

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

WRIT PETITION NO. 5673 OF 2024

“A” (Father of Minor Victim Child “X”) ...Petitioner
Versus
The State Of Maharashtra And Ors. ...Respondents

....

Ms. Tanvi Tapkire, Advocate for the Petitioner.

Ms. M.P. Thakur, AGP for Respondent – State.

....

**CORAM : PRAKASH D. NAIK, &
N. R. BORKAR, JJ.**

DATE : 18th APRIL, 2024.

P.C.:

1. The Petitioner is seeking the termination of pregnancy of his daughter (minor victim child). The victim child is aged around 17 years and 5 months. It is contended that the victim child suffers from multiple disabilities. She is overall 90% disabled. She suffers 90% blindness in both the eyes and 75% intellectual disability. She is the victim of sexual assault. First Information Report (for short ‘FIR’) was registered on 3rd April, 2024 with Vishrambaug Police Station, Sangali for the offences under Sections 376(2)(j), 376(2)(l) of Indian Penal Code (for short ‘IPC’) and 4, 5, 6 of Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO’).

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2. It is submitted that the investigation revealed that the victim was subjected to sexual assault by her brother who was minor aged 15 years and 9 months.

3. Learned Advocate for the Petitioner submitted that the Petitioner has made application on 8th April, 2024 to the Government Medical College and Hospital Miraj for medical termination of unwanted pregnancy and the Medical Board gave an opinion on 12th April, 2024 that the victim was pregnant for 26 weeks and 2 days and the pregnancy being over 24 weeks it appropriate directions ought to be obtained from the Court.

4. The victim is pregnant of 28 weeks. The report annexed to the Petition though indicates that the permission should be sought from the Court, it does not specify whether the pregnancy of the victim could be terminated.

5. Vide Order dated 16th April, 2024, we directed the Medical Board constituted under the MTP Act to examine the victim and submit the report to this Court whether the pregnancy of the victim could be terminated.

6. Learned AGP tendered the report forwarded by the Government Medical College Miraj dated 17th April, 2024 which indicate that the DEAN of the Medical College had formed the

committee to examine the victim and examination was conducted.

7. We have perused the report. From the report, it is apparent that the victim was brought to the Obstetrics and gynecology OPD on 17th April, 2024 for medical examination and the medical examination was conducted by the members of committee. Past history was recorded. Past medical records were perused. Mental disability status was evaluated and it was noticed that the Government of India had issued disability certificate dated 28th November, 2022. As per the disability certificate the intellectual disability of the victim amounts to 75% and blindness 90%. Systematic examination was within normal limit. The gestational age (duration of pregnancy) is 26 to 28 weeks. On sonography, it was found that there is single live intrauterine pregnancy of approximate gestational age 27 weeks and 4 days. No gross congenital anomaly detected at present scan suboptimal evaluation due to advanced gestational age.

8. The opinion provided in the report reads as follows:

- “1. On clinical examination and sonography evaluation, the duration of pregnancy is 27 weeks 4 days, 2 weeks.
2. As per disability certificate her intellectual disability amounts to 75% and blindness 90%.
3. the mother is of minor age.

4. The pregnancy may cause the mother a physical or mental trauma. Similarly being mentally challenged and blind, it may be difficult to rear a child.

5. There is a risk that if the child, if born, may suffer physical and/or mentally abnormality.”

9. From the opinion expressed in the report it appears that the mother is of minor age and the pregnancy may cause physical mental trauma. Similarly being mentally challenged and blind, it may be difficult to rear a child and further there is a risk that if the child is born would suffer physical or mental abnormality.

10. In the light of the report and considering the opinion expressed by the committee, we deem it fit and proper to permit the termination of pregnancy of the victim.

ORDER

- i. Writ Petition No.5673 of 2024 is allowed;
- ii. The pregnancy of Petitioner's daughter victim be terminated.
- iii. All the requisite medical facilities be provided to the victim child before and after the termination of pregnancy.
- iv. Petition stands disposed off accordingly.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)