

\$~18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1210/2020 & CRL.M.A. 10669/2020**

MINOR P (THROUGH MOTHER M)

..... Petitioner

Through: Mr Anwesh Madhukar, Advocate
(DHCLSC) with Ms Prachi Nirwan,
Advocate.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms Nandita Rao, ASC (CrI.) GNCTD
with IO Richa Mudgal, PS Punjabi
Bagh along with victim in person.
Dr Indu Chawla, HOD Gynaecologist
Dr Renuka, Dr RML Hospital.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

10.08.2020

[Hearing held through video conferencing]

1. The petitioner (name withheld) has filed the present petition, *inter alia*, praying that directions be issued to respondent nos.1 and 2 (Government of NCT of Delhi and Bhagwan Mahavir Hospital, Pitampura) to medically terminate the pregnancy of the petitioner.
2. The petitioner states that she is a minor – aged about sixteen years – and is a victim of rape. The petitioner had reported that she had not been keeping well for the past one and a half years and used to faint quite often. She had suffered one of these episodes of fainting while she was cleaning

the area behind her own *jhuggi*. She stated that when she regained consciousness, the accused (one Pankaj bhaiya) was standing there. She suspects that something had happened when she was unconscious (she had been raped when she was unconscious). She stated that, thereafter, she started feeling nauseous and dizzy but did not suspect that she was pregnant. Since her periods had stopped, she told some nurses of Acharaya Bhikshu Hospital and her urine sample was collected for testing. The same also did not reveal anything. Thereafter, she was taken to Mahavir Hospital, Pitampura, where her medical check-up revealed that she was pregnant.

3. This was reported to the concerned police station and, thereafter, an FIR [FIR No.0683/2020 under Section 376 of the Indian Penal Code, 1860 ('IPC') and Section 6 of Protection of Children from Sexual Offences Act, 2012 (POCSO)] was registered with PS Punjabi Bagh, Delhi. Since, the petitioner is in an advanced stage of pregnancy, the same could not be terminated by the concerned doctors.

4. It is in the aforesaid context that the petitioner has filed the present petition. This Court has interacted with the petitioner through videoconferencing and found that the petitioner was under considerable distress. She was joined by her father, who is also insistent that the pregnancy be terminated.

5. In view of the above, this Court had passed the order dated 07.08.2020 directing the Superintendent of Dr Ram Manohar Lohia Hospital to constitute a Medical Board to examine the petitioner and report whether termination of the pregnancy involves risk to the petitioner. It was also directed that the Medical Board evaluate the risk of continuing with the

pregnancy. Pursuant to the said orders, Medical Board comprising of Dr Indu Chawla, Head of Department, Gynaecologist, Dr Renuka Malik, Consultant – Member, Dr Shibani Mehra, Consultant – Member and Dr Satyam Asst. Professor Clinical Psychology – Member was constituted.

6. Today Dr Renuka Malik and Dr Indu Chawla, HOD Gynaecologist have joined the proceedings. They state that the petitioner was examined and it was found that she was under considerable distress. The clinical psychologist had also reported that continuation of pregnancy would result in psychological complications.

7. The report of the Medical Board has been received electronically. The same indicates that the pregnancy of the petitioner is 22 gestational weeks. The ultra sound indicates that it is twenty-two weeks and six days with a margin of error of plus/minus two weeks.

8. The risks of terminating the pregnancy have been explained to the petitioner and her father.

9. In view of the report and psychological assessment of the petitioner, it does appear that the petitioner is at considerable risk of psychological complications if the pregnancy is continued. The concerned doctors have explained that there may be some risks in terminating the pregnancy but the same are not higher than what is acceptable and expected at this stage.

10. Dr Indu Chawla, HOD Gynaecologist, also stated that further tests such as blood tests, are required to be done to assess whether there is any additional risk. She stated that subject to evaluating such risks, the petitioner's pregnancy could be terminated.

11. Considering the above, this Court considers it apposite to allow the present petition and direct that the petitioner be admitted to Dr Ram Manohar Lohia Hospital and the necessary procedures be carried out for termination of the pregnancy. It is, however, clarified that this is subject to further tests such as blood test, the reports of which are expected tomorrow. The procedure would be carried out only if the parameters of the petitioner do not indicate any added risk.

12. This Court also records its appreciation of the concerned doctors of the Dr Ram Manohar Lohia Hospital for promptly constituting the Medical Board and examining the petitioner.

13. The petition is disposed of in the aforesaid terms. The pending application is also disposed of.

14. A copy of this order be communicated to the Superintendent Dr Ram Manohar Lohia Hospital electronically.

VIBHU BAKHRU, J

AUGUST 10, 2020
MK