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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1623/2024**

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..... Petitioner

Through: Mr. Bhagwan Jha, Advocate.

versus

THE STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. Amol Sinha, ASC and Mr. Kshitiz Garg, Mr. Ashvini Kumar and Mr. Chavi Lazarus, Advocates along with SI Manisha Meena, PS: Maidan Garhi, for State.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **24.05.2024**

CRL.M.A. 15770/2024

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(CRL) 1623/2024

3. This writ petition has been filed by the Petitioner seeking the following relief:

“Direct to the investigating officer to get the pregnancy of the applicant/petitioner terminated U/s 3(2)(a) MTP Act, 1971, in FIR No. 180/2024, dated 16.03.2024, U/s 376 of IPC in P.S. Maidan Garhi on behalf of the petitioner, in the interest of justice.”

4. It is averred in the petition that Petitioner is a complainant in FIR bearing No. 180/2024 dated 16.03.2024 registered under Section 376 IPC at PS: Maidan Garhi, which was registered on a complaint made by the Petitioner against Respondent No.2 alleging rape on false promise to marry.



It is averred that Petitioner conceived in the meantime and is running 18th week of pregnancy. Marriage between Petitioner and Respondent No.2 has been solemnised. Respondent No.2 has been granted regular bail on 20.03.2024 and a writ petition being W.P.(CRL) 1486/2024 has been filed seeking quashing of the FIR and is listed before this Court on 08.08.2024. It is further stated in the petition that financial condition of the parties does not permit them to have a family at this stage as Respondent No.2 is presently unemployed and Petitioner is pursuing her Graduation course and is in the final year and desires to continue her education.

5. Learned counsel for the Petitioner submits that Section 3(2)(a) of the Medical Termination of Pregnancy Act, 1971 ('MTP Act') permits termination of pregnancy by a Registered Medical Practitioner, where the length of pregnancy does not exceed 20 weeks, if the continuance of pregnancy involves a grave injury to the mental health of the pregnant woman. However, despite several efforts, Petitioner has been unsuccessful in getting the pregnancy terminated as the Medical Practitioners are refusing to interfere on account of pendency of the FIR.

6. Status Report on behalf of the State has been handed over in Court and is taken on record. It is stated in the Report that the Ultrasound Report dated 27.04.2024 filed along with the petition has been verified and found to be correct. In response to a letter sent to Cronus Hospital, the hospital has verified that on the date of the report, pregnancy was 15 weeks and 2 days.

7. Heard counsel for the Petitioner and learned ASC for the State.

8. MTP Act provides for termination of pregnancy by a Registered Medical Practitioner and is a progressive legislation. Statutory provisions enshrined therein regulate the manner and the period within which



pregnancies can be terminated, subject to conditions spelt out in Section 3, which have to be followed being a mandate of law. Section 3(2)(a) provides that where the length of pregnancy does not exceed 20 weeks, pregnancy may be terminated if one Registered Medical Practitioner is of the opinion, formed in good faith that: (i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or (ii) there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

9. Plain reading of Section 3(2)(a) leaves no doubt that based on the opinion of the Registered Medical Practitioner, formed in good faith, in one of the eventualities mentioned in clauses (i) and (ii) of Section 3(2)(a), pregnancy can be terminated by a pregnant woman. Therefore, there is no legal embargo or impediment in termination of pregnancy of the Petitioner, which as per the Petitioner is 18 weeks, a position not controverted by the State, subject to opinion of a Registered Medical Practitioner in that regard.

10. In the aforesaid circumstances, writ petition is disposed of permitting the Petitioner to terminate the pregnancy with a caveat that it must be preceded by a medical opinion of a Registered Medical Practitioner, in consonance with the provisions of Section 3(2)(a) of the MTP Act.

JYOTI SINGH, J

MAY 24, 2024

B.S. Rohella