

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO.9521 OF 2023

A (Mother of X) ...Petitioner
Versus
State of Maharashtra and Ors. ...Respondents

Mr. Ashley Cusher, for the Petitioner.

Ms. M. P. Thakur, A.G.P for the Respondents – State.

***CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.***

DATE : 5th SEPTEMBER 2023

P.C. :

1. By this petition, the petitioner has sought medical termination of pregnancy of her daughter, aged 16 years 5 months (when the sexual assault took place, below 16 years).

2. This Court vide order dated 1st August 2023 directed that the victim be admitted to Sir J.J. Hospital, Mumbai, considering that the victim was 6 months pregnant on the said date. The same is recorded in the order dated 1st August 2023.

3. On 4th August 2023, when the petition came up before this Court, this Court keeping in mind that the petitioner's daughter was a victim of sexual assault below 16 years of age, permitted the Medical Termination of Pregnancy. Whilst carrying out the procedure, the necessary blood and tissue samples were directed to be preserved, so that the same can be sent to the investigating officer, when the case is registered. If the petitioner or the victim was unwilling to accept the child so born, and if it survives, necessary steps with respect to adoption and declaration etc. were directed to be taken.

4. On 10th August 2023, this Court was informed that the procedure i.e. MTP was carried out on 9th August 2023 and that the sexual assault survivor delivered a male live infant, who was kept in the NICU. It was also informed to this Court that the blood and tissue samples and DNA samples were collected from both the victim and the infant and were being forwarded to the investigating officer by the treating doctors. Since, it was a case of sexual assault, the

appropriate Legal Services Authority was directed to release an amount of Rs.50,000/- as ad-hoc under the applicable compensation scheme. Ms. Thakur, learned AGP, was to co-ordinate with the Legal Services Authority with respect to the rest of the compensation package/policy. The amount was to be paid to the parents/guardians of the minor sexual assault victim. Neither the survivor nor the infant were to be discharged from the hospital until certified to be medically fit.

5. Today, learned AGP states that she has co-ordinated with the Legal Services Authority and informed them of the order dated 10th August 2023.

6. Learned counsel for the petitioner states that till date the amount of Rs.50,000/- as ad-hoc, has not been released. Ms. Thakur, learned AGP states that she will look into the same and co-ordinate with the Legal Services Authority. Statement accepted.

7. Learned AGP states that the child which was born prematurely to the victim expired, after a few days. She further states that the victim has been discharged and is presently staying with her parents.

8. In view of the aforesaid, nothing survives for consideration in the present petition. The same is disposed of accordingly.

9. All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.