

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
: NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION NO. 271 OF 2020

KU. A B C (VICTIM)

VERSUS

STATE OF MAH., THRU. THE PRI.SECRETARY, PUBLIC HEALTH SERVICES AND ANR.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. S. H. Bhatia, Advocate appointed for the petitioner.
Mr. N. S. Rao, A. P. P. for the respondents

CORAM : V. M. DESHPANDE, J.
DATE : APRIL 03, 2020.

1. Not on board. Taken on board. The Registry is directed to register the matter.

2. This criminal writ petition is filed by the victim, a minor, through her father for issuing necessary direction to the respondents to terminate the unwanted pregnancy of 22 – 23 weeks of the petitioner/victim immediately.

3. The victim and her parents belong to a class of the society, which is not able to engage services of a lawyer to represent them before the Court. Therefore, the Legal Services Authority has appointed Ms. S. H. Bhatia, Advocate to represent them and accordingly Smt. Bhatia has prepared the present criminal writ petition.

4. Heard Ms. S. H. Bhatia, learned counsel appointed for the petitioner.

5. At the request of learned counsel Ms. Bhatia, she is permitted to delete respondent no.1 – Union of India through its Secretary, Health Department, New Delhi since

appropriate steps in the matter can be taken by respondent nos.2 and 3.

Permission granted.

Necessary amendment be carried out forthwith.

6. The victim was sexually assaulted by accused Yogesh Ramchandra Dohtare, who is the friend of victim's father. The victim is aged about 12 years and 4 months and thus she is a "*child*" within the meaning of Clause (d) of Section 2 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as "the POCSO Act" for short)

7. The mother of the victim lodged report against accused Yogesh with Police Station, Shegaon, Dist. Chandrapur on 14.03.2020. The report was disclosing commission of a cognizable offence. Resultantly, the Police Station Officer of said police station registered the crime against accused Yogesh for the offence punishable under Sections 376, 376(2)(l)(j)(n), 506 of the Indian Penal Code and under Sections 3, 4, 5(j)(ii), 5(l), 5(m) and 6 of the POCSO Act.

8. Due to the sexual atrocities committed on victim girl, she became pregnant. Annexure-D of the compilation, which is a report of the Government Medical College and Hospital, Chandrapur shows that the victim is carrying pregnancy of 20 weeks and 3 days and she has been asked to obtain necessary orders from this Court for medical termination of her pregnancy. Hence, this petition.

9. After hearing learned counsel appointed for the petitioner, issue notice to the respondents.

10. Mr. N.S. Rao, the learned Additional Public Prosecutor for the respondents.

11. The District Child Protection Officer Shri Ajay Sakharkar is personally present before the Court, who has brought the parents of the victim to this Court.

12. Looking to the urgency of the matter and looking to the fact that the minor girl is forced to have pregnancy, which as on today is of 22 weeks, the Civil Surgeon / Dean, Government Medical College and Hospital, Chandrapur is directed to constitute a Medical Board of Five Doctors, consisting of the Doctors including himself, two lady Doctors, such as Gynecologist, Radiologist, Cardiologist, Neurologist, Pathologist. The victim girl shall be produced before the said Board on 06.4.2020. After examining the victim, the said Board shall give its opinion on all aspects including the following points :

1] Whether continuance of the pregnancy would involve risk to the life of the pregnant woman or of grave injury to her physical or mental health ?

2] Whether 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 ?

3] Whether having regard to the advanced stage of pregnancy, there is any danger (other than the usual danger which arises

even in spontaneous delivery at the end of full term), if the pregnant mother is permitted to terminate her pregnancy ?

4] The Medical Process best suited to terminate the pregnancy and the possibility of child being born alive, in the process.

5] Any other issues, which the medical board regards as relevant, in such matters..

13. The Civil Surgeon/ Dean, Government Medical College and Hospital, Chandrapur, who will be the Chairman of the said Board shall submit the report of the Board to this Court on 7th April, 2020 before 3.00 pm.

Hence, the following order :

ORDER

1. The District Child Protection Officer, Chandrapur Mr. Ajay Sakharkar is hereby directed to produce the victim girl before the Board constituted for medical examination of the victim girl as observed in the body of this order on 6th April, 2020 at 10.00 O'clock.

2. The Medical Board, duly constituted and headed by the Civil Surgeon / Dean, Government Medical College and Hospital, Chandrapur shall examine the victim girl on utmost priority basis and shall give its opinion/report and submit to this Court on 7th April, 2020 before 3.00 pm.

3. Registrar (Judicial) is directed to communicate this order to the Civil Surgeon / Dean, Government Medical College and Hospital, Chandrapur. In addition to that it shall be the duty of the learned Additional Public



Prosecutor to take necessary steps to obtain instructions and communicate this order to the Civil Surgeon / Dean, Chandrapur.

4. A copy of this order, duly authenticated by the Court Sheristedar, be issued to the parties to act upon.

5. Put up this matter for further consideration on **8th April, 2020.**

JUDGE

Diwale

