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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-9975-2021

Date of Decision: 21.05.2021

Rashmi Jaswal and another

..... Petitioners

Versus

State of U.T., Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Saransh Sabharwal, Advocate,
for the petitioners.

Ms. Aarti Goyal, Advocate,
for respondent No.1/U.T., Chandigarh.

Mr. Abhishek Kumar Premi, Advocate,
for respondent Nos.2 & 3.

SUDIP AHLUWALIA, J. (ORAL)

Report of the Medical Board constituted in the PGIMER, Chandigarh in compliance of the last order has been received today; Be kept on record.

[2]. Perusal of the same clearly indicates that in the opinion of the Medical Board, there is a congenital malformation suggestive of bilateral renal agenesis, which is not compatible with normal life in case of the foetus carried by petitioner No.1. It has been mentioned elsewhere in the Report that the Board recommends that this patient may undergo medical termination of pregnancy at this stage, which pregnancy at this point of time is 22 weeks old, and to that extent carries more than the usual risks which has been explained to the patient, and the said patient/petitioner No.1 is willing to undergo such risk.

[3]. In such circumstances, case of the petitioners would fall under Section 3(2)(b)(ii) of the Medical Termination of Pregnancy Act, 1971, but for the time period embargo 20 weeks, and so this Court finds it a fit case to allow the prayer of the petitioners, since the medical and expert opinion clearly indicates that the foetus if allowed to be born, would not be compatible with normal life.

[4]. In taking such a view, this Court in “Tapasya Umesh Pisal Vs. Union of India & others”, (2018) 12 (SCC) 57, where also a prayer for medical termination of pregnancy had been allowed in the 24th week of pregnancy and the foetus having been diagnosed with a heart ailment called 'Tricuspid and Pulmonary Atresia'.

[5]. A co-ordinate Bench of this Court in “Paramjeet Kaur & another Vs. State of Punjab and another” (CWP-2181-2018, decided on 07.02.2018), had permitted medical termination of pregnancy in the 24th week in a case where the foetus was diagnosed to be suffering from a 'Neurological Disorder' and also other Benches of this Court in “Rajni & another Vs. Union of India and others” (CWP-21495-2019, decided on 20.08.2019) and “Kulwinder Kaur & another Vs. U.T., Chandigarh & others” (CWP-1088-2019, decided on 31.01.2019) had similarly permitted medical termination of pregnancy in the 24th week in cases where the foetus was diagnosed to be suffering from such malady, which would be incompatible with normal life, whereas in the present case the pregnancy of petitioner No.1 is, as of now, of a considerably lesser period i.e. 22nd week of pregnancy.

[6]. For the reasons recorded above, the writ petition is allowed.

[7]. The Director, PGIMER, Chandigarh is requested to get the

pregnancy of petitioner No.1, Rashmi Jaswal terminated under the supervision of the Head of the Department (Obstetrics and Gynecology), PGIMER, Chandigarh.

[8]. A copy of this order be given to Ld. Counsel for the parties under the signatures of the Bench Secretary to ensure necessary and immediate compliance.

21.05.2021

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No