

(2023) 09 MP CK 0081

In the Madhya Pradesh High Court

Case No : Writ Petition No. 24025 Of 2023

Prosecutrix Of Crim

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 19-09-2023

Acts Referred:

Indian Penal Code, 1860 — Section 363, 76

Citation : (2023) 09 MP CK 0081

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : Himanshu Sharma, Neelesh Tomar

Final Decision : Allowed/Disposed Of

Judgement

Anand Pathak, J

1. The instant petition is in respect of medical termination of pregnancy. Petitioner is rape victim/survivor but with pregnancy due to such heinous act committed over her. At present, she is having pregnancy of 24 weeks.

2. Learned counsel for petitioner refers the FIR registered at the instance of prosecutrix vide Crime No.138/2023 at Police Station Jaura, District Morena for offence under Section 363 of IPC. Later on, when she recovered then case was registered at the instance of prosecutrix for incorporation of offence under Section 376 of IPC along with provisions of Prevention of Children from Sexual Offences, Act. Since, she is rape survivor but with the burden of pregnancy due to such heinous act, therefore, petitioner and her family intend to get rid of such pregnancy as it amounts to grave injury to her physical or mental health. Medical report by District Medical Board convened on 19.09.2023 also indicates that petitioner can undergo medical termination of pregnancy and her other vital parameters are normal so as to sustain the procedure.

3. Learned counsel for respondent opposed the contentions, however, placed the report dated 19.09.2023 prepared at the instance of Medical Board constituted

for this purpose at Kamla Raja Hospital (G.R. Medical College, Gwalior).

4. Considering the rival submissions, perusal of medical report and peculiar fact situation where petitioner/prosecutrix has preferred this petition through her natural guardian/father for medical termination of pregnancy and looking to the fact that continuation with the pregnancy would amount to grave injury to the physical and mental health of the prosecutrix, it is imperative that such pregnancy be medically terminated in accordance with law. Since, duly constituted medical board already given opinion about the status of prosecutrix and the chance to undergo procedure for termination of pregnancy, this Court intends to allow the petition but with the word of caution that concerned medical authority shall undertake the procedure over the prosecutrix at the earliest preferably within three days and considering her health and tender age, appropriate care shall be taken by the hospital authorities as post operative healing.

5. Looking to the fact that Gwalior has better medical facility and GR Medical College is well equipped, therefore, medical termination of pregnancy of prosecutrix preferably be carried out at G.R. Medical College (Kamla Raja Hospital) Gwalior.

6. Needless to say that DNA sample can be preserved for posterity to use in criminal trial and for other purposes permissible under the law.

7. Petition stands allowed and disposed of in above terms.