

\$~1

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

+ W.P.(C) 12795/2018

MINOR X (THROUGH GUARDIAN RAJ
KUMAR)

..... Petitioner

Through: Ms Tejaswi Shetty, Mr Sougat Mishra
and Mr Shreeyash Lalit, Advocates.

versus

STATE (NCT) OF DELHI AND ORS.

..... Respondents

Through: Mr Sanjoy Ghose, ASC, GNCTD
with Ms Urvi Mohan, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

01.12.2018

1. The petitioner is a minor (Ms 'X') and has filed the present petition through her father and natural guardian, *inter alia*, praying that the respondents be directed to carry out the medical termination of the pregnancy.
2. Ms 'X' is aged about 16 years. She alleges that she is a victim of rape, which has resulted in her unwanted pregnancy. An FIR has also been registered for the alleged crime under Section 376 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2002.
3. The fetus has already undergone a gestation period of twenty two weeks. The petitioner claims that carrying the pregnancy poses a substantial risk and this led the petitioner to seek directions from this Court.

4. This Court had interacted with Ms 'X' on 28.11.2018 and had noted that she appeared to be in considerable distress. She was further insistent that the pregnancy be terminated.

5. In the given circumstances, this Court had directed that her medical evaluation (both physical and psychological) be carried out. The Medical Superintendent of respondent no.2 hospital was directed to constitute a Medical Board for such examination. In compliance with the orders passed by this Court, the Medical Board was constituted, which was chaired by Director Professor, Obst. & Gynae.

6. Dr Sanjay Agrawal, Director Professor of Psychiatry was also included as a part of the Medical Board. He is present in the Court today and states that he had interacted with Ms 'X'. This Court also had the benefit of discussing the matter with Dr Agrawal. He is also of the view that the unwanted pregnancy is causing considerable amount of distress to Ms 'X'. He is further of the view that carrying the pregnancy further poses a risk to her well being and would continue to cause much distress to the petitioner. This risk is enhanced considering the allegation that the conception was a result of rape.

7. The Medical Board has also submitted the report, which indicates that abortions of about twenty two weeks carry higher risk of mortality and morbidity. He also pointed out that the relative risk is much higher than an abortion at eight weeks. The Board is also of the view that if the abortion does not occur vaginally, Ms 'X' may require major abdominal surgical procedure called *Hysterotomy*. This risk has been explained to the petitioner as well as her father, both of whom are adamant that the pregnancy should

be terminated.

8. The learned counsel appearing for the petitioner has also referred to the various decisions of the Supreme Court including in *Ms Chanchala Kumari v. Union of India & Anr.: W.P.(C) 871/2017* and *Venkatalakshmi v. The State of Karnataka & Ors.: Civil Appeal No.15378/2017* wherein the Court after examining the medical reports had permitted the termination of pregnancy even after a period of twenty four weeks of pregnancy.

9. In view of the above, the present petition is allowed. The respondents are directed to carry out the procedure for termination of the pregnancy, as it does appear that there is considerable risk to Ms 'X' physically as well as psychologically.

10. The procedure shall be carried out as expeditiously as possible and preferably before 04.12.2018. The tissue of the foetus shall be preserved for further DNA test, if necessary.

11. Since, it is pointed out that the petitioner may face medical issues during the post operative period as well, the father of the petitioner is directed to ensure that she is brought for medical examination within the interval of three weeks after her discharge. He shall follow the advice of the doctors and produce her for regular check-up as per the advice of the concerned doctor.

12. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

DECEMBER 01, 2018
MK