



W.P.No.16420 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED :30.04.2025

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.16420 of 2025

Sumathi, (F/40),
W/o.Settu, (Late),
No.45, Karumariamman Koil Street,
Chengalpattu District – 603 305.

... Petitioner

/versus/

1. The Dean,
Government Medical College Hospital,
Chengalpattu,
Chengalpattu District - 603001.

2. The Inspector of Police,
All Women Police station,
Mamallapuram,
Chengalpattu District - 603104.

3. The Secretary, Health Department,
Secretariat,
Fort St.George, Chennai - 600 009.

... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to medically terminate the pregnancy of the petitioner's daughter namely Pavithra in accordance with The Medical Termination of Pregnancy Act, 1971, as expeditiously as possible and pass orders.



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For Petitioner : Mr.Duraisamy,
for Mr.V.Elangovan.

For Respondent : Ms.Sneha, for R1
: Mr.R.Sundaram,
Government Advocate, for R3
: Dr.C.E.Pratap, (Crl.Side) for R2

ORDER

The prayer in the writ petition is to direct the respondents to medically terminate the pregnancy of the petitioner's daughter, namely, Pavithra, in accordance with the Medical Termination of Pregnancy Act, 1971,

2. According to the petitioner, the said Pavithra was affected with *Chronic Neurological Conditions* and both of her hands and limbs were completely paralyzed. Even as on 06.10.2022, a Disability Certificate stating 80% of permanent physical impairment has been issued to the said Pavithra. While so, on 10.04.2025, the petitioner noting symptoms such as, bloating of stomach etc., became suspicious and upon inquiry found out that one person by name, Basha son of Mohan, who is a neighbour had sexual intercourse with the daughter of the petitioner. It is stated that the said accused also threatened to kill the petitioner. Thereafter, the matter is reported to the jurisdictional police



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and case in Crime No.4 of 2025 was registered under Section 64(2), 351 (2) of

WEB B.N.S and the same is under investigation. The victim of the crime was also taken to the Government Medical Hospital at Chengalpattu where it is confirmed that she is now pregnant and the pregnancy is already 28 weeks. Therefore, they are not terminating the pregnancy and therefore, the petitioner is before this Court.

3. When the matter came up for admission yesterday, this Court requested the Learned Counsels to take notice and get instructions in this regard.

4. Ms.Sneha, Learned Counsel appearing on behalf the first respondent on due written instructions would submit that the scan result of the said Pavithra, who is aged 27 years shows that the pregnancy is between 27 to 28 weeks. The Professor and Head of the Department of Obstetrics and Gynaecology, Chengalpattu Medical College Hospital, Chengalpattu would state that it is a case of *Friedreich's Ataxia*, a *neuromuscular degenerative disorder*. In that situation, it is essential to constitute a Medical Board to evaluate her medical condition and assess the risk associated with the continuation or termination of the pregnancy, both for the mother and the fetus.



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A final decision can then be made, based on the expert opinion of the Board.

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5. As a matter of fact, it may be true that the pregnancy has progressed beyond the 24 weeks that is mentioned in the Medical Termination of the Pregnancy Rules, 2003. It can be seen that the said Pavithra being the survivor of the sexual assault of rape, is entitled for medical termination of pregnancy. But however, in view of the fact that the said person was 80% disabled, the mother noticed only recently by which time, it has crossed 24 weeks. Therefore, outer limit of 24 weeks need not be held to be a barrier in the instant case. The only consideration that has to be made is the consideration that is suggested by the Head of the Department that is upon evaluation by the Board consisting of the experts, upon assessing the risk associated with the continuation or termination of the pregnancy, if the termination of pregnancy is possible, then the same shall be done, not withstanding the Rules containing the 24 weeks.

6. This case can '*brook no delay*'. Therefore, the Registry shall issue the copy of this order today.



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7. In view thereof, this writ petition is disposed of on the following

WEB conditions:

(i) Upon receipt of the web copy of the order, the Dean, Government Medical College Hospital, Chengalpattu shall forthwith constitute the Medical Board at the earliest. In the meanwhile, by today or tomorrow, the Secretary, District Legal Service Authority shall also visit the patient, who is said to be an inpatient in the Hospital, shall record the statement of the petitioner herein, the mother consenting for such a risky medical pregnancy and hand over a copy to the Dean, Chengalpattu Medical College Hospital, Chengalpattu.

(ii) Upon the Board being constituted at the earliest without wasting any further time, the Board shall examine all the risk factors that are involved and shall render an opinion in the matter and depending on the expert opinion, immediately the termination be performed or the decision otherwise be informed to the petitioner.

(iii) All the authorities, at all time, shall act with utmost urgency in the matter.



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There shall be no order as to costs.

30.04.2025

Neutral citation :Yes.

bsm

Note: Issue order copy today (30.04.2025)

To,

1. The Dean,
Government Medical College Hospital,
Chengalpattu,
Chengalpattu District - 603001.

2. The Inspector of Police,
All Women Police station,
Mamallapuram,
Chengalpattu District - 603104.

3. The Secretary, Health Department,
Secretariat,
Fort St.George, Chennai - 600 009.

4. The Secretary,
District Legal Service Authority,
Chengalpattu District.

5. The Government Pleader, High Court, Madras.



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D.BHARATHA CHAKRAVARTHY, J.

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