

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

1065 WRIT PETITION NO.11407 OF 2021

ABC UNDER GUARDIANSHIP OF REAL FATHER
VERSUS
THE STATE OF MAHARASHTRA AD ANOTHER

...
Advocate for Petitioner : Mr. Fayaz K. Patil, h/f Mr. Amol G. Vasmatkar.

AGP for Respondent/State: Mr. A. R. Kale.

...

CORAM : **S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE : 14th October, 2021.

P.C.:

1. The petitioner seeks permission to terminate the pregnancy.
2. The petitioner claims to be a minor and rape victim.
3. Under order dated 12 October, 2021, we had directed the petitioner to get examined by the Expert Committee. The Expert Committee examined the petitioner and submitted the report. The relevant part of the report submitted by the Expert Committee reads thus:-

“Committee has come to the conclusion as follows:

- 1) As examinee is minor and teenage pregnancy, continuation of pregnancy may cause grave injury to her mental and physical health.
- 2) As per recent USG report dated on 03/10/2021 to day she is 15.2 weeks of gestation hence fetal anomalies

can not be commented at this stage hence neonatal prognosis can not be commented.”

4. The petitioner is minor and teenage pregnancy so also a rape victim. Continuation of pregnancy may cause grave injury to her mental and physical health

5. Explanation No. I to Section 3(2)(ii) of the Medical Termination of Pregnancy Act, 1971 (for short “said Act”) states that, 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.

6. It appears that, the FIR bearing Crime No. 126/2021 dated 12.07.2021 is registered with Mukhed Police Station, District Nanded.

7. 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, we allow the petitioner to terminate the pregnancy.

8. The petitioner may get the pregnancy terminated at any Government recognized centre.

9. Considering the fact that the pregnancy carried by the victim is a result of offence of rape, the complaint has already been lodged.

The hospital where the pregnancy of the petitioner would be terminated shall preserve the 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.

10. 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.

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

12. Authenticated copy be given.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]