

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 5613 OF 2020

Shri Chandrakant S/o Narayanarao Tandale,  
Age : 81 Years, Occu. Nil.  
R/o: Plot No. 4, Railway Station Road,  
Opp. VITS Hotel, Raj Nagar, Aurangabad,  
District Aurangabad

...PETITIONER

VERSUS

1. The State of Maharashtra,  
Through the Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32
2. The Government Medical College and  
Hospital, University Road, Aurangabad,  
District Aurangabad, Through its Dean. ...RESPONDENTS

Mr A.B. Girase, Advocate holding for  
Mr Y.B. Bolkar and Mr B.K. Jadhav, Advocates for Petitioner  
Mr S.G. Karlekar, A.G.P. for Respondent Nos. 1 and 2

**CORAM :S. V. GANGAPURWALA AND  
SHRIKANT D. KULKARNI, JJ.**

**RESERVED ON : 29.09.2020**

**PRONOUNCED ON : 09.12.2020**

**FINAL ORDER (PER SHRIKANT D. KULKARNI, J.) :**

1. The petitioner is making extraordinary prayer seeking permission for active euthanasia (इच्छामरण) through registered medical practitioner by invoking Article 226 of the Constitution of India.

2. Shorn of unnecessary details, the facts relevant for deciding the matter are as under :-

2 (i) The petitioner is aged about 81 years old and permanent resident of Aurangabad. The wife of the petitioner left for heavenly abode on 07.09.2019.

2(ii) The petitioner has four sons and one daughter. According to the petitioner, he has decided to donate his body to respondent No. 2/Government Medical College and Hospital, Aurangabad for the purpose of research.

2(iii) According to the petitioner, he is suffering from -

(1) E/O sacralisation of the L5 vertebra,

(2) E/O Dessication with posterocentrolateral protrusions of the L4-L5, L3-L4, L2-L3, L1-L2 Discs causing thecal sac compression and bilateral neural foramina stenosis with compression of the bilateral exiting nerve roots at that levels and,

(3) Spinal cord shows normal signal intensities.

He was admitted in Kamalnayan Bajaj Hospital, Aurangabad for the treatment due to enormous pain. He is not in a position to bear with severe pains. The MRI Lumber Spine of the petitioner was conducted on 14.06.2018 and doctor opined that operation is necessary. However, it was also opined by the doctor that

considering the age of the petitioner, there are remote chances of successful surgery.

2(iv) The petitioner is suffering from enormous pain since June, 2018 and it is neither operational nor curable. Due to said back disc problem, he is bed-ridden and requires assistance for moving from one place to another place. After the sad demise of spouse, there is no one to assist the petitioner. The sons, daughter in laws are not looking after the petitioner. Even the petitioner is not in a position to go for natural call and he needs assistance every time. For second time, he was admitted in a private hospital on 03.02.2020 due to severe pain, but doctor again opined that pain and back disc problems of the petitioner are not curable in view of the age of the petitioner. There is no hope to come out of severe pains.

2(v) The petitioner is not mentally and physically able to face severe pain. In the above premise, the petitioner is seeking permission from this Court to allow him to have active euthanasia in view of the Judgment of the Hon'ble Supreme Court of India in the case of ***Common Cause(A Regd. Society) Vs. Union of India and another reported in (2018) 5 SCC 1.***

2(vi) According to the petitioner, medical treatment is neither reducing his pain nor recovering from back disc problem. It is the stand of the petitioner that every human being who is an adult and sound mind has a right to determine about his further journey of life. An adult person is entitled to refuse medical treatment. It is the final word of the patient whether to continue with medical treatment or to refuse it. It is contended by the petitioner that though Article 21 of the Constitution of India gives guarantee of protection of life and personal liberty and provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. According to the petitioner, the word liberty is the sense and realization of choice of the attributes associated with the said choice and the term life is the aspiration to possess the same in a dignified manner. Life does not intend to live sans liberty as it would be, in all possibility, a meaningless survival. It is further stand of the petitioner that the right to life includes the right to live with human dignity and all that goes along with bear necessities of life such as nutrition, clothing, shelter, right of expression, freely moving etc.

2(vii) According to the petitioner, he is not in a position to survive with enormous pain. As such, he is seeking permission/direction to have with the active euthanasia at the behest of respondent No. 2/registered medical practitioner in the light of

law laid down by the Hon'ble Supreme Court of India in the case of ***Aruna Shanbaugh and Common Cause*** (*Supra*).

2(viii) The State/Respondent has strongly opposed to allow such prayer by filing reply-affidavit. It is the stand of the State that active euthanasia is not permissible in law and if such exercise is made, it would amount to an offence. The Hon'ble Supreme Court in case of ***Common Cause*** (*Supra*) has only given approval to passive euthanasia. It is further stand of the State Government that Indian Medical Council (Professional Conduct, antiquate and ethics) Regulation 2002 does not permit such unethical medical practice.

3. Heard Mr A.B. Girase, the learned Counsel for the petitioner and Mr S.G. Karlekar, learned Assistant Government Pleader for respondent Nos. 1 and 2/State.

**SUBMISSIONS OF LEARNED ADVOCATE FOR THE PETITIONER**

4. Mr Girase, learned Counsel for the petitioner invited our attention to the medical certificate of the petitioner and by taking help of the medical certificate, he has submitted that the petitioner is suffering from -

(1) E/O sacralisation of the L5 vertebra and

(2) E/O Dessication with posterocentrolateral protrusions of the L4-L5, L3-L4, L2-L3, L1-L2 Discs causing thecal sac compression and

bilateral neural foramina stenosis with compression of the bilateral exiting nerve roots at that levels and,

(3) Spinal cord shows normal signal intensities.

The petitioner is suffering from severe pains and due to advanced age, surgery is not possible. The petitioner is an adult and having sound mind. He has decided to donate his body to the Government Medical College and Hospital at Aurangabad for research purpose. The petitioner has lost his better half in the mid-way and as such, it has become difficult for the petitioner to live alone though there are members in the family. Mr Girase, learned Counsel invited our attention that though Article 21 of the Constitution of India provides protection of life and personal liberty, equally speaks life with dignity. The petitioner is unable to live with dignity with enormous pain which he is undergoing. Mr Girase submitted that petitioner has taken conscious decision by taking into consideration his prolonged illness and pains to end his life which needs to be respected. Mr Girase pressed the need to accord permission for active euthanasia in the background of old age and severe medical problems of the petitioner.

5. To buttress argument, Mr Girase, learned Counsel has placed reliance on following stock of citations.

- (I) ***P. Rathinam Vs. Union of India (1994) 3 SCC 394***
- (II) ***Gian Kaur Vs. The State of Punjab (1996) 2 SCC 648***
- (III) ***Aruna Ramchandra Shanbaugh Vs. Union of India and others (2011) 4 SCC 454***
- (IV) ***Common Cause (Registered Society) Vs. Union of India and Anr. (2018) 5 SCC 1.***

**SUBMISSIONS OF ASSISTANT GOVERNMENT PLEADER**

6. Mr S.G. Karlekar, learned Assistant Government Pleader while giving reply also heavily placed reliance on the Judgment of the Hon'ble Supreme Court of India in case of ***Aruna Ramchandra Shanbaugh Vs. Union of India and others (2011) 4 SCC 454 and Common Cause (Registered Society) Vs. Union of India and Anr. (2018) 5 SCC 1.***

7. By placing reliance on the above said decisions of the Hon'ble Supreme Court of India, Mr Karlekar submitted that active euthanasia is not permissible in India. The prayer for active euthanasia made by the petitioner needs to be turned down. Mr Karlekar, learned Assistant Government pleader further invited our attention to the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. He submitted that practicing euthanasia may amount to unethical conduct.

8. We have considered arguments canvassed by Mr Girase, learned Counsel for the petitioner and Mr Karlekar, learned Assistant

Government Pleader for the State. We have also perused the medical certificate of the petitioner.

### **DISCUSSION**

9. It is undisputed that the petitioner is 81 years old and suffering from -

(1) E/O sacralisation of the L5 vertebra

(2) E/O Dessication with posterocontrolateral protrusions of the L4-L5, L3-L4, L2-L3, L1-L2 Discs causing thecal sac compression and bilateral neural foramina stenosis with compression of the bilateral exiting nerve roots at that levels and (3) Spinal cord shows normal signal intensities.

10. Let us see what is euthanasia. Euthanasia means intentional premature termination of life of another person as per his request to have a “good death”. There are types of euthanasias. They are as under :-

(I) Active euthanasia

(II) Passive euthanasia

(III) Voluntary euthanasia

(IV) Non voluntary euthanasia

(V) Involuntary euthanasia.

11. The Hon'ble Supreme Court in case of *Common Cause Vs. Union of India (supra)* has elaborated above types of euthanasia in following words :-

**(I) Active euthanasia** – Causing death of a person with his/her consent by direct medical intervention – Some positive act on part of person causing death necessary.

**(II) Passive euthanasia** – Withholding or withdrawing life prolonging medical treatment in accordance with express or implied will of terminally ill, permanent vegetative state (PVS) brain dead patient resulting in his/her death.

**(III) Voluntary euthanasia** - Terminating life at request of patient – Request may be made prior to development of illness or during course of illness.

**(IV) Non-voluntary euthanasia** – Terminating life without patient's consent – It may be for patient's good on proxy request when not in position to express own views; an alternative to non-treatment.

**(V) Involuntary euthanasia** – Terminating life against patient's will – Human and Civil Rights – Right to Die/Euthanasia.

12. Much water has flown under the bridge since the year 1994. In case of *P. Rathinam Vs. Union of India (supra)*, the Hon'ble Supreme Court has declared section 309 of Indian Penal

Code as *ultra vires*. In the year 1996, while rendering decision in ***Gian Kaur Vs. The State of Punjab (supra)***, the Constitution Bench of the Hon'ble Supreme Court upheld the Constitutional validity of section 306 and 309 of Indian Penal Code overruling decision in **P. Rathinam's case**.

13. In case of ***Gian Kaur Vs. The State of Punjab (supra)***, the Constitution Bench of the Hon'ble Supreme Court held that Article 21 guarantees protection of life and personal liberty. Extinction of life cannot be included in phraseology protection of life. Article 21 of the Constitution cannot be construed to include within it right to die as part of fundamental right. Suicide is unnatural termination or extinction of life and inconsistent with concept of right of life.

14. The same view is percolated in the case of ***Aruna Ramchandra Shanbaugh Vs. Union of India and others (supra)***.

15. It is once again held by the Supreme Court of India in ***Aruna Shanbaugh case*** that right to life guaranteed by Article 21 of the Constitution of India does not include the right to die. As such, the petition under Article 32 of the Constitution of India came to be dismissed.

16. The Hon'ble Supreme Court has highlighted various terms with meaning -

**“Brain death”** – Means complete absence of voluntary movements – This patient can only be maintained alive by advanced life support machine-- These patients can be legally declared dead to allow their organs to be taken for donation.

**“Coma” Patients**—These patients are unconscious— They can not be awakened even by application of a painful stimulus—They have normal heart beat and breathing and do not require advanced life support.

**“Permanent vegetative stage”**-- In PVS complete absence of behavioral evidence for self or environmental awareness--”They can not voluntarily control passing of urine and stools—They have normal heart beating and breathing—There is no threat to life and can survive for many years.

**“Life—Scope of—Held**-- Life is not mere living in health and health is not the absence of illness but a glowing vitality.

**“Withdrawal of life support”**-- Means and scope—Held-- Withdrawal of life support by “Doctor is in law, considered as an omission and not a positive steps to terminate life— Later would be euthanasia and a criminal offence.

**“Active and Passive Euthanasia”**--Held--Active euthanasia entails use of lethal substances or forces to kill a person while passive euthanasia entails withholding of medical treatment for discontinuance of life.

**“Permanent Vegetative Stage”--** Characteristic—Held—Distinguishing characteristic of PVS is that the brain stem remain alive and functioning while the cortex has lost its functions—So PVS patient continues to breath unaided and his digestion continues to function—Though his eye are open but unable to see and hear.

**Indian Penal Code, 1860-Section 309**—Attempt to suicide-Legality—Held--Although Section 309 I.P.C. has been held to be constitutional valid but time has come when it should be deleted by parliament as it has become anachronistic—A person attempt to suicide in a depression and needs help.

**“Withdrawal of Life Support” of PVS Patient--** Requisite —Held--A decision has to be taken to discontinue life support either by the parents or spouse or other close relatives or in the absence of any of them such a decision can be taken even by a person or a body of persons acting as a next friend—It can also be taken by doctor attending the patient—Decision should be taken bona fide in the best interest of the patient.

**Constitution of India, 1950**—Article 226--Withdrawal of life support—Competent court—Held--It is the High Court under Article 226 of Constitution which can grant approval for withdrawal of life support to a competent person—High Court under Article 226 of Constitution is not only entitled to issue writ but i9s also entitled to issue directions and orders.

**Application for “withdrawal of life support”**--Procedure to be adopted—Held--When application for withdrawal of life support is filed then the Chief Justice of High Court should forth with constitute a Bench of two Judges who should decide to grant approval or not—Before doing so Bench should seek opinion of experts—For this purpose a panel of Doctors in every city be prepared.

17. As on today, we have recent landmark decision of the Constitution Bench of the Hon'ble Supreme Court known as ***Common Cause (Registered Society) Vs. Union of India*** (*supra*).

18. The Constitution Bench of the Hon'ble Supreme Court after analyzing the decision in case of ***Gian Kaur Vs. The State of Punjab*** (*supra*) elaborated the term passive euthanasia along with Article 21 of the Constitution of India. The Apex Court held that passive euthanasia is a complex issue and it requires consideration of morale, ethical, religious, philosophical, social, economic, penal and constitutional aspects.

19. The Constitution Bench of the Hon'ble Supreme Court in para Nos. 607 to 611 has held as under :-

607. The two-Judge Bench in *Aruna Ramchandra Shanbaug v. Union of India* has held that withdrawal of life-saving measures is a passive euthanasia which is permissible in India. A critically ill patient who is mentally

competent to take a decision, decides not to take support of life prolonging measures, and respecting his wisdom if he is not put on such devices like ventilator, etc. It is not at all euthanasia. Large number of persons in advance age of life decide not to take medical treatment and embrace death in its natural way, can their death be termed as euthanasia. Answer is, obviously "No". The decision not to take life saving medical treatment by a patient, who is competent to express his opinion cannot be termed as euthanasia, but a decision to withdraw life saving treatment by a patient who is competent to take decision as well as with regard to a patient who is not competent to take decision can be termed as passive euthanasia. On the strength of the precedents in this country and weight of precedents of other countries as noted above, such action of withdrawing life saving device is legal. Thus, such acts, which are commonly expressed as passive euthanasia is lawful and legally permissible in this country.

608. We remind ourselves that this Court is not a legislative body nor is entitled or competent to act as a moral or ethical arbiter. The tasks of this Court is not to weigh or evaluate or reflect different beliefs and views or give effect to its own but to ascertain and build the law of land as it is now understood by all. Message which need to be sent to vulnerable and disadvantaged people should not, however, obviously to encourage them to seek death but should assure them of care and support in life.

609. We thus are of the considered opinion that the act of withdrawal from live-saving devices is an independent right which can lawfully be exercised by informed decision.

610. One related aspect which needs to be considered is that is case of those patients who are incompetent to decide due to their mental state or due to the fact that they are in permanent persistent vegetative state or due to some other reasons unable to communicate their desire. When the right of an adult person who expresses his view regarding medical treatment can be regarded as right flowing from Article 21 of the Constitution of India, the right of patient who is incompetent to express his view cannot be outside the fold of Article 21 of the Constitution of India. It is another issue, as to how, the decision in cases of mentally incompetent patients regarding withdrawal of life saving measures, is to be taken.

611. The rights of bodily integrity and self-determination are the rights which belong to every human being. When an adult person having mental capacity to take a decision can exercise his right not to take treatment or withdraw from treatment, the above right cannot be negated for a person who is not able to take an informed decision due to terminal illness or being in a persistent vegetative state (PVS). The question is who is competent to take decision in case of terminally ill or PVS patient, who is not able to take decision. In case of a person who is suffering from a disease and is taking medical treatment, there are three stakeholders; the person himself, his family members and doctor treating the patient. The American Courts give

recognition to opinion of “surrogate” where person is incompetent to take a decision. No person can take decision regarding life of another unless he is entitled to take such decision authorised under any law. The English Courts have applied the “best interests” test in case of an incompetent person. The best interests of the patient have to be found out not by doctor treating the patient alone but a team of doctors specifically nominated by the State Authority. In *Aruna Shanbaug*, two-Judge Bench of this Court has opined that in such cases relying on doctrine of *parens patriae*” (father of the country), it is the court alone which is entitled to take a decision whether to withdraw treatment for incompetent terminally ill or PVS patient. In paras 130 to 131 following has been held (SCC p. 521)

“130. In our opinion, in the case of an incompetent person who is unable to take a decision whether to withdraw life support or not, it is the Court alone, as *parens patriae*, which ultimately must take this decision, though, no doubt, the views of the near relatives, next friend and doctors must be given due weight.

*Under which provision of law can the Court grant approval for withdrawing life support to an incompetent person.*

131. In our opinion, it is the High Court under Article 226 of the Constitution which can grant approval for withdrawal of life support to such an incompetent person. Article 226(1) of the Constitution states:

**‘226. Power of High Courts to issue certain writs**

– (1) Notwithstanding anything in Article 32, every High Court shall have power, through the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.’

A bare perusal of the above provisions shows that the High Court under Article 226 of the Constitution is not only entitled to issue writs, *but is also entitled to issue directions or orders.*”

20. The Constitution Bench of the Hon’ble Supreme Court has issued advanced medical directive by observing that in our country there is yet no legislation pertaining to advanced medical directive. The Constitution Bench of the Supreme Court arrived at following conclusions :-

629.1. The Constitution Bench in *Gian Kaur case* held that the “right to life: including right to live with human dignity” would mean the existence of such right up to the end of natural life, which also includes the right to a dignified life up to the point of death including a dignified procedure of death. The above right was held to be part of fundamental

right enshrined under Article 21 of the Constitution which we also reiterate.

629.2. We agree with the observation made in the reference order of the three-Judge Bench to the effect that the Constitution Bench in *Gian Kaur* case did not express any binding view on the subject of euthanasia. We hold that no binding view was expressed by the Constitution Bench on the subject of euthanasia.

629.3. The Constitution Bench, however, noted a distinction between cases in which physician decides not to provide or continue to provide for treatment and care, which could or might prolong his life and those in which he decides to administer a lethal drug even though with object of relieving the patient from pain and suffering. The latter was held not to be covered under any right flowing from Article-21.

629.4. Thus, the law of the land as existing today is that no one is permitted to cause death of another person including a physician by administering any lethal drug even if the objective is to relieve the patient from pain and suffering.

629.5. An adult human being of conscious mind is fully entitled to refuse medical treatment or to decide not to take medical treatment and may decide to embrace the death in natural way.

629.6. Euthanasia as the meaning of word suggests is an act which leads to a good death. Some positive act is

necessary to characterise the action as euthanasia. Euthanasia is also commonly called “ assisted suicide” due to the above reasons.

629.7. We are thus of the opinion that the right not to take a life saving treatment by a person, who is competent to take an informed decision is not covered by the concept of euthanasia as it is commonly understood but a decision to withdraw life saving treatment by a patient who is competent to take decision as well as with regard to a patient who is not competent to take decision can be termed as passive euthanasia, which is lawful and legally permissible in this country.

629.8. The right of patient who is incompetent to express his view cannot be outside the fold of Article 21 of the Constitution of India.

629.9. We are also of the opinion that in cases of incompetent patients who are unable to take an informed decision, “the best interests principle” be applied and such decision be taken by specified competent medical experts and be implemented after providing a cooling period to enable aggrieved person to approach the court of law.

629.10. An Advance Medical Directive is an individual's advance exercise of his autonomy on the subject of extent of medical intervention that he wishes to allow upon his own body at a future date, when he may not be in a position to specify his wishes. The purpose and object of Advance Medical Directive is to express the choice of a person regarding medical treatment in an event when he

loses capacity to take a decision. The right to execute an Advance Medical Directive is nothing but a step towards protection of the aforesaid right by an individual.

629.11. Right of execution of an Advanced Medical Directive by an individual does not depend on any recognition or legislation by a State and we are of the considered opinion that such rights can be exercised by an individual in recognition and in affirmation of his right of bodily integrity and self-determination.

630. In view of our conclusions as noted above the writ petition is allowed in the following manner:

630.1. The right to die with dignity as fundamental right has already been declared by the Constitution Bench judgment of this Court in *Gian Kaur case* which we reiterate.

630.2. We declare that an adult human being having mental capacity to take an informed decision has right to refuse medical treatment including withdrawal from life saving devices.

630.3. A person of competent mental faculty is entitled to execute an Advance Medical Directive in accordance with safeguards as referred to above.

21. In exercise of the powers conferred under Section 20A read with Section 33(m) of the Indian Medical Council Act, 1956 (102 of 1956), the Medical Council of India with the previous approval of the Central Government has made regulations relating

to the Professional Conduct, Etiquette and Ethics for registered medical practitioners. These regulations are known as the Indian Medical Council (Professional Conduct, Etiquette and Ethics), Regulations, 2002 and they shall come into force w.e.f. 11<sup>th</sup> March, 2002. The Regulation 6.7 governs the subject of euthanasia. It reads thus :-

6.7. Euthanasia : Practicing euthanasia shall constitute unethical conduct. However, on specific occasion, the question of withdrawing supporting devices to sustain cardio-pulmonary function even after brain death, shall be decided only by a team of doctors and not merely by the treating physician alone. A team of doctors shall declare withdrawal of support system. Such team shall consist of the doctor in charge of the patient, Chief Medical Officer/Medical Officer in charge of the hospital and a doctor nominated by the in-charge of the hospital from the hospital staff or in accordance with the provisions of the Transplantation of Human Organ Act, 1994.

In view of the regulation 6.7, active euthanasia through registered medical practitioner is also not permissible in India.

22. Now, turning back to the facts of the case in hand and the law stands as on today. It is true that petitioner is 81 years and suffering from various diseases. He is facing enormous pain and agony day to day, it becomes difficult for him to face such medical problems. It is his wish to have a “good death” by means of active euthanasia by taking help of registered medical practitioner. In view of landmark decision in case of **Common Cause** (*supra*), active euthanasia is not permissible in India. Article 21 of the Constitution gives guarantee to life which does not include right to die. In exceptional circumstances, the Hon’ble Supreme Court has prescribed the procedure for passive euthanasia.

23. The Apex Court in a landmark decision in the case of **Aruna Ramchandra Shanbaugh** (*supra*) has allowed passive euthanasia. Refusing mercy killing of Aruna Shaunbagh, lying in a vegetative state in a Mumbai Hospital for 37 years, laid down a set of guidelines under which passive euthanasia can be legalized through a High Court monitored mechanism. It is stated that parents, spouses, or close relatives of the patient can make such a plea to the High Court. The Chief Justice of the High Courts, on receipt of such a plea, would constitute a bench to decide it. The bench in turn, would appoint a Committee of at least 3 renowned doctors to advise the Court on the prayer made in the matter.

24. Adverting to the concept of euthanasia, it is observed by the Hon'ble Supreme Court in case of **Gain Kaur** (supra) that protagonism of euthanasia on the view that existence in persistence vegetative state (PVS) is not a benefit to the patient of terminal illness being unrelated to the principle of "sanctity of life" or the "right to live with dignity" is of no assistance to determine the scope of Article 21 for deciding whether the guarantee of "right to life" therein includes the "right to die". The "right to life" includes the right to live with human dignity would mean the existence of such a right up to the end of natural life. It has been clarified that the right to die with dignity at the end of life is not to be confused or equated with the "right to die" an unnatural death reducing the natural span of life.

25. The case of the petitioner is not governed by passive euthanasia. The petitioner is not restricted to bed, he is discharging his daily pursuits though taking assistance of family members. We can understand pains of the petitioner which he is facing and lonely life when his better half has left him alone in the mid-way. By this petition, the petitioner is seeking intervention to curtail his natural span of life through registered medical practitioner. Certainly, it is not lawful for the doctor to administer any drug to his patient to bring about his death. Active euthanasia falls in the definition of crime. The difference between "active" and "passive" euthanasia is that in

active euthanasia, something is done to end the patient's life while in passive euthanasia, something is not done that would have preserved the patient's life. We have all the sympathy with the petitioner, but we are unable to accede to the request made by the petitioner for termination of life by way of active euthanasia.

26. With these reasons, we conclude and proceed to pass the following order :-

**O R D E R**

- (I) The writ petition stands dismissed.
- (II) No order as to costs.

**[ SHRIKANT D. KULKARNI, J ]**

**[ S.V. GANGAPURWALA, J ]**

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