Salgaonkar

MANDIRA MILIND SALGAONKAR Digitally signed by MANDIRA MILIND SALGAONKAR Date: 2026.10.19 17:09:51 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14021 OF 2026

XYZ .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

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Mr.Kaustubh R. Gidh for the Petitioner.

Smt.M.P.Thakur, A.G.P. for the State/Respondent.

CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.
DATE : 19th OCTOBER, 2026

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ORAL JUDGMENT (PER BHARATI DANGRE, J.):-

1. As directed by us, Mrs.Thakur has placed before us the report of District Medical Board constituted under the Medical Termination of Pregnancy Act, 1971 under the Chairmanship of Civil Surgeon, Civil Hospital, Thane to examine the Petitioner, a woman aged 32 years, who sought termination of her pregnancy on the basis that the report indicate some fetal abnormality.

The report produced before us in a sealed envelope, under the signature of a Civil Surgeon is taken on record and marked **'X'** for identification.

2. It is pertinent to note that the Medical Termination of Pregnancy Act, 1971 (for short, "Act of 1971) permit termination of certain pregnancies by a registered Medical

Practitioners i.e. it has legalised the termination on various socio-medical grounds.

Section 3 of the said statute permit termination of the pregnancy, by specifically providing that the said provision shall operate notwithstanding anything contained in the Indian Penal Code, as if such a procedure is carried out, a Medical Practitioner shall not be guilty of any offence under the Code or any other law for the time being in force. However, this right is specifically restricted by sub-section (2).

Sub-section (2)(b) of Section 3, however, provide that the provisions of sub-section (2) relating to the length of pregnancy shall not apply, if such termination is necessitated by the diagnosis of any substantial foetal abnormalities diagnosed by a Medical Board.

The Medical Termination of Pregnancy Rules, in Rule (b) has set out as to which categories of women are considered to be eligible for termination of pregnancy under clause (b) of sub-sections (2) and (3) of the Act of 1971 for a period upto twenty-four weeks and this include (f)- the foetal malformation that has substantial risk of being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped.

3. In light of the aforesaid statutory provision, we have considered the request of the Petitioner based on the report of the Obstetric Sonography and the report from Nowrosjee Wadia Maternity Hospital, which identified “Hypoplastic nasal bone” in the single live intrauterine gestation with the age of 28 weeks 3 days.

4. The report produced before us has the involvement of two Gynaecologist, one Radiologist, one Psychiatrist and one Pediatrician from Civil Hospital, Thane. Based upon the ultrasonographic findings, it is recorded as below :-

> "Since the pregnancy has advanced to 25 weeks 6 days (by USG Report dated on 17/10/2026 having with hypoplastic nasal bone with severe oligohydramnios with no gross fetal anomaly."

What is noted in the report is that the fetus is the case of hypoplastic nasal bone with severe oligohydramnios, but it is categorically stated that there is no gross fetal anomaly.It is clarified that no life-threatening abnormality has been identified in the fetus.

5. The Petitioner is stated to be a case of idiopathic thrombocytopenic purpura and she is undergoing the treatment at Wadia Hospital, Mumbai. The Medical Board has, therefore, left it open for the Court to finally decide whether the pregnancy needs to be terminated.

6. Careful reading of the provisions of the Act of 1971 alongwith the Rules, it is noticed by us that it is not that a pregnancy beyond 24 weeks shall be permitted to be terminated just at the drop of the hat and in fact, the provision in Section 3 itself, permit the pregnancy to be terminated by a registered Medical Practitioner provided it does not exceed 20 weeks. In case if the pregnancy exceed 20 weeks, but does not exceed twenty-four weeks, then it is only available in respect of such category of woman as set out in the Rules and only when the Medical Practitioner is of the view that 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 there is a substantial risk that if the child was born, it would suffer from any serious physical or mental abnormality.

The said provisions when read with Rule 3(b) of the Medical Termination of Pregnancy Rules, 2003, in our view, except the additional opinion of the Gynaecology Department that the pregnancy is classified as high-risk, which according to us, is for the purposes if at all the Court advises the pregnancy to be terminated, but in the report submitted in Form D, the Gynaecology Department has only identified the finding that the mother is a patient of idiopathic thrombocytopenic purpura and is on medication. It is not expressed that that per se would pose danger to her life.

Apart from this, it is also stated that there is no life-threatening abnormality identified in the fetus, but it only record presence of oligohydramnios, a medical condition during pregnancy marked by abnormally low volume of amniotic fluid surrounding the fetus in amniotic sac. In our view, in absence of the specific finding from the Board that continuation of the pregnancy would be life threatening either for the mother on account of she being a patient of idiopathic thrombocytopenic purpura or that the fetus suffer from a life-threatening abnormality, in our view, in light of the opinion of the Board placed before us, we are not inclined to grant the request of terminating the pregnancy.

The Petition is, therefore, dismissed.

No order as to cost.

(ASHISH S. CHAVAN, J.) **(BHARATI DANGRE, J.)**