

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4886 OF 2020

ABC THROUGH HER FATHER AND
NATURAL GUARDIAN

..PETITIONER

VERSUS

THE UNION OF INDIA AND OTHERS

..RESPONDENTS

...

Mr. R. S. Devdhe, Advocate for the Petitioner.

Mrs. M. A. Deshpande, AGP for Respondent-State.

...

CORAM : S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.

DATED : 23rd JULY, 2020.

PER COURT:-

1. The petitioner claims to be rape victim and minor. The petitioner seeks permission to terminate the pregnancy.

2. Under order dated 09.07.2020 the petitioner was referred to the expert committee. The expert committee was directed to examine the petitioner and submit report as required under Section 3 of the Medical Termination of Pregnancy Act.

3. The committee has submitted the report. The report reads thus:-

Record additional findings and observations here, if any (Also include any risk to the health of girl/woman in case of continuation

of pregnancy as well as termination)

No additional findings and observations seen suggesting any risk to health of girl.

If pregnancy is continued girl is likely to have permanent psychological damage. Secondly To / In view of pregnancy arising out of rape her termination of pregnancy can save her as long term fatal psychological consequences.

Physical fitness for termination:-

Yes

No

Recommendation by Medical Board for termination (choose one and provide any additional recommendations of the panel in the box below if any):-

a. **Recommended (if yes, please mention the methods):-**

b. Not (If no, justification):-

Key recommendations of the panel (if any) with justification:

1) Method of termination of pregnancy by medical method.

2) As District Hospital Ahmednagar is converted into Covid Hospital hence please recommend Ghati Hospital, Aurangabad or Sasoon Hospital, Pune for termination of pregnancy for said patient.

4. We have considered the report. The report suggest if the pregnancy is continued of the girl she may undergo permanent psychological damage. The committee has recommended termination of pregnancy.

5. In addition to the above, the petitioner is rape victim. Explanation No.I to Section 3(2) (ii) of the Medical Termination of Pregnancy Act, 1971 (for short "said Act") states that, where any pregnancy 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.

6. It appears that, the FIR bearing Crime No.4563/2020 dated 26.06.2020 is registered with Kotwali Police Station.

7. Considering the Explanation-I to Section 3(2)(ii) of the said Act the opinion of the committee and the fact that the petitioner claims to be a rape victim, we allow the petitioner to terminate pregnancy.

8. The petitioner may get the pregnancy terminated at Government Medical College and Hospital, Aurangabad.

9. Considering the fact that the pregnancy carried by the victim is a result of offence of rape, complaint has already been lodged. The

hospital where pregnancy of petitioner would be terminated shall preserve tissue sample and blood sample of the foetus for carrying out necessary medical tests including DNA, finger printing/mapping. The Investigating Officer who conducted the investigation in the matter shall ensure that the samples of tissues and blood etc. shall be forwarded to the Regional Forensic Laboratory, Aurangabad for DNA, finger printing/mapping and for carrying necessary tests and the samples and report shall be preserved for the purpose of trial of the offence.

10. The police authority/investigating machinery may approach the hospital where the petitioner would terminate the pregnancy. The petitioner shall also inform the concerned police station about the day the petitioner is to terminate the pregnancy.

11. In the light of above, the writ petition is disposed of. No costs.

12. Authenticated copy be given.

(R. G. AVACHAT)
JUDGE

(S. V. GANGAPURWALA)
JUDGE