

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 327 OF 2020

Bhumi Anil Singh

..Petitioner

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Prashant Pandey i/b. Mr. Siddharth Jaiswal, for Petitioner.
Smt. A. S. Pai, A.G.P. for State.

CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.
DATED : 28th JANUARY, 2020.

PC :

1. This petition is placed before us pursuant to the office note dated 27/01/2020. The petition is filed for various prayers. One of the prayers i.e. the prayer clause (c) is for permission to allow the petitioner to terminate her pregnancy. However, there are prayer clauses (a) and (b) which read thus:

(a) That this Hon'ble Court may be pleased to call for the records and proceedings concerning the appeal no.284/2019 filed before the Hon'ble Sessions Court at Dindoshi, Mumbai so also in respect of RA: 52/RA/2019 in CR No.406/2019 registered with Malad Police Station along with the remand application and all other applications and records presented thereof;

(b) That after verifying the records and proceedings this Hon'ble court be pleased to set aside and quash the impugned order dated 23/12/2019 passed by learned Metropolitan Magistrate's 54th Court, at Mazgaon, Mumbai against the present petitioner thereby denying the petitioner to terminate her pregnancy on such terms and conditions as this Hon'ble court may deem fit and proper;

2. At the outset, the learned counsel for the petitioner has given in writing that, he does not press the prayer clauses (a) and (b) and he seeks appropriate remedy for those prayers. The writing given to that effect is taken on record and marked 'X' for identification.

3. Accordingly, permission is granted to the learned counsel for the petitioner to delete the prayer clauses (a) and (b). Liberty is granted to the petitioner to seek appropriate remedy for those prayers.

4. Consequently, the office is directed to register this Criminal Writ Petition as 'Civil Writ Petition' at appropriate number.

5. In this view, the only prayer which is to be considered is the prayer clause (c) for permission to the petitioner for termination of her pregnancy.

6. Earlier this petition was placed before the co-ordinate bench and that bench (Coram : B. P. Dharmadhikari and N. R. Borkar, JJ.) vide order dated 21/01/2020 had

directed the Respondent Nos.1 and 2 to produce the petitioner before the Expert Committee of Sir J. J. Group of Hospital, Mumbai for considering the feasibility of termination of pregnancy in terms of Section 3 of the Medical Termination of Pregnancy Act, 1971. The order specifically records that the petitioner was produced before that bench and the petitioner had expressed her desire to terminate her pregnancy. Her such desire was expressed in presence of her mother and the Superintendent.

7. The petitioner was rescued in connection with C.R.No.406 of 2019 registered at Malad Police station U/s.370 of IPC and U/s.4 & 5 of the Immoral Traffic (Prevention) Act, 1956 (for short, PITA).

8. Pursuant to the earlier orders passed by co-ordinate bench of this court, the Medical Board of Sir J. J. Group of Hospital, Mumbai has forwarded a report dated 27/01/2020. It is taken on record. The committee's opinion reads thus:

“After taking history, careful examination, ultrasonography examination and psychiatric evaluation the committee has come to the opinion that there is no abnormality detected at present in the fetus and the pregnant mother.

The pregnancy has crossed 20 weeks. She has desired to continue the pregnancy earlier when she presented to Shatabdi Hospital and then

to Nair Hospital.

She is of adult age (19 years) and in good medical condition. In the view of above there is medically no need to terminate pregnancy.”

9. One of the Board members Dr. V. P. Kale, was Professor & Head, Department of Psychiatry, GGMC, Mumbai. He has reported that there was no active psychopathology seen at present or in past. She is mentally sound and can take her own decisions. She does not suffer from mental illness.

10. However, considering the peculiar facts of this case, in our view the committee’s opinion does not refer specifically to the categories mentioned U/s.3 of the Medical Termination of Pregnancy Act, 1971.

11. The Medical Board at Sir J. J. Group of Hospitals is directed to examine the petitioner again and in particular the Medical Board is required to give opinion as to whether her case falls in any of the categories mentioned U/s.3(2)(b)(1) read with explanations under that section of MTP Act, 1971.

12. Therefore, we again refer the petitioner to the Medical Board and direct the Medical Board to give specific opinion as to whether petitioner’s case falls within any of the categories mentioned in MTP Act, 1971.

13. The petitioner shall be produced before the Medical Board at Sir J. J. Group of Hospitals tomorrow on

29/01/2020 at 11.30a.m.

14. The report of the Board shall be tendered before the court on 31/01/2020 and the matter be placed in chambers at 2.45p.m. on 31/01/2020.

15. Parties to act upon authenticated copy of this order.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)
