

(2026) 03 MP CK 0815

In the Madhya Pradesh High Court, Gwalior Bench

Case No : Writ Petition No. 8314 Of 2026

Victim X Ballu Rajak

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 13-03-2026

Acts Referred:

Constitution Of India, 1950 — Article 21, 226

Medical Termination Of Pregnancy Rules, 2003 — Rule 3B

Medical Termination of Pregnancy Act, 1971 — Section 3(2), 3(2)(b), 3(3), 5

Citation : (2026) 03 MP CK 0815

Hon'ble Judges : Amit Seth, J

Bench : Single Bench

Advocate : Shashwat Rao, Smrati Sharma

Final Decision : Allowed

Judgement

Amit Seth, J

1. The instant writ petition under article 226 of the Constitution of India is filed by the petitioner who is a minor and victim of crime No. 84 of 2025 registered at Police Station, Badoni, Distt. Datia and in the present petition, permission for medical termination of pregnancy by the petitioner has been sought for.

2. In compliance of order dated 09/03/2026 initially, a report dated 10/03/2026, was submitted by the Gynecology Department of Government Medical College, Datia, containing opinion of Medical Board indicating that the petitioner is carrying pregnancy of 20 weeks. In further compliance of order dated 11/03/2026, the learned Government Advocate appearing for State has produced another report dated 12/03/2026, submitted by the Medical Board of Government Medical College, Datia, indicating that the medical termination of pregnancy of the petitioner is possible, as per the opinion of two Medical Experts. However, for carrying out the procedure for Medical Termination of Pregnancy, Special Clinical and Medical Test / Procedure would be required, which is possible at higher Medical Center like, Gajra Raja Medical College, Gwalior. The report

further states that the medical termination of pregnancy can be performed only on the written consent of the petitioner.

3. Supreme Court considering the right of personal liberty guaranteed under Article 21 of the Constitution of India has held that unmarried woman has right to decide in respect of the pregnancy.

4. Supreme Court in the case of *X Vs. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi & Anr.* (2023) 9 SCC 433, after considering constitutional values animating the interpretation of MTP Act and the MTP rules dealt with the right to Reproductive Autonomy of the women and has held as under:-

"64. When interpreting a sub-clause or part of a statutory provision, the entire section should be read together with different sub-clauses being a part of an integral whole. [*Balasinor Nagrik Coop. Bank Ltd. v. Babubhai Shankerlal Pandya*, (1987) 1 SCC 606; *Madanlal Fakirchand Dudhediya v. Shree Changdeo Sugar Mills Ltd.*, 1962 SCC OnLine SC 65 : 1962 Supp (3) SCR 973 : AIR 1962 SC 1543] In terms of Section 3(2)(b) of the MTP Act, not less than two RMPs must, in good faith, be of the opinion that the continuation of the pregnancy of any woman who falls within the ambit of Rule 3-B would involve : (i) a risk to her life; (ii) grave injury to her physical health; or (iii) grave injury to her mental health. Alternatively, not less than two RMPs must, in good faith, be of the opinion that there is a substantial risk of the child suffering from a serious physical or mental abnormality, if born. Women who seek to avail of the benefit under Rule 3-B of the MTP Rules continue to be subject to the requirements of Section 3 (2) of the MTP Act.

65. One of the grounds on the basis of which termination of pregnancy may be carried out is when the continuance of a pregnancy would involve risk of injury to the mental health of the woman. The expression "grave injury to her physical or mental health" used in Section 3(2) is used in an overarching and all-encompassing sense. The two Explanations appended to Section 3(2) provide the circumstances under which the anguish caused by a pregnancy may be presumed to constitute a grave injury to the mental health of a woman.

66. Courts in the country have permitted women to terminate their pregnancies where the length of the pregnancy exceeded twenty weeks (the outer limit for the termination of the pregnancy in the unamended MTP Act) by expansively interpreting Section 5, which permitted RMPs to terminate pregnancies beyond the twenty-week limit when it was necessary to save the life of the woman. In *X v. Union of India* [*X v. Union of India*, (2017) 3 SCC 458] , *Mamta Verma v. Union of India* [*Mamta Verma v. Union of India*, (2018) 14 SCC 289] , *Meera Santosh Pal v. Union of India* [*Meera Santosh Pal v. Union of India*, (2017) 3 SCC 462] , *Sarmishtha Chakraborty v. Union of India* [*Sarmishtha Chakraborty v. Union of India*, (2018) 13 SCC 339] , this Court permitted the termination of post twenty-week pregnancies after taking into account the risk of grave injury to the

mental health of a pregnant woman by carrying the pregnancy to term.

67. The grounds for approaching courts differ and include various reasons such as a change in the circumstances of a woman's environment during an ongoing pregnancy, including risk to life, [A v. Union of India, (2018) 14 SCC 75; X v. Union of India, (2017) 3 SCC 458; Meera Santosh Pal v. Union of India, (2017) 3 SCC 462; Tapasya Umesh Pisal v. Union of India, (2018) 12 SCC 57; Mamta Verma v. Union of India, (2018) 14 SCC 289] risk to mental health, [X v. Union of India, (2017) 3 SCC 458; Meera Santosh Pal v. Union of India, (2017) 3 SCC 462; Sarmishtha Chakraborty v. Union of India, (2018) 13 SCC 339; Mamta Verma v. Union of India, (2018) 14 SCC 289; Z v. State of Bihar, (2018) 11 SCC 572 : (2018) 2 SCC (Cri) 675] discovery of foetal anomalies, [A v. Union of India, (2018) 14 SCC 5; Sarmishtha Chakraborty v. Union of India, (2018) 13 SCC 339; Tapasya Umesh Pisal v. Union of India, (2018) 12 SCC 57; Mamta Verma v. Union of India, (2018) 14 SCC 289] late discovery of pregnancy in case of minors and women with disabilities, [X v. Union of India, (2020) 19 SCC 806] and pregnancies resulting from sexual assault or rape. [Z v. State of Bihar, (2018) 11 SCC 572 : (2018) 2 SCC (Cri) 675; X v. Union of India, (2020) 19 SCC 806] These are illustrative situations thrown up by cases which travel to the court. Although the rulings in these cases recognised grave physical and mental health harms and the violation of the rights of women caused by the denial of the option to terminate unwanted pregnancies, the relief provided to the individual petitioner significantly varied.

68. The expression "mental health" has a wide connotation and means much more than the absence of a mental impairment or a mental illness. The World Health Organisation defines "mental health" as a state of "mental well-being that enables people to cope with the stresses of life, realise their abilities, learn well and work well, and contribute to their community". [World Health Organisation, "Promoting Mental Health : Concepts, Emerging Evidence, Practice (Summary Report)" (2004).] The determination of the status of one's mental health is located in one's self and experiences within one's environment and social context. Our understanding of the term "mental health" cannot be confined to medical terms or medical language, but should be understood in common parlance. The MTP Act itself recognises the need to look at the surrounding environment of the woman when interpreting injury to her health. Section 3(3) states that while interpreting "grave injury to her physical or mental health", account may be taken of the pregnant woman's actual or reasonably foreseeable environment. The consideration of a woman's "actual or reasonably foreseeable environment" becomes pertinent, especially when determining the risk of injury to the mental health of a woman.

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115. The right to dignity encapsulates the right of every individual to be treated as a self-governing entity having intrinsic value. It means that every human being possesses dignity merely by being a human, and can make self-defining

and self-determining choices. Dignity has been recognised as a core component of the right to life and liberty under Article 21.

116. If women with unwanted pregnancies are forced to carry their pregnancies to term, the State would be stripping them of the right to determine the immediate and long-term path their lives would take. Depriving women of autonomy not only over their bodies but also over their lives would be an affront to their dignity. The right to choose for oneself — be it as significant as choosing the course of one's life or as mundane as one's day-to-day activities — forms a part of the right to dignity. It is this right which would be under attack if women were forced to continue with unwanted pregnancies.

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122. In the context of abortion, the right to dignity entails recognizing the competence and authority of every woman to take reproductive decisions, including the decision to terminate the pregnancy. Although human dignity inheres in every individual, it is susceptible to violation by external conditions and treatment imposed by the State. The right of every woman to make reproductive choices without undue interference from the State is central to the idea of human dignity. Deprivation of access to reproductive healthcare or emotional and physical well-being also injures the dignity of women."

5. In view of the above, the petition is allowed. This Court permits the termination of pregnancy subject to the following conditions:-

(i) The Dean of Gajra Raja Medical College, Gwalior is directed to get the medical termination of pregnancy of the petitioner performed by following the protocols after obtaining consent of petitioner/prosecutrix. Prosecutrix along with her guardian shall appear before the Dean on 16.03.2026.

(ii) A specialized team of Doctors shall take a decision as to when to terminate the pregnancy.

(iii) The procedure of termination of pregnancy will be carried out in the presence of the expert team of doctors. The expert doctors will explain to the family members as well as the petitioner the risk of getting the termination of her pregnancy and also other factors.

(iv) Every care and caution will be taken by the doctors while terminating the pregnancy. All medical attention and other medical facilities including that of a presence of a Pediatrician as well as a Radiologist and other required doctors will be made available to her.

(v) The post operative care up to the extent required, will be extended to the petitioner. It will be the duty of the State Government to take care of the child, if born alive.

(vi) The doctors will also ensure that a sample from the foetus is protected for DNA examination and as and when required will be handed over to the

prosecution for using in the criminal case itself.

The typed copy of this order be supplied to the learned counsel appearing for the State for further communication to the Dean of Gajra Raja Medical College, Gwalior for necessary compliance.

CC today.