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WP-6837-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 21st OF FEBRUARY, 2025WRIT PETITION No. 6837 of 2025*IN REFERENCE (SUO MOTO)**Versus**THE STATE OF M. P.*

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Appearance:

Shri Rajwardhan Gawde - Government Advocate for the State.
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ORDER

This petition has been registered as a suo moto reference upon receipt of PUD dated 21.02.2025 from the Court of Special Judge (POCSO Act), District Ujjain.

02. From the PUD, it is seen that on the complaint made by the victim, who is a rape victim, Crime No.54/2025 has been registered at Police Station Madhavnagar, District Ujjain for offences punishable under Section 137(2), 64(2)(m) of the BNS and Section 5L/6 of Protection of Children from Sexual Offences Act, 2012. The Investigating Officer sent intimation to the Court concerned as regards the victim being pregnant. Thereafter, in compliance of order dated 12.12.2024 passed in W.P. No.39431/2024 by this Court, the Court below referred the victim to the Medical Board for submitting report if her pregnancy can be terminated. The report has been received from the Medical Board in which it has been opined that the pregnancy is of 23 weeks and she is fit as per protocol for termination of pregnancy if ordered by the



Court. Thereafter, by order dated 19.02.2025, the matter has been referred by the Court concerned to this Court for further directions as regards termination of pregnancy.

03. In the order dated 19.02.2025 itself, it has been stated that the victim and her parents have expressed that they do not have any objection in case the pregnancy of the victim is terminated. The Medical Board has also opined that the pregnancy can be terminated.

04. Section 3 and 5(1) of the Medical Termination of Pregnancy Act, 1971 reads as under:-

"3. When Pregnancies may be terminated by registered medical practitioners.-
(1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act.

(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner-

(a) where the length of the pregnancy does not exceed twelve weeks' if such medical practitioner is, or (b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners are of 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 physical or mental health ; or

(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Explanation 1.-Where any, pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2.-Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

(3) In determining whether the continuance of pregnancy would involve such



risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonable foreseeable environment.

(4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a lunatic, shall be terminated except with the consent in writing of her guardian.

(b) Save as otherwise provided in C1.(a), no pregnancy shall be terminated except with the consent of the pregnant woman. 5. Sections 3 and 4 when not to apply.- (1) The provisions of Sec.4 and so much of the provisions of sub-section (2) of Sec. 3 as relate to the length of the pregnancy and the opinion of not less than two registered medical practitioner, shall not apply to the termination of a pregnancy by the registered medical practitioner in case where he is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life of the pregnant woman."

05. This Court keeping in view the statutory provisions as contained in The Medical Termination of Pregnancy (MTP) Act, 1971 is of the opinion that in the peculiar facts and circumstance of the case, the pregnancy can be terminated and it is ordered accordingly.

06. The Civil Surgeon/Chief Medical Superintendent, District Hospital, Ujjain is directed to carryout the termination of pregnancy. The petitioner 'X' shall appear before the District Hospital/Civil Surgeon, Ujjain, on 24.02.2025 at 11.00 A.M. The Head of Department of Gynecologist, Head of Department of Anesthesia and all other specialist will remain present at the time of termination of pregnancy, as the petitioner 'X' is of tender age. Not only this, after termination of pregnancy is carried out, the State of Madhya Pradesh shall ensure post operative care of the petitioner 'X'. The entire expenditure in respect of termination of pregnancy shall be borne by the State of M.P. through Collector, Jhabua and the DNA of fetus shall also be preserved for DNA analysis.

07. Let a copy of this order be communicated by the office to the



Office of the Advocate General by tomorrow for its onward communication to the Civil Surgeon/Chief Medical Superintendent, District Ujjain immediately. A copy of this order be also sent to the Special Judge (POCSO Act), Ujjain immediately so that the victim and her parents can be apprised of this order forthwith.

08. With the aforesaid, the present writ petition stands allowed.

Certified copy today itself.

(PRANAY VERMA)
JUDGE

Shilpa