

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.10021 of 2020

and

WMP No.12183 of 2020

Minor K.Lathika,
Rep. By its Father and Natural Guardian,
Kalanithi
S/o.Mohanasundaram
No.43/C, Adiyar Pillaiyar Kovil Street,
Thiruvizhandur,
Mayiladuthurai,
Nagapattinam District.Petitioner

Vs.

- 1.The District Child Welfare Officer,
Collectorate Office,
Nagapattinam District.
- 2.The Dean,
Thanjavur Raja Mirasudar Government Medical College
Hospital,
Thanjavur,
Thanjavur District.
- 3.The Assistant Professor,
Obstetrics & Gynecology Department,
Thanjavur Raja Mirasudar Government Medical College
Hospital,
Thanjavur, District.
- 4.The Inspector of Police,
All Women Police Station,
Mayiladuthurai,
Nagapattinam District.Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus to direct the second and third respondent to medically terminate the unwanted pregnancy of the petitioner - Minor girl aged about 13 years in accordance with the recommendation of the third

respondent letter dated 22.07.2020 and guidelines issued by this Court in CrI. O.P.No.14506 of 2019 dated 19.06.2019 in the time frame manner.

For Petitioner : Mr.R.Shivakumar
for M/s.K.M.Vijayan Associates

For Respondents: Mr.R.Govindasamy,
Special Government Pleader

O R D E R

This matter is taken up for hearing through Video Conferencing mode.

2. Mr.R.Govindasamy, learned Special Government Pleader takes notice for the respondents. By consent, the writ petition is taken up for disposal at the stage of admission itself.

3. The petitioner seeks for a mandamus to direct the second and third respondent to medically terminate the unwanted pregnancy of the petitioner - minor girl aged about 13 years in accordance with the recommendation of the third respondent letter dated 22.07.2020 and guidelines issued by this Court in CrI. O.P.No.14506 of 2019 dated 19.06.2019.

4. The case of the minor petitioner is as follows:

The petitioner is 13 years old and studying 7th standard in the St.Paul School, Mayiladuthurai. She was sexually exploited by one Sanjivi, due to which, she become pregnant and the First Information Report was registered by the fourth respondent in Crime No.16 of 2020 dated 14.07.2020 for the offences under Sections 6, 5(i) and 5(i)(ii) of Protection of Child From Sexual Offences Act, 2012 and Section 506(ii) of I.P.C. Her father has given a representation to the first respondent to terminate unwanted pregnancy of the minor petitioner by following the procedures issued by this Court in CrI.O.P.No.14506 of 2019 dated 19.06.2019 and the first respondent by letter dated 17.07.2020 directed the third respondent to medically examine the minor petitioner and file a report for terminating the pregnancy. As per the request of the first respondent, the third respondent examined the minor petitioner and given a report dated 22.07.2020 by advising to terminate 23 weeks unwanted pregnancy of the minor petitioner. The first respondent vide proceedings dated 25.07.2020, after scrutinizing the report given by the third respondent, recommended to terminate the pregnancy after getting directions from this Court for termination of unwanted pregnancy. The petitioner is also having a difficulty in

walking due to the spinal cord injury, which exists from the age of 2 and if the pregnancy continues, the life of the minor petitioner will be in danger and also cause irreparable mental agony. The third respondent has given a report to terminate the pregnancy and the respondents unnecessarily delayed the procedure in referring the matter to the medical board in accordance with law, which cause delay in terminating the pregnancy and day to day agony to the minor petitioner.

5. Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents, based on instructions, submitted that the Medical Termination of Pregnancy Committee will be formed by the second respondent as per the provisions of the Medical Termination of Pregnancy Act, 1971 to examine the minor petitioner and give a report and based on such report, further proceedings will be carried out if this Court permits to do so.

6. The petitioner is 13 years old minor girl. It is stated that she was sexually exploited by the accused in Crime No.16 of 2020. It is further stated that the petitioner is 23 weeks pregnant. The third respondent through the letter dated 22.07.2020, recommended for the termination of pregnancy. Likewise, the first respondent also based on the recommendation made by the third respondent, recommended for termination of pregnancy and to seek permission from this Court to do so.

7. Perusal of the material facts placed before this Court and going by the fact that the petitioner is only 13 years old and that a criminal case for the offences under Section 6, 5 (i) and 5(i)(ii) of Protection of Child From Sexual Offences Act, 2012 and Section 506(ii) IPC and further considering the recommendations made by the respondents 1 and 3, this Court is of the view that it is better to refer the minor petitioner to the Expert Committee called "Medical Termination of Pregnancy Committee" to get the report and thereafter, to proceed accordingly based on such report.

8. Thus, this writ petition is disposed of with the following directions:

a) The second respondent is directed to form Medical Termination of Pregnancy Committee and examine the petitioner by 31.07.2020 (tomorrow).

b) If the Expert Committee is of the view that the pregnancy can be terminated, the second respondent will perform the termination of pregnancy through the Experts at the second respondent hospital immediately thereafter.

(c) The second respondent-Hospital shall maintain the entire records for future verification, if required.

No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vri/mk

To

- 1.The District Child Welfare Officer,
Collectorate Office,
Nagapattinam District.
- 2.The Dean,
Thanjavur Raja Mirasudar Government
Medical College Hospital, Thanjavur,
Thanjavur District.
- 3.The Assistant Professor,
Obstetrics & Gynecology Department,
Thanjavur Raja Mirasudar Government
Medical College Hospital,
Thanjavur, District.
- 4.The Inspector of Police,
All Women Police Station,
Mayiladuthurai,
Nagapattinam District.

W.P.No.10021 of 2020

BP (CO)
CB(22/09/2020)

सत्यमेव जयते

WEB COPY