

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1755 OF 2021

XYZ Through her Natural Guardian
i. e. Mother Maya Ramsing Chavhan .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Harshal P. Randhir, Advocate for the Petitioner
Mrs. P. V. Diggikar, A.G.P. for Respondent Nos. 1 and 3.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.
DATE : 01ST FEBRUARY, 2021.**

FINAL ORDER :

. The writ petition is filed seeking permission to terminate the pregnancy. The learned counsel for the petitioner submits that, the petitioner is a rape victim and a minor.

2. Under order dated 29th January, 2021, we had directed the petitioner to present herself for examination by the Expert Committee at Government Medical College and Civil Hospital, Jalgaon. Pursuant to the said order, the petitioner is examined by the Expert Committee. The Committee has submitted the report.

3. The report suggests that, continuation of pregnancy can cause grave injury to mother's mental health and other parameters appear to be normal.

4. In case of a rape victim, where any, pregnancy is 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. Explanation – I to Section 3(2)(ii) of the Medical Termination of Pregnancy Act, 1971 (for short “Said Act”) can be referred to.

5. It appears that, FIR bearing Cr. No. 25/2021 dated 22.01.2021 is registered with Chalisgaon Police Station, Dist. Jalgaon.

6. Considering Explanation – I to Section 3(2)(ii) of the said Act and the opinion of the committee and the fact that, the petitioner claims to be a rape victim and a minor, we allow the petitioner to terminate the pregnancy. The termination shall be carried out at a Government recognized centre, preferably at the respondent No. 3.

7. Considering the fact that, the pregnancy is carried by the victim is result of an offence of rape, complaint is already lodged, the hospital where the pregnancy would be terminated shall preserve tissue sample and blood sample of the fetus 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.

8. 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. The responsible personnel from the office of the Child Welfare Committee/respondent No. 2 shall accompany the petitioner for termination of pregnancy.

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

10. The parties to act on authenticate copy.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/Feb. 21