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

CWP No.8719 of 2022

Date of Decision: 29.04.2022

A

.....Petitioner

Vs

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Arvinder Arora, Advocate
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G., Haryana
for respondents No.1 to 3 & 5 to 8.

Mr. Rahul Soi, Advocate for
Mr. Prateek Gupta, Advocate
for respondent No.4.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner seeks issuance of an appropriate writ, order or direction especially in the nature of mandamus directing the official respondent No.4 or 8 to medically terminate the pregnancy of the victim minor girl, who was subjected to rape by the accused Pardeep @ Taru in terms of provisions of Medical Termination of Pregnancy Act, 1971.

[2]. Learned counsel for the petitioner submits that petitioner's daughter is a rape victim and became pregnant. The

accused is still in judicial custody. Length of pregnancy of the victim is between 20-22 weeks. Present petition has been filed through the mother of the victim. Victim and her mother are willing to get the pregnancy terminated by way of surgical intervention. It will be humiliating and dangerous for the victim to give birth to a child as she may suffer physical or mental abnormalities besides countering social contingencies.

[3]. Learned counsel further submits that for terminating a pregnancy of 12 weeks of the gestation period, satisfaction of one medical practitioner is required. If pregnancy is more than 12 weeks or upto 20 weeks, then satisfaction of two medical practitioners is required. In case of pregnancy of more than 20 weeks, opinion of medical board is required. The age of the victim is approximately 16 years and 7 months. When the woman is below the age of 18 years or is suffering from some mental ailment, the pregnancy can be terminated on the basis of consent given by the guardian of the pregnant girl.

[4]. In the present case, mother has come forward to seek medical intervention for termination of unwanted pregnancy carried by the victim. The continuation of pregnancy may endanger physical and mental health of rape victim and the termination would be within the acceptable limits with institutional backup.

[5]. Notice of motion was issued on 27.04.2022. The victim

has been examined by the Board of Doctors in Civil Hospital, Ambala. The findings of the medical board read as under:-

“Detail Medical Summary of Patient Ashu Rani D/o Sh. Jarnail Singh.

Patient Ashu Rani D/o Sh. Jarnail Singh Age approx 16 years 7 months (As told by her mother DOB 17/07/2005). Female R/o #128 Village Lautan Tehsil Naraingarh, Distt. Ambala presented to Civil Hospital, Ambala City on 27/04/2022 at 10:00 A.M. alongwith her mother. She was admitted vide UHID No:040030946506 in Maternity Ward. Patient was examined by Medical Officer on duty posted in Labour Room (Maternity Ward). Patient presented with complaints of pain in lower abdomen with Alleged History of Sexual assault approximately 6 months back. Police Information was sent immediately and Counselling was done at the same moment. Her MLR was already done previously in Naraingarh, Distt. Ambala on 17/04/2022 as told by her mother. Her investigation were sent and ultrasound was ordered. Immediately Board was constituted for as per MTP Act.

On Examination:- Patient is conscious, oriented to time place and person.

Vitals:-BP 100/80 mm of Hg, Pulse-88/min Spo2-99% of O2, R.R.-18/min

OBS History:- DLMP- Not known, Pubic and axillary hair well developed, Breast well developed. History of Menarche at the age of 12-13 years.

Per Abdomen:- Around 20-22 weeks. FHS was present.

On Ultrasound:- Single intrauterine live fetus of MGA 20-21 weeks +/-2 week.

As per MTP (Amendment) Act, 2021 termination of Pregnancy will be done after her pending investigations. Now as her Haemoglobin is less than 9gm/-dl (Anemia) So inj. Iron has been started for the welfare and safety of the patient.

*Sd/- Sd/-
Dr. Rajni, Gynaecologist Dr. Geetanjali, Gynaecologist*

*Sd/- Sd/-
Dr. Alpana, Medical Officer Dr. Vijay Verma, USG*

*Sd/-
Dr. Shubhjyoti Parkash, Pediatrician”*

[6]. In view of findings recorded by the medical board, the pregnancy is between 20-22 weeks. There is single intrauterine live fetus of MGA 20-21 weeks +/-2 week. The Board has not shown any impediment in conducting the surgical intervention, however the same can be done only after pending investigations as the haemoglobin of the victim is found to be on lower side for which necessary injection has been administered for the welfare and safety of the patient.

[7]. In the present petition, directions are sought to respondent No.4 or 8 to medically terminate the pregnancy of the victim. The victim has been examined by respondent No.8.

[8]. During course of arguments, learned counsel for the petitioner submits that the petitioner is also willing to get the victim medically operated by the competent doctors of Civil

Hospital, Ambala.

[9]. The background in which the victim has conceived pregnancy and in view of the status of the victim, her pregnancy needs to be terminated for which petitioner and victim are ready to make statements before the Doctors at Civil Hospital, Ambala.

[10]. Since the victim has already been admitted in the Civil Hospital, Ambala, therefore, the Chief Medical Officer, Civil Hospital, Ambala City would take all the necessary steps and would also undertake and facilitate the necessary medical procedure for terminating the pregnancy of the victim. Petitioner is ready to fulfill all the necessary formalities for undergoing procedure of MTP done upon the victim.

[11]. Petitioner would be at liberty to espouse her financial status before respondent No.8 in order to seek any available benefit under the Scheme (if any). In case the plea of the petitioner is found to be in accordance with the prevalent schemes, then the same shall be considered in accordance with law.

[12]. With the aforesaid observations, this petition is disposed of.

(RAJ MOHAN SINGH)
JUDGE

April 29, 2022

Atik

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No