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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(Through video conferencing)

CWP No.2566 of 2022

Date of Decision: 25.02.2022

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.....Petitioner

Vs

STATE OF HARYANA AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. K.L. Saini, Advocate for the petitioner.

Ms. Safia Gupta, Asstt. A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has preferred this petition for the issuance of an appropriate writ, order or direction especially in the nature of mandamus directing the respondents to medically examine the victim/petitioner and to terminate her pregnancy.

[2]. Petitioner is a rape victim. On 21.02.2022, following order was passed by the this Court:-

“The case has been taken up for hearing through video conferencing.

Petitioner has preferred this writ petition for issuance of an appropriate writ in the nature of mandamus directing the respondents to medically examine the petitioner for undergoing medical termination of her pregnancy.

Learned counsel for the petitioner submits that

petitioner is a rape victim. FIR No.251 was registered on 25.08.2021 under Sections 365, 376(2)(n) IPC in Police Station Siwani, District Bhiwani.

As per ultrasound conducted on the petitioner on 14.12.2021 and 06.01.2022, her pregnancy as of now is about 15 weeks and continuance thereof may affect the mental state of the petitioner.

Petitioner wants to get this unwanted fetus aborted by way of surgical intervention as per provisions of MTP Act.

Notice of motion.

On the asking of the Court, Mr. Vivek Chauhan, Addl. A.G., Haryana accepts notice on behalf of the respondents.

Let a complete paper book of this petition be handed over to learned State counsel today itself.

Keeping in view the urgency involved in this petition, petitioner is directed to appear before the Civil Surgeon/Chief Medical Officer, Bhiwani on 23.02.2022. In case, the petitioner appears before the said authority, the Civil Surgeon shall constitute a medical Board on that very day and get the petitioner examined so as to evaluate her for surgical intervention.

The Civil Surgeon shall ensure that the Medical Board after examination of the petitioner gives its assessment regarding medical termination of pregnancy of the petitioner in a sealed cover which will be placed before this Court by the next date of hearing.

Adjourned to 25.02.2022.”

[3]. In compliance of the aforesaid order, the victim/petitioner has appeared before the Medical Board

constituted by the Civil Surgeon, Bhiwani. The victim has been medically examined by the Board of Doctors. The Medical Board has given its opinion which has been received in this Court in a sealed cover. The report has been opened and the same is marked as Mark A-1. The same be tagged at an appropriate place with the petition.

[4]. According to the aforesaid report, the Medical Board has given the following characteristics:-

“Subject: Medical Report of the MTP Medical Board of Civil Hospital, Bhiwani regarding CWP No.2566 of 2022 S VS State of Haryana and another.

“MTP Board is constituted in reference to Civil Surgeon, Bhiwani office letter no.CC/Steno/2022/1495 dated 23.02.2022. The Board is constituted of 2 Gynaecologists, Paediatrician and Sonologist. After examination of the victim the probable duration of her pregnancy on dated 23.02.2022 is 16±1 week.

The Board is of the opinion that medical termination of her pregnancy at this stage under amended MTP Act-2021 is legal.”

[5]. Evidently, the Board has found that the victim is having probable duration of her pregnancy of 16+1 week as on 23.02.2022 and it would be legal to terminate the pregnancy at this stage under MTP Act 2021. There is no other opinion of the Board with regard to any congenital malformation or psychological distress being suffered by the victim/petitioner due to her current situation. The Board has also not opined

whether the victim/petitioner is medically fit for such surgical intervention and not suffering from any medical ailment which may pose imminent danger to her life.

[6]. Since the Medical Board has opined that termination of the pregnancy of the victim/petitioner at this stage under amended MTP Act 2021 is legal, therefore, I deem it appropriate to permit the victim/petitioner to appear before the Civil Surgeon, Bhiwani on 28.02.2022 at 11.00 A.M. On completion of all the necessary formalities, the Civil Surgeon, Bhiwani shall undertake the necessary medical procedure after ascertaining the factual medical condition of the victim/petitioner as noticed above.

[7]. Petitioner would be at liberty to espouse her financial status before the Civil Surgeon, Bhiwani so as to claim any financial benefit under the prevalent scheme. In case the victim/petitioner espouses her financial status before the Civil Surgeon, Bhiwani and the same is found to be in accordance with the prevalent schemes, the same shall be considered by the Civil Surgeon in accordance with the rules.

[8]. With this observation, this petition is disposed of.

February 25, 2022

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No