

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

WRIT PETITION NO. 6088 OF 2021

VAISHNAVI D/O UTTAM SAMBAKWAD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. S. L. Awchar, Advocate for the petitioners
Mr. S. G. Karlekar, A.G.P. for the respondents/State

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 7th May, 2021.

ORDER:

1. The petitioner is a minor and seeks permission to terminate the pregnancy. The petitioner was referred to Dr. Shakarrao Chavan Government Medical College and Hospital, Vishnupuri, Nanded. The Expert Committee, examined the petitioner and submitted its report. The opinion of the expert committee is reproduced as under:

" The examinee Vaishnavi Uttam Sambakwad is under the guardianship of Savitri Trymbak Joshi and another is physically and mentally fit to under go Medical Termination of Pregnancy. She has been examined thoroughly by expert committee and opine that patient is fit for termination of pregnancy on humanitarian and social ground.

2. It appears that pregnancy is the result of illicit act committed upon her for which the complaint is also lodged bearing Crime No.32 of 2019. Section 376 of the IPC is also incorporated int he said crime on or about March, 2021.

3. The pregnancy is the result of illicit act committed upon her and

the complaint to that effect is pending. Explanation-1 to Section 3(2)(ii) of the Medical Termination of Pregnancy Act, 1971 states that, where any pregnancy 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.

4. It appears that complaint bearing Crime No.32/2019 is also filed and the same is pending. Offences under section 376 of the IPC and the POCSO Act are also incorporated in the said crime.

5. 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 victim, we allow the petitioner to terminate pregnancy.

6. The petitioner may get the pregnancy terminated at recognized Government clinic.

7. Considering the fact that the pregnancy carried by the victim is a result of offence, complaint has already been lodged. The hospital where pregnancy of petitioner would be terminated shall preserve tissue sample and blood sample of the foetus 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.
9. The writ petition is disposed of. No costs.
10. Authenticated copy be given.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC