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

+ **W.P.(CRL) 2452/2024**

MINOR G THR MOTHER S

.....Petitioner

Through: Mr. Anwesh Madhukar, Advocate
(DHCLSC) with Ms. Prachi Nirwan,
Advocate with petitioner mother in
person.

versus

STATE NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Amol Sinha, ASC (Crl.) for the
State with Mr. Kshitiz Garg, Mr.
Ashvini Kumar and Ms. Chavi
Lazarus, Advocates with SI
Meenakshi.
The Secretary, DLSA through VC.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

14.08.2024

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1. By way of present petition under Article 226 of the Constitution, the petitioner seeks the following reliefs:

- “i) Direct the Respondent No. 2 to form a board comprising not less than two registered medical practitioners and submit an opinion qua the medical termination of pregnancy of the Petitioner as warranted under Section 3(2)(b) of the Medical Termination of Pregnancy Act, 1971. And;*
- ii) Further direct the Respondents No.1 & 2 to medically terminate the pregnancy of the Victim/Petitioner in view of the Explanation No. 2, Section 3(2) of the Medical Termination of Pregnancy Act, 1970 (as amended till date). And*
- iii) Direct Respondent No. 1 to bear all the expenses necessary for the termination of the pregnancy of the Victim, her medicines, food etc; and*
- iv) Direct the Respondent No. 2 to preserve the terminal foetus*



for the purposes of DNA testing which would be required with reference to FIR No.586/2024 registered with PS Wazirabad...”

2. This petition was listed on 12.08.2024 when notice was directed to be issued and the Medical Superintendent, Lok Nayak Jagjivanram Hospital, Delhi was directed to constitute a Board to look into the medical condition of the child victim and to submit its report. A Report has been handed over today in Court by Mr. Amol Sinha, learned ASC (CrI.) for the State and the same is taken on record. The perusal of the Report reflects that the child victim is presently admitted in the hospital. As per the neonatology opinion, the present gestational age of the foetus is beyond the viability as the child victim is now about 30 weeks pregnant, and there is a strong possibility that the foetus will be alive after the procedure and in need of care from a Neonatal Intensive Care Unit due to prematurity. Furthermore, the said report opines that the termination of pregnancy in the present case is currently associated with high rate of complications due to the advanced gestational age of the foetus and the young age of the child victim/mother.

It has further been mentioned in the said report that both the victim as well as the guardian/petitioner were counselled and during counselling, they expressed that they want to continue the pregnancy till term and that they do not agree for immediate termination.

3. The petitioner, being the mother of the child victim, is present in the Court and is duly identified by the I.O. She reiterates that keeping in view the medical opinion, she does not wish to press the present petition. Learned counsel for the petitioner states that he has also been independently asked by the petitioner to not press the present petition.

4. The Court, however, takes note of the fact that prior to the child



victim being admitted in the aforesaid hospital, owing to the economic condition of the family, she was living in *Nirmal Chhaya* as per mandate issued by the Child Welfare Committee (CWC). The petitioner prays that till the delivery, the child victim may be kept in *Nirmal Chhaya* as she is unable to bear the expenses.

5. Mr. Sinha, learned ASC (Crl.) for the State, states that the entire expense till the delivery of the child will be borne by the State and that the I.O. is in the process of moving an appropriate application for compensation under the Delhi Victim Compensation Scheme before the concerned Court. In light of the judgment in Z v. State of Bihar & Ors., reported as **(2018) 11 SCC 572**, keeping in view the mental injury the victim has to suffer and so that she lives her life with dignity and can provide for her medical expenses till the delivery as well as the post-natal stage, it is directed that the State provides for her entire medical care till delivery of the child including proper nutrition. Further, the State shall also provide for the pre and post-natal care of the baby. To ensure that the victim be compensated adequately, the concerned Court as and when an application is forwarded shall ensure that the said application is considered expeditiously, in accordance with law.

6. It is further directed that the Administrator, *Nirmal Chhaya* shall ensure that the petitioner be allowed to meet the child victim in accordance with the rules.

7. The present petition is accordingly disposed of in the abovesaid directions. It shall be open to the petitioner to approach this Court in case of any further directions.

MANOJ KUMAR OHRI, J

AUGUST 14, 2024/rd