

(2021) 05 BOM CK 0021

In the Bombay High Court

Case No : ?Writ Petition (ST.) No.10908 Of 2021

XYZ

APPELLANT

Vs

State Of Maharashtra & Ors

RESPONDENT

Date of Decision : 28-05-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164

Citation : (2021) 05 BOM CK 0021

Hon'ble Judges : R.D. Dhanuka, J;Madhav J.Jamdar, J

Bench : Division Bench

Advocate : Nagraj S. Shinde, Aarti N. Shinde, Ashwini A. Purav

Final Decision : Disposed Of

Judgement

1. This petition is filed by the father of minor girl who is victim of sexual assault. In prayer clause (i), the petitioner is seeking direction to the respondents to allow the petitioner to undergo medical termination of her pregnancy.
2. By an order dated 25th May 2021, we directed the Civil Hospital at Solapur to constitute a Committee comprising of Dean of the said Hospital, Professor and Head of Obstetrics and Gynecology Department, Professor and Head of Department of Radiology and Professor and Head of Department of Pediatrics and who is suitable according to the Dean of the Hospital. Accordingly the said Medical Board was constituted and Medical Board examined the minor girl and submitted report on 27th May 2021. The said report is taken on record.
3. By report dated 27th May 2021, the Medical Board opined that the minor girl is physically fit for termination of pregnancy and recommended termination of pregnancy as the same is grave injury to mental health of the

minor girl.

4. The minor girl who is stated to be a victim of sexual assault is presently admitted in Civil Hospital at Solapur. In view of the above, we permit the

minor girl to terminate pregnancy in Civil Hospital at Solapur. The said procedure shall be carried out at the earliest. In case she is not admitted in the

hospital presently, the Shelter Home where she is presently kept shall get her admitted in Civil Hospital, Solapur for performing the said procedure.

5. Since the minor girl who is victim of sexual assault, we also issue following directions:-

(i) The blood sample and tissue sample of the fetus shall be preserved for the purpose of carrying out necessary medical tests including DNA and

other tests.

(ii) The Investigating Officer conducting investigation shall ensure that the samples are forwarded to Forensic Science Laboratory and the samples

shall be preserved for the purpose of trial of the offence.

(iii) In case, if the child is born alive, the Medical Practitioner who conducts the procedure will ensure that all necessary medical facilities are made

available to such child for saving it's life.

(iv) In case, if the child is born alive and if the minor girl and her parents are not willing or are not in a position to take responsibility of such a child

then the State and its agencies ppn 3 2.wpst-10908.21.doc will have to assume full responsibility for such child.

(v) Respondents also shall take care of the minor girl and provide all necessary medical facilities and medicines after such procedure is performed.

(vi) The Respondent-State is directed to immediately place the FIR, medical report and other papers, including statement of the minor girl under

Section 164 of the Criminal Procedure Code, before the District Legal Services Authority (DLSA) for payment of amounts to her under the

Government Resolution dated 1 st August 2017 i.e. ""The Manodhairya Scheme"" in accordance with law.

(vii) Upon receipt of such papers, DLSA is directed to immediately process the said papers for payment of compensation to the minor girl at various

stages contemplated under the aforesaid scheme. It shall be ensured that such payments are made at the earliest and without any delay in the matter.

6. The Petition is disposed of in the aforesaid terms. All concerned to act on an

authenticated copy of this order.