

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

904 WRIT PETITION NO.14427 OF 2019

X Y Z VICTIM THRO NATURAL GUARDIAN MOTHER ANURADHA SHIVAJI
JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Kale Mahesh P.
AGP for Respondents/State : Mr. S.B. Yawalkar
...

**CORAM : S.V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**
DATE : 05.12.2019

P.C. :-

The petitioner is minor and a rape victim as contended by the petitioner. The petition is moved for termination of pregnancy.

2. The petitioner was referred to the committee constituted at the Government Medical College and Hospital, Aurangabad. The committee has examined the petitioner and submitted the report. The report reads thus:

“ The committee has thoroughly examined XYZ Victim through Natural Guardian Mother Anuradha Shivaji Jadhav.

The age of mother (XYZ) is 17 years and pregnancy is caused by rape.

She has cough and fever since 1 week.

On obstetric ultra-sonography dated 03-12-2019 done at GMC,

Aurangabad.

Following findings are noted.

- A. Length of Pregnancy. Gestational Age of 18 weeks 5 days.
- B. Single live intrauterine fetus, no evidence of congenital anomalies.

Taking into consideration the above findings, this Committee recommends termination of this pregnancy, as continuation of pregnancy carries substantial risk to her physical and mental health. Pregnancy can be terminated at any Government recognized centre of choice of patient after the cough and fever are under control, with due risk to mother and the risk is explained to her and her relatives.”

3. The expert committee has opined that continuation of pregnancy carries substantial risk to her physical and mental health. The risk is explained to the petitioner and her mother and relatives.

4. Even otherwise the petitioner is a rape victim. As per Explanation I to Section 3 of the the Medical Termination of Pregnancy Act, 1971 where any pregnancy is alleged by the pregnant woman to have been caused by rape the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman. It appears that the F.I.R. has been lodged.

5. Considering the fact that the pregnancy carried by the victim

is as a result of the offence of rape, as contended by the petitioner. Complaint has already been lodged and also the report of the expert committee, the petitioner is permitted to terminate the pregnancy.

6. The learned counsel states that the petitioner would terminate the pregnancy at Govt. Medical College and Hospital, Ambejogai.

7. The Superintendent and or the Authorised Officer of the Govt. Medical College and Hospital, Ambejogai is directed to preserve the tissue samples and blood sample of the fetus for carrying out the necessary medical tests including DNA, finger print / mapping. The Investigating Officer who conducted the investigation in the matter shall ensure that the samples of the tissue and blood etc. are forwarded to the Regional Forensic Laboratory, Aurangabad for DNA, finger printing / mapping and for carrying out necessary tests the samples and the report shall be preserved for the purpose of the trial of the offence.

8. The petitioner / guardian of the petitioner shall inform the investigating machinery / police authorities about the date the petitioner is to terminate the pregnancy. The Police Authority / Investigating Officer may approach the Govt. Medical College and Hospital, Ambejogai

where the petitioner would terminate the pregnancy.

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

[AVINASH G. GHAROTE, J.]

[S.V. GANGAPURWALA, J.]