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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 07 September, 2024

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W.P.(CRL) 2728/2024

MINOR N THR MOTHER P

.....Petitioner

Through: Mr.Anwesh Madhukar and Ms.Prachi Nirwan, Advs. alongwith petitioner in person.

versus

STATE OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr.Yasir Rauf Ansari, ASC with Mr. Alok Sharma and Mr. Vasu Agarwal, Advs for the State alongwith PSI Amrita, P.S. Jaitpur.
Ms.Arunima Dwivedi, CGSC with Ms.Pinky Pawar, Advocate for UOI and Dr.Yamini Sarwal, Department of Obstetrics & Gynecology, Dr.Sumitra Bachani, Department of Obstetrics & Gynecology, Dr.Shefali Gupta, Department of Radiology, Dr.Amit, Department of Pediatrics and Dr.Abhilasha Yadav, Department of Psychiatry, VMCC & Safdarjung Hospital, New Delhi (through VC).

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T

ANOOP KUMAR MENDIRATTA, J (ORAL)

1. A writ petition under Article 226 read with Article 21 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred by a minor through guardian, for permission to undergo medical termination of pregnancy with the following prayers:-



- “i) Direct the Respondent No. 2 to form a board comprising not less than two registered medical practitioners and submit an opinion qua the medical termination of pregnancy of the Petitioner as warranted under Section 3(2)(b) of the Medical Termination of Pregnancy Act, 1971. And;*
- ii) Further direct the Respondents No.1 & 2 to medically terminate the pregnancy of the Victim/Petitioner in view of the Explanation No. 2, Section 3(2) of the Medical Termination of Pregnancy Act, 1970 (as amended till date). And*
- iii) Direct Respondent No. 1 to bear all the expenses necessary for the termination of the pregnancy of the Victim, her medicines, food etc; and iv) Direct the Respondent No. 2 to preserve the terminal fetus for the purposes of DNA testing which would be required with reference to the criminal case which stands registered; and/or*
- v) Pass any other order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”*

2. In brief, victim aged about 16 years with gestation period of approximately 26⁺⁵ weeks, is alleged to have been sexually assaulted in March, 2024 but the pregnancy was only detected on 27.08.2024 when she complained of pain in the abdomen and was taken to a hospital for treatment. FIR No.351/2024 under Section 376 IPC and Section 4 of POCSO Act was accordingly registered at P.S.: Jaitpur on 28.08.2024. Victim alleged that she was sexually assaulted by one of the tenants in the premises in March, 2024 who had thereafter left the premises.

3. Thereafter, the victim was directed to be kept in the Children’s Home/SAA/fit facility PCH(G) for a period of short term, by the Child Welfare Committee. Victim is also stated to have given her written consent to abort the pregnancy on examination at Safdarjung Hospital.

4. Present petition has been preferred on 04.09.2024 which was taken up for an urgent hearing on the same day and directions were issued to the Medical Superintendent, Safdarjung Hospital, New Delhi to get the victim examined on 05.09.2024 as under:



“Considering the facts and circumstances, Medical Superintendent, Safdarjung Hospital, is directed to get the victim examined on 05.09.2024 at 12:30 PM in accordance with law through a medical board as provided under MTP Act, and also assess the physical and mental well-being of the victim, for the purpose of medical termination of pregnancy. The medical board shall also opine whether termination of pregnancy can be carried out at this stage without any threat to the life of minor; since the safety and welfare of the minor is of paramount importance. Victim/guardian shall also be provided with appropriate counselling and duly informed about the procedural and medical aspects including complications, if any, for purpose of having an informed consent of victim as well as guardian.

The report after medical examination shall be prepared on same day and forwarded to this Court for consideration on 06.09.2024 at 11:00 A.M.”

5. In response to the same, the report of the Medical Board was received reflecting that the victim is 26⁺⁵ weeks period of gestation with the following opinion :

FORM D
(See sub-clause (II) of clause (b) of rule 3A)
Report of the Medical Board for Pregnancy Termination Beyond 24 weeks

Details of the woman seeking termination of pregnancy:

- Name of the woman: [Redacted]
- Age: [Redacted]
- Registration case number: [Redacted]
- Available reports and investigations:

S.No	Report	Opinion on the findings
1.	USG (27/8/24) STOP 25+2 wks	Adv GCA scan
2.	USG (5/9/24) SLIUF 26 weeks + No Gross congenital anomaly	NO GCA detected

5. Additional Investigations (if done):

S.No	Investigations done	Key findings
	Same	NO GCA.

6. Opinion by Medical Board for termination of pregnancy: *As the period of gestation is >24 weeks and there is no gross congenital anomaly in the fetus, the Board can not give permission for termination of pregnancy.*

a) Allowed
 b) Denied

Justification for the decision:

7. Physical fitness of the woman for the termination of pregnancy:
 a) Yes
 b) No

Members of the Medical Board who reviewed the case:

S.No	Name	Signature
1.	DR. YAMINI SARWAR	[Signature]
2.	DR. SHILPA GUPTA	[Signature]
3.	DR. AMIT KUMAR	[Signature]

Date and Time:



6. On 06.09.2024, when the matter was taken up in Chamber to confirm the consent of the victim as well as guardian, the mother of the victim claimed that she was not fully aware of the medical procedure/process to be undertaken. It was further noticed by this Court that the name of the victim had not been anonymised in the OPD slip and report of the Medical Board did not respond to the specific directions issued vide order dated 04.09.2024. In view of above, directions were issued to the Medical Board for clarifications as under and the particulars of the victim were also directed to be anonymised.

“3. The report overlooks that particulars of the victim need to be anonymised. Accordingly, Medical Superintendent, Safdarjung Hospital, New Delhi is directed to ensure that the guidelines in this regard are followed and the name of the victim is kept confidential and suitably redacted.

4. On interaction with the victim and her guardian, it appears that though the victim has expressed her consent for medical termination of pregnancy but the guardian is not suitably informed of the medical procedure/process to be undertaken. Further, the report is sketchy and no observations have been made with reference to specific directions issued by this Court as referred in para 1 above.

5. Medical Superintendent, Safdarjung Hospital, New Delhi shall ensure that Medical Board, after taking into consideration the observations in order dated 04.09.2024 shall also further indicate:

(i) Whether the carrying of pregnancy to the full term would impact the mental as well as physical health of the minor victim, who is aged 16 years;

(ii) Whether the medical termination of pregnancy can be carried with gestational period of 26⁺⁵ weeks without any threat to the life of the victim;

(iii) The chances of abdominal surgery or complications, if any, involved in the process;

(iv) Further, the victim be appropriately counselled and well informed along with guardian to ensure an informed consent.



6. *Medical Board shall accordingly further examine the victim and forward a comprehensive report as directed vide order dated 04.09.2024 and observations made above, in a sealed cover for consideration on 07.09.2024 before 01:00 PM. Necessary coordination shall be made by the IO in consultation with Medical Board.”*
7. Considering the fact that the victim is at advance stage of pregnancy and the case requires to be urgently taken up, the same has been taken up today i.e. 07.09.2024 (Saturday).
8. The report of the Medical Board received today further clarifies that carrying the pregnancy to full term is likely to adversely affect the physical health of the victim as well as her mental health. It has further been opined that legally induced abortions by trained gynecologists have a risk of mortality of 10 per 10,000 abortions in pregnancy beyond 26 weeks period of gestation. Further, the risk of major complications which include severe hemorrhage, uterine injury non uterine organ injury requiring abdominal surgery are rare but possible. Victim as well as her mother are stated to have been duly counselled and informed of the procedural and medical aspects including possible complications.
9. Sub-section (2) of Section 3 of the Medical Termination of Pregnancy Act, 1971 was amended vide Amendment Act No.8 of 2021 (hereinafter referred to as "MTP Act") and Section 3 thereafter 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 twenty weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners are, of the 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 to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

Explanation 1.—For the purposes of clause (a), where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2.—For the purposes of clauses (a) and (b), where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

(2A) The norms for the registered medical practitioner whose opinion is required for termination of pregnancy at different gestational age shall be such as may be prescribed by rules made under this Act.

(2B) The provisions of sub-section (2) relating to the length of the pregnancy shall not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board.

(2C) Every State Government or Union territory, as the case may be, shall, by notification in the Official Gazette, constitute a Board to be called a Medical Board for the purposes of this Act to exercise such powers and functions as may be prescribed by rules made under this Act.

(2D) The Medical Board shall consist of the following, namely:—

(a) a Gynaecologist;



(b) a Paediatrician;

(c) a Radiologist or Sonologist; and

(d) such other number of members as may be notified in the Official Gazette by the State Government or Union territory, as the case may be.]

(3) In determining whether the continuance of a 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 reasonably 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 1 [mentally ill person], shall be terminated except with the consent in writing of her guardian.]

(b) Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman.”

10. Apparently, in terms of Explanation 2, for the purpose of clause (a) and (b) of sub-section (2) of Section 3 of the MTP Act, whensoever any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

11. In *X v. Union of India and Another*, 2023 SCC OnLine SC 1338, legal position for termination of pregnancy was summarized as under:

<i>Length of the pregnancy</i>	<i>Requirements for termination</i>
<i>Up to twenty weeks</i>	<i>Opinion of one RMP in terms of Section 3(2)</i>
<i>Between twenty and twenty-four weeks</i>	<i>Opinion of two RMPs in terms of Section 3(2) read with Rule 3B.</i>
<i>Beyond twenty-four weeks</i>	<i>If the termination is required to save the life of the pregnant woman, the</i>



	<p><i>opinion of one RMP in terms of Section 5</i></p> <p><i>If there are substantial foetal abnormalities, with the approval of the Medical Board in terms of Section 3(2B) read with Rule 3A(a)(i)</i></p>
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The petitioner therein, a married woman of 27 years already having two children had sought permission for medical termination of an ongoing pregnancy, which was initially permitted vide order dated 09.10.2023 by the Hon'ble Bench of two Judges of the Apex Court, on the ground that continuing with the pregnancy could seriously imperil the mental health of the petitioner. However, on 10.10.2023, an e-mail received from a Member of the Medical Board, AIIMS was placed, wherein it was observed that the foetus had a strong chance of survival and sought directions that foetal heartbeat ought to be stopped. Further, if the foetal heartbeat would not be stopped, the baby would be kept in an intensive care and there was a high possibility of immediate and long term physical and mental disability.

Following a split verdict, the matter was considered by a Bench of three Judges of the Hon'ble Apex Court. Noticing that the length of pregnancy had crossed over 24 weeks, which was approximately 26 weeks and 05 days at the time of hearing, the Hon'ble Bench declined the termination of pregnancy for the reasons recorded in para 29 to 33 as under:

“29. As noticed above, the length of the pregnancy has crossed twenty-four weeks. It is now approximately twenty-six weeks and five days. A medical termination of the pregnancy cannot be permitted for the following reasons:

a. Having crossed the statutory limit of twenty-four weeks, the requirements in either of Section 3(2B) or Section 5 must be met;



b. There are no “substantial foetal abnormalities” diagnosed by a Medical Board in this case, in terms of Section 3(2B). This Court called for a second medical report from AIIMS to ensure that the facts of the case were accurately placed before it and no foetal abnormality was detected; and

c. Neither of the two reports submitted by the Medical Boards indicates that a termination is immediately necessary to save the life of the petitioner, in terms of Section 5.

30. Under Article 142 of the Constitution, this Court has the power to do complete justice. However, this power may not be attracted in every case. If a medical termination were to be conducted at this stage, the doctors would be faced with a viable foetus. One of the options before this Court, which the email from AIIMS has flagged, is for it to direct the doctors to stop the heartbeat. This Court is averse to issuing a direction of this nature for the reasons recorded in the preceding paragraph. The petitioner, too, did not wish for this Court to issue such a direction. This was communicated by her to the court during the course of the hearing. In the absence of a direction to stop the heartbeat, the viable foetus would be faced with a significant risk of lifelong physical and mental disabilities. The reports submitted by the Medical Board speak for themselves.

31. For these reasons, we do not accede to the prayer for the medical termination of the pregnancy.

32. The delivery will be conducted by AIIMS at the appropriate time. The Union Government has undertaken to pay all the medical costs for the delivery and incidental to it.

33. Should the petitioner be inclined to give the child up for adoption, the Union Government has stated through the submission of the ASG that they shall ensure that this process takes place at the earliest, and in a smooth fashion. Needless to say, the decision of whether to give the child up for adoption is entirely that of the parents.”

12. In ***A (Mother of X) v. State of Maharashtra, Special Leave to Appeal (C) No.9163/2024 decided on 22.04.2024***, Hon’ble two Judge Bench of the Apex Court initially permitted the medical termination of pregnancy, of a minor aged about 14 years, wherein the period of gestation was 25 weeks at the time of revealing of pregnancy on 20.03.2024 and about 27/28 weeks on 03.04.2024 when the medical termination of pregnancy was declined by the High Court of Judicature at Bombay. The directions for



termination of pregnancy were issued by the Hon'ble Apex Court after advertng to *X v. Union of India and Another*, 2023 SCC OnLine SC 1338 and taking into consideration that the minor was unaware of the fact that she was pregnant until a very late stage. It was further observed that the guiding parameters shall be delivered separately.

13. Vide judgment dated 29.04.2024 in **Civil Appeal No.5194 of 2024- A (Mother of X) v. State of Maharashtra** delivered by the Hon'ble three Judge Bench, directions for terminating the pregnancy were recalled noticing the further communication by the hospital that the victim had subsequently desired that pregnancy be taken to term which was confirmed during course of proceedings. The observations of Hon'ble Apex Court in para 25 to 28 and 31 to 34 including conclusions in para 37, highlight the role of RMP and Medical Board under the MTP Act along with primacy of the pregnant person's consent in abortion, and are apt to be noticed:

*"25. From a perusal of the MTP Act, its statement of object and reasons as well as the recommendation of the Shah Committee which examined the issue of liberalising abortion laws in India (Report of the Committee to Study the Question of Legislation of Abortion, Ministry of Health and Family Planning, Government of India, dated December 1966), two clear postulates emerge as to the legislative intent of the MTP Act. Firstly, the health of the woman is paramount. This includes the risk avoided from the woman not availing unsafe and illegal methods of abortion. Secondly, disallowing termination does not stop abortions, it only stops safe and accessible abortions. The opinion of the RMP and the medical board must balance the legislative mandate of the MTP Act and the fundamental right of the pregnant person seeking a termination of the pregnancy. However, as noticed above and by this Court in *X v. State (NCT of Delhi)*, (2023) 9 SCC 433 the fear of prosecution among RMPs acts as a barrier for pregnant people in accessing safe abortion. Further, since the MTP Act only allows abortion beyond twenty four weeks if the fetus is diagnosed with substantial abnormalities, the medical board opines against termination of pregnancy merely by stating that the threshold under Section 3(2-B) of the MTP Act is not satisfied. The clarificatory report*



dated 3 April 2024 fell into this error by denying termination on the ground that the 9 Report of the Committee to Study the Question of Legislation of Abortion, Ministry of Health and Family Planning, Government of India, dated December 1966. 10 (2023) 9 SCC 433 Page 15 of 22 gestational age of the fetus is above twenty-four weeks and there are no congenital abnormalities in the fetus.

26. The report failed to form an opinion on the impact of the pregnancy on the physical and mental health of the pregnant person. If a pregnant person meets the condition under Section 3(2-B) of the MTP Act then there would be no need for any permission by the courts. Therefore, whenever a pregnant person approaches the High Court or this Court, it is imperative for the medical board to opine on the physical and mental health of the pregnant person. This court in **XYZ v. State of Gujarat, 2023 SCC OnLine SC 1573** held that the medical board or the High Court cannot refuse abortion merely on the ground that the gestational age of the pregnancy is above the statutory prescription. In light of the peculiar circumstances of that case where the pregnancy was detrimental to the physical and mental health of the pregnant person, this Court held that:

“10. We find that in the absence of even noticing the aforesaid portion of the report, the High Court was not right in simply holding that “the age of the foetus is almost 27 weeks as on 17.08.2023 and considering the statements made by the learned advocate for the petitioner-victim and the averments made in the application the petition for medical termination of pregnancy stands rejected”, which, in our view is *ex facie* contradictory...

...

19. The whole object of preferring a Writ Petition under Article 226 of the Constitution of India is to engage with the extraordinary discretionary jurisdiction of the High Court in exercise of its constitutional power. Such a power is vested with the constitutional courts and discretion has to be exercised judiciously and having regard to the facts of the case and by taking into consideration the relevant facts while leaving out irrelevant considerations and not *vice versa*.”

27. The powers vested under the Constitution in the High Court and this Court allow them to enforce fundamental rights guaranteed under Part III of the Constitution. When a person approaches the court for permission to terminate a pregnancy, the courts apply their mind to the case and make a decision to protect the physical and mental health of the pregnant person. In doing so the court relies on the opinion of the medical board constituted under the MTP Act for their medical



expertise. The court would thereafter apply their judicial mind to the opinion of the medical board. Therefore, the medical board cannot merely state that the grounds under Section 3(2-B) of the MTP Act are not met. The exercise of the jurisdiction of the courts would be affected if they did not have the advantage of the medical opinion of the board as to the risk involved to the physical and mental health of the pregnant person. Therefore, a medical board must examine the pregnant person and opine on the aspect of the risk to their physical and mental health.

28. The MTP Act has removed the restriction on the length of the pregnancy for termination in only two instances. Section 5 of the MTP Act prescribes that a pregnancy may be terminated, regardless of the gestational age, if the medical practitioner is of the opinion formed in good faith that the termination is immediately necessary to save the life of the pregnant person. Section 3(2-B) of the Act stipulates that no limit shall apply on the length of the pregnancy for terminating a fetus with substantial abnormalities. The legislation has made a value judgment in Section 3(2-B) of the Act, that a substantially abnormal fetus would be more injurious to the mental and physical health of a woman than any other circumstance. In this case, the circumstance against which the provision is comparable is rape of a minor. To deny the same enabling provision of the law would appear prima facie unreasonable and arbitrary. The value judgment of the legislation does not appear to be based on scientific parameters but rather on a notion that a substantially abnormal fetus will inflict the most aggravated form of injury to the pregnant person. This formed the basis for this Court to exercise its powers and allow the termination of pregnancy in its order dated 22 April 2024. The provision is arguably suspect on the ground that it unreasonably alters the autonomy of a person by classifying a substantially abnormal fetus differently than instances such as incest or rape. This issue may be examined in an appropriate proceeding should it become necessary.

29. xxxxxxxxx

30. xxxxxxxxx

31. This highlights the need for giving primacy to the fundamental rights to reproductive autonomy, dignity and privacy of the pregnant person by the medical board and the courts. The delays caused by a change in the opinion of the medical board or the procedures of the court must not frustrate the fundamental rights of pregnant people. We therefore hold that the medical board evaluating a pregnant person with a gestational age above twenty-four weeks must opine on the physical and mental health of the person by furnishing full details to the court.



Primacy of the pregnant person's consent in abortion

32. As noted above, the order of this court allowing 'X' to terminate her pregnancy is recalled. This decision is made in light of the decisional and bodily autonomy of the pregnant person and her parents. The MTP Act does not allow any interference with the personal choice of a pregnant person in terms of proceeding with the termination. The Act or indeed the jurisprudence around abortion developed by the courts leave no scope for interference by the family or the partner of a pregnant person in matters of reproductive choice.

33. As stated above, the role of the RMPs and the medical board must be in a manner which allows the pregnant person to freely exercise their choice. In the present case, the guardians of 'X', namely her parents, have also consented for taking the pregnancy to term. This is permissible as 'X' is a minor and the consent of the guardian is prescribed under Section 3(4)(a) of the MTP Act.

34. In ***Suchita Srivastava v. Chandigarh Admn.***, (2009) 9 SCC 1, a three-judge Bench of this Court has held that the right to make reproductive choices is a facet of Article 21 of the Constitution. Further, the consent of the pregnant person in matters of reproductive choices and abortion is paramount. The purport of this Court's decision in ***Suchita Srivastava*** (*supra*) was to protect the right to abortion on a firm footing as an intrinsic element of the fundamental rights to privacy, dignity and bodily integrity as well as to reaffirm that matters of sexual and reproductive choices belong to the individual alone. In rejecting the State's jurisdiction as the *parens patriae* of the pregnant person, this Court held that no entity, even if it is 14 (2009) 9 SCC 1 Page 20 of 22 the State, can speak on behalf of a pregnant person and usurp her consent. The choice to continue pregnancy to term, regardless of the court having allowed termination of the pregnancy, belongs to the individual alone.

35. XXXXXXXXXXXXXXXX

Conclusion

36. XXXXXXXXXXXXXXXX

37. In light of the issues which arose before this Court we record our conclusions as follows:

(i) The MTP Act protects the RMP and the medical boards when they form an opinion in good faith as to the termination of pregnancy;

(ii) The medical board, in forming its opinion on the termination of pregnancies must not restrict itself to the criteria under Section 3(2-B) of the MTP Act but must also evaluate the physical and emotional well being of the pregnant person in terms of the judgment;



(iii) When issuing a clarificatory opinion the medical board must provide sound and cogent reasons for any change in opinion and circumstances; and

(iv) The consent of a pregnant person in decisions of reproductive autonomy and termination of pregnancy is paramount. In case there is a divergence in the opinion of a pregnant person and her guardian, the opinion of the minor or mentally ill pregnant person must be taken into consideration as an important aspect in enabling the court to arrive at a just conclusion.”

14. Reverting back to the facts of the case, this Court is of the considered opinion that the suffering of the victim who is aged about 16 years would be compounded if she is forced to continue the pregnancy at a tender age. Apart from above, victim is bound to face social stigma which may not permit the scars left by defilement of her body to heal. As noticed in the judgments referred to above, victim has the ultimate right whether to give birth to the conceived child or to terminate the pregnancy and her opinion has to be given primacy. This Court is cautious of the fact that though the pregnancy is of 26⁺⁵ weeks of gestation but the risks associated with termination of pregnancy is not higher than the risk of delivery at full term of pregnancy. Merely because there is no foetal abnormality, it cannot be held that the reproductive choice of the victim may be curtailed. It may be underlined that unwanted pregnancy constitutes a grave injury to the mental health of the rape survivor/victim, as also confirmed in the opinion rendered by the Medical Board.

15. For the foregoing reasons, petition is allowed with the following directions:

- (i) Victim is permitted to undergo the procedure for medical termination of pregnancy immediately at Safdarjung Hospital, New Delhi as desired by her, under the supervision of the



Specialists from the concerned disciplines;

- (ii) Though the procedure to be undertaken for the purpose of medical termination of pregnancy has been duly informed to the victim and she has given an informed consent to the same along with guardian, but if at any stage the victim seeks to change her mind, the same shall be duly given consideration by the concerned medical team;
- (iii) In case there is any danger to life or well being of the victim, the medical team shall have the discretion to take appropriate decision as deemed suitable to save the life of the victim;
- (iv) The hospital is further directed to preserve necessary samples for the purpose of DNA testing from the foetus which may be required for the purpose of pending criminal proceedings by the Investigating Agency.
- (v) The State is also directed to bear the medical expenses as well as expenses towards special diet of the victim and take further necessary steps in the interest and welfare of the victim.

16. The medical reports which have been received on record shall be placed in a sealed cover by the registry, and if required may be released to the concerned hospital under the signatures of the counsels, after retaining copy thereof on record.

17. Medical Superintendent, Safdarjung Hospital, New Delhi is accordingly directed to immediately take necessary steps for compliance of directions for medical termination of pregnancy of minor victim.



18. Since during the course of proceedings, it has come to the notice of this Court that the name of victim appears to have been inadvertently entered for the purpose of examination in the OPD slip, which has since been directed to be redacted/anonymised, Director General, Health Services, Ministry of Health and Family Welfare, Government of India is directed to issue suitable instructions to all the concerned hospitals to ensure that identity of victim in such cases is not revealed and the record is kept confidential. Compliance report shall be forwarded within four weeks of receipt of this order.

19. A copy of this order be given *dasti* under signatures of Court Master/PS to learned counsel for the respondents and be also forwarded to Director General, Health Services, Ministry of Health and Family Welfare, Government of India for compliance.

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 07, 2024/sd