



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5905 OF 2024

X.Y.Z VICTIM AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
ANOTHER

...
Advocate for the Petitioner : Mr. Vishwajeet R. Jain
AGP for Respondent Nos.1 and 2/ State : Mr. S. J. Salgare
...

CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.

DATE : 21.06.2024

PER COURT :

1) On 20.06.2024, we had passed the following order:-

"1. The name of the victim has not been disclosed.

2. This matter was mentioned at 10.30 a.m. today indicating a grave urgency, as the issue involved was with regard to a request for permitting the medical termination of pregnancy. Hence, this matter was taken on the production board, at 02.30 pm.

3. The statement of the victim clearly indicates that she voluntarily had physical relations with her close friend, who was her classmate in the School. The Medical Examination Report / Discharge Card of the Government Medical College and Hospital, Aurangabad, dated 15.06.2024 indicates that the gestational age of the foetus is 25 weeks and 4 days. As such, today the foetus is more than 26 weeks.

4. In view of the above, we request the learned AGP to inform Respondent No.2/ Dean of the Government Medical College and Hospital, Aurangabad, to direct the Medical Board to carry out the medical examination of the Petitioner. The medical examination report shall indicate (i) whether, the foetus is live with a beating heart, (ii) whether, there are chances of a live child with a beating heart, being born, out of the procedure for medical termination of pregnancy, (iii) whether, there is any risk to the probable mother, who is 15 years and 9 months old, if the termination of pregnancy is carried out and (iv) the Board shall opine as to whether, the victim can continue with the pregnancy and can deliver a full term baby.

5. The learned Advocate for the Petitioner victim (through her biological mother) submits that the mother will accompany the victim to the Government Medical College and Hospital, Aurangabad tomorrow morning at 10.30 a.m. (21st June, 2024) for medical examination.

6. Considering that tomorrow (21st June, 2024) would be the last working day of this week, **we are listing this Petition at 4.30 p.m. tomorrow (21st June, 2024).** The Dean, Government Medical College and Hospital at Aurangabad, is requested to tender the medical report with the opinion on the issues mentioned above, via e-mail to the learned Government Pleader at Aurangabad, at least by 3.00 p.m. tomorrow."

2) The learned AGP has tendered before us a copy of the Report of the Medical Board for Pregnancy Termination, dated 21.06.2024 (two pages). The said Report is taken on record and marked as 'X' for identification.

3) The Medical Board has opined as under:-

"Additional Investigation (if done):

S.No.		Key findings
1	USG obstetrics anomaly scan	USG anomaly scan 21/06/2024- SLIUG with average gestational age of 26 weeks 06 days.
2	CBC, Urine routine	HB-6.4gm, PCV 18%, TLC 5500, PLATELET 2.89 Lac/mm

Opinion by Medical Board for termination of Pregnancy:

a) **Allowed**

b) ~~Denied~~

1. Whether, the fetus is live with a breathing heart.

Yes

2. Whether, there are chances of live child with beating heart, being born, out of the procedure for medical termination of pregnancy ?

Ans: After termination of pregnancy by intracardiac KCI, there are no chances of live child with beating heart being born out of the procedure for medical termination of pregnancy.

3. Whether, there is any risk to the probable mother, who is 15 years and 9 months old, if the termination of pregnancy is carried out?

Ans- There is reasonable risk as patient has hemoglobin 6.4 gm% (normal level more than 11 gm %), patient will require multiple blood transfusions and it can be treated. Also, patient may require surgical intervention for medical termination of pregnancy.

4. The board shall opinion as to whether victim can continue with the pregnancy and deliver a full term baby as patient is less than 16 years age and had psychological trauma, continuation of pregnancy is not advised.

Physical fitness of the woman for the termination of pregnancy: MTP may be done with due risk.

Members of the Medical Board who reviewed the case:

S. No.	Name	Designation	Specialization	Signature
1.	Dr. Shrinivas N. Gadappa	Asso. Professor	Nodal Officer, MTP Committee (OBGY Dept.)	
2.	Dr. Anurag Sonawane	Asst. Professor	OBGY Dept.	
3.	Dr. Sachin Bodhgire	Asst. Professor	Pediatrics Dept.	
4.	Dr. Nikita Mantri	Asst. Professor	Radiology Dept.	
5.	Dr. Milind Raut	Asst. Professor	Anaesthesia Dept.	
6.	Dr. Snehdeep Jadhav	Asst. Professor	Psychiatry Dept.	

4) The learned counsel for the Petitioner submits that the victim is facing severe psychological trauma. She is less than 16 years of age. Biological guardian/mother is aware of the risk involved in the medical termination of pregnancy and is also aware that the victim would require multiple blood transfusions. The biological parents are willing to face the situation and during the course of such medical procedure, if any untoward incident occurs, they would not blame the concerned Doctors or the Hospital.

5) The learned AGP informs us that the infrastructure for carrying out the medical termination of pregnancy by intracardiac KCI procedure, is available with the Government Medical College and Hospital, Chhatrapati Sambhajinagar. Taking into account the specific opinion expressed by six Doctors and the fact that they are willing to

carry out the medical termination of pregnancy, we grant permission to the said Doctors to proceed to carry out the said procedure.

6) Since the victim is said to be less than 16 years of age and though she has expressed in her statement to the Police that it was out of a love affair that she was impregnated, it would require preservation of sample for DNA testing. We direct the Medical College to ensure that the I.O. is informed of this aspect and the sample of the foetus is preserved for DNA testing by following the due procedure as is applicable.

7) This **Petition is, therefore, disposed off.**

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan