to this Bench, for compliance."

Apropos, the Director, PGIMER, Chandigarh has sent a report of the Medical Board which read as under: -

In pursuance of the orders received from Hon'ble Judge Rakesh Kumar Jain, Punjab and Haryana High Court, Chandigarh a Medical Board was constituted in the CWP No. 2181 of 2018 case titled as Paramjeet Kaur and Another and State of Punjab and Another. The Board met under the Chairpersonship of Prof. Rashmi Bagga and the following members attended the meeting, which was held on 03.02.2018 in the Control Rook, MS office, Nehru Hospital PGIMER, Chandigarh at 10.30 A.M.:-

- 1. Prof. GRV Prasad (Co-opted Member)*
- 2. Prof. Kanya Mukhopadhyay (Member)*

3. Prof. Y.S. Bansal (Member)
4. Dr. Tulika Singh (Member)
5. Dr. Himanshu Gupta (Member)
6. Dr. Ruchita Shah (Member)
7. Dr. Aastha Takkar (Member)
8. Dr. Sahjal Dhooria (Member)
9. Dr. Anu Priya Kaur (Member)
10. Dr. Ranjana Singh (Member Convener)

The medical board examined the patient in detail, keeping in view the history of neurological abnormality in the previous child which is quite relevant in the present case. This foetus has got mild ventriculomegaly (11.7 mm) in the brain on ultrasound which may be associated with neurological abnormality in this foetus. The possibility of abnormality in this foetus can be higher because the first child is also suffering from neurological disorder (global development delay).

The patient appears to be anxious and distressed after knowing the diagnosis and prognosis of the present foetus as she already has one child who is neurologically abnormal. The Medical Board opines that carrying out termination of pregnancy is possible but with the usual risks associated with second trimester termination of pregnancy (bleeding, uterine rupture, need for hysterotomy and hysterectomy). There is also a possibility of the foetus being born alive if termination is carried out at this stage of pregnancy and may survive.”

Accordingly, learned counsel for the petitioners had apprised the petitioners about the risk involved in the termination of the pregnancy of petitioner No. 1 as it may cause bleeding, uterine rupture and need for hysterotomy and hysterectomy.

Petitioner No. 2, has given his consent by way of an affidavit dated 07.02.2018, having been fully aware of the risk involved in the process of carrying out the termination of pregnancy of petitioner No. 1 (Wife).

I have heard learned counsel for the parties and after taking into

petitioners is mentally abnormal and there is a strong likelihood that the second child, who is in the womb of petitioner No. 1, would also suffer from the same neurological abnormality as it has been opined by the medical board of the PGI, but the termination of pregnancy is possible and that petitioners are ready and willing to take risk, therefore, permission is granted to the petitioners to seek termination of the pregnancy of petitioner No. 1.

Since, there is an element of risk involved as stated in the report of the PGIMER, Chandigarh, therefore, this Court requests the Director, PGIMER, Chandigarh to get the pregnancy of petitioner No. 1 terminated under the supervision of Head of the Department (Obstetrics and Gynaecology), PGI, Chandigarh and by constituting a team of experienced doctors. It is also requested that the PGI shall take extra care of petitioner No. 1 in this regard.

With these observations, the present petition is hereby allowed.

A copy of this order be given to the learned counsel for the petitioners and to learned counsel for the PGIMER, Chandigarh under the signatures of the Bench Secretary of this Court for immediate compliance.

February 7, 2018

Ess Kay

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking / reasoned	:	Yes	/	No
Whether Reportable	:	Yes	/	No