IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 5th OF FEBRUARY, 2024

WRIT PETITION No. 2041 of 2024

BETWEEN:-

X (MINOR) D/O Y (MADHYA PRADESH)

.....PETITIONER

(BY SHRI RAM KISHOR SHARMA- ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH ITS PRINCIPAL SECRETARY PUBLIC HEALTH AND FAMILY WELFARE DEPARTMENT, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **DIST. HOSPITAL BHIND THROUGH ITS CHIEF MEDICAL AND HEALTH OFFICER DISTRICT BHIND (MADHYA PRADESH)**

3. **STATION HOUSE OFFICER POLICE STATION KOTWALI DISTRICT BHIND (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI N.S. TOMAR- GOVERNMENT ADVOCATE FOR RESPONDENT/STATE)

This petition coming on for admission this day, the court passed the following:

ORDER

The present petition under Article 226 of the Constitution is preferred at the instance of prosecutrix/petitioner through her natural guardian (Father) seeking direction for constitution of Medical Board and after medical examination of petitioner, medical termination of pregnancy of petitioner.

2. It is the grievance of the petitioner that father of prosecutrix lodged the

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FIR bearing Crime No.421/2023 on 11.10.2023 at Police Station- City Kotwali, District Bhind for offence under Section 363 of the IPC stating that his daughter is missing, he searched her at many places but his daughter could not find. Later on she recovered and her medical examination was conducted. After medical examination, she was found to be pregnant, therefore, father of prosecutrix filed this petition for medical termination of pregnancy under supervision of Medical Board.

3. It is the submission of the learned counsel for the petitioner that Section 3 of the Medical Termination of Pregnancy Act, 1971 prescribes the procedure, therefore, in view of the above section and the judgments of Apex Court in the case of **Murugan Nayakkar Vs. Union of India and others (Writ Petition (Civil) No.749/2017), Shaikh Ayesha Khatoon Vs. Union and others** reported in **2018 SCC Online Bom. 11** and in the case of **Mukesh Patidar Vs. State of M.P. (Writ Petition No.7701/2018 and X (Minor) through her mother Madhu Vs. State of M.P. and others (Writ Petition No.5521/2020)**, the case of petitioner may be considered for termination of pregnancy.

4. Learned Government Advocate for the respondents referred the report of Medical Board on the direction of this Court and informed that now petitioner is carrying 10 weeks of pregnancy and as per Section 3 of the Medical Termination of Pregnancy Act,1971 her medical condition is suitable and can be taken care of for termination.

5. Heard the rival submissions of the learned counsel for the parties and perused the documents appended thereto.

6. This is a case where minor has preferred this petition through her natural guardian (Father) for medical termination of her pregnancy. As per

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allegation of her father which reflects from the FIR vide Crime No.421/2023 registered at Police Station City Kotwali,District Bhind that prosecutrix eloped with her friend, but on close scrutiny and the judgment of Apex Court in the case of **X Vs. The Principal Secretary Health and Family Welfare Department and another** reported in **2022 SCC Online 1321** in which Apex Court dealt with the said issue in detail and considering all the facets of the subject, such type of cases for termination of pregnancy were permitted in safe and hygienic atmosphere.

7. Learned Government Advocate for respondent/State filed medical report. District Medical Board examined the victim and after considering the necessary tests conducted in this regard opined that victim is physically and mentally healthy enough to undergo medical termination of pregnancy. Report dated 01.02.2024 has been filed in this regard. Necessary diagnostic reports were also attached along with the medical report.

8. On due consideration, looking to the nature of allegations and report of District Medical Board, it is apposite that petitioner be allowed to undergo termination of pregnancy under safe and hygienic conditions as contemplated by the Act of 1971 and the Medical Termination of Pregnancy Rules, 2003. Needful be done as early as possible preferably on or before next week.

9 . District Medical Board shall do the needful and the Government Advocate shall cooperate in this regard with the District Medical Board and it would be the duty of the learned counsel for the petitioner to cause appearance of petitioner before the Medical Board/Hospital as and when required.

10. Accordingly, petition stands **allowed** and disposed of with aforesaid observations.

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(ANAND PATHAK)
JUDGE

Vishal

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