

HIGH COURT OF KARNATAKA**Dated: 13th February 2024****Before: The Hon'ble Mr. Justice M. Nagaprasanna**

Writ Petition No. 3640 of 2024 (GM-RES)

XXX ...Petitioner**VS****The State of Karnataka****Represented by Secretary****Department of Health and Family Welfare****Bengaluru – 560 001.****The District Health Surgeon/Officer Cheluvamba Hospital****Mysuru – 570 001.****...Respondents****(By Smt. Navya Shekhar, AGA)****Legislation:**

Indian Penal Code, 1860 (Sections 376, 417, 420, 114, 506, 34)

Medical Termination of Pregnancy Act, 1971

Juvenile Justice (Care and Protection of Children) Act, 2015

Subject: Writ petition for quashing the order denying medical termination of pregnancy to a rape victim who is 24 weeks pregnant and seeking a direction for the procedure's execution.

Headnotes:

Rape Victim's Pregnancy Termination Denial – Challenge to denial of termination at 24 weeks gestation – Victim's plea for termination due to rape – Respondent's refusal based on exceeding gestational limit under Medical Termination of Pregnancy Act. [Para 3, 4]

Medical Reports and Psychological Impact – Initial medical report indicating 19 weeks pregnancy – Subsequent denial at 24 weeks citing Act's limitation – Psychological burden and adjustment disorder diagnosed – Medical Board's opinion on termination viability and petitioner's fitness. [Paras 4, 5, 7]

Legal Provisions and Court's Analysis – Consideration of Section 3 of the Medical Termination of Pregnancy Act – Distinction between gestational limits and exceptions in case of rape – Court's emphasis on victim's mental health and socio-economic impact. [Paras 6, 9, 10, 11]

Precedents and Judicial Approach – Reference to Apex Court judgments (Z vs. State of Bihar & Others, X vs. Principal Secretary, Health and Family Welfare Department) – Emphasis on victim's reproductive choice and mental health in cases of rape-induced pregnancy. [Paras 9, 10]

Decision and Directions – Writ petition allowed – Direction to Vani Vilas Hospital for procedure's execution, considering petitioner's fitness – DNA testing of foetus, child's care if born alive, and State's responsibility for child's welfare – Compensation to victim as per government order. [Paras 12, Order]

Referred Cases:

- Z vs. State of Bihar & Others (2018) 11 SCC 572
- X vs. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi and Another (2023) 9 SCC 433

Representing Advocates:

Sri. Naveen Kumar M. for petitioner

Smt. Navya Shekhar, AGA for respondents

ORDER

The petitioner – victim is before this Court seeking the following prayer:

- a. *“To issue a writ of certiorari quashing the order dated 03.02.2024 at **Annexure – E** made by the 2nd Respondent for denial of termination of pregnancy who is presently pregnant with gestational age corresponding to 24 weeks.*
- b. *To issue a writ in the nature of Mandamus directing the Respondent No.2 to **Medically Terminate the Pregnancy of Petitioner / Victim.***
- c. *To issue any other order or direction which this Hon’ble Court deems fit in the facts and circumstances of the case and in the interest of Justice and equity.”*

2. Heard Sri Naveen Kumar M., learned counsel for the petitioner and Smt. Navya Shekar, learned Additional Government Advocate for the respondents – State.

3. The facts in brief, are as follows:

The victim - petitioner was aged 21 years, at the relevant point in time. She is a victim of rape at the hands of the accused in Crime No.01 of 2024 for offences punishable under Sections 376, 417, 420, 114, 506 and 34 of the Indian Penal Code, 1860. On account of Amenorrhoea for few months, the petitioner – victim herself tested with the help of a pregnancy kit and got to know that she was pregnant. Thereafter, she brought to the notice of the accused and his parents about the pregnancy and requested the accused to get married to her. The parents of the accused at that point revealed the fact that the accused was already married to one Lekhana and the marriage between the accused and his wife was pending for divorce before the concerned Court. When the petitioner – victim started pestering the accused to get married to her, the accused allegedly threatened the petitioner that he would disclose her nude videos and photos to the public. The accused even tried to get the foetus aborted by advising the petitioner to take Ayurvedic

treatment, which was unsuccessful and thereby, the petitioner had to continue with her pregnancy for close to 18 weeks.

4. The petitioner – victim then files a complaint before the jurisdictional police in Crime No.1/2024 on 02.01.2024, for the afore-quoted offences. On the registration of the complaint, the police referred the petitioner to the Government Medical Hospital, Mysuru for examination on 03.01.2024, wherein it was opined that the petitioner was pregnant of 19 weeks. The petitioner states that at this point in time, she had requested the State to conduct a medical termination of pregnancy. Since the State did not accede to her request, the petitioner – victim has also approached the Medical Board, Mysuru, after around five weeks requesting termination of her pregnancy, but the report was not in favour of the petitioner on the score that the gestational age of the foetus has crossed 24 weeks as on the date of the report and the termination is in violation of Medical Termination of Pregnancy Act, 1971 (for short ‘the Act’). The report of the Medical Board has driven the petitioner to this Court in the subject petition.

5. This Court vide order dated 05.02.2024, in view of the impending urgency referred the petitioner – victim for a second medical examination to Vani Vilas Hospital, Bangalore and directed them to constitute a Medical Board of Gynecologist, Pediatrician and all necessary experts, who shall examine the petitioner on 07.02.2024 and render an opinion as to the fitness of the victim to undergo medical termination of pregnancy and also on the condition of the foetus. The report reads as follows:

“BANGALORE MEDICAL COLLEGE AND RESEARCH INSTITUTE

Medical Board Opinion for the Termination of Pregnancy of MISS XX

Name: XX

Age: 22 years

Date and time: 07/02/2024

Address: NO yadadore v, naarasipura taluk Mysore

Date, time and place of examination: 07/02/2024, 11:00 AM, Vani Vilas Hospital, BMCRI, Bangalore

DIAGNOSIS AT THE TIME OF ADMISSION- PRIMIGRAVIDA WITH 6 MONTHS OF AMENORRHOEA FOR MTP

PHYSICAL EXAMINATION

Patient is alert, conscious and cooperative.

Build and nutrition: Moderate

Weight: 50 kg

No pallor, no pedal edema, no cyanosis

Thyroid, breast, spine are normal

Pulse: 82bpm

BP: 110/80 mm Hg

Respiratory rate: 16cpm

Afebrile

Cardiovascular system: S1, S2 heard, clinically no abnormality detected

Respiratory system: clinically no abnormality detected

OBSTETRIC EXAMINATION

LMP: 18/8/2023 EDD: 25/5/2024

Scan EDD:

Primi, aged 22 years, no medical or surgical illness in the past.

On examination:

*Per abdomen: Uterus 24 - 26 weeks size, Fetal parts felt, Head lower pole,
Fetal heart sounds heard with Doppler.*

ULTRASOUND EXAMINATION

Ultrasound examination of abdomen on 07/02/2024

*Single live intrauterine gestation with good cardiac beats and body
movements seen*

Fetal heart rate: 140 bpm

Biparietal Diameter: 5.73 cm

Head circumference: 22.31cm

Abdominal circumference: 18.79 cm

Femur length: 4.45 cm

Mean gestational age: 24 weeks + 01 days

Estimated fetal weight: 655 gms

Placenta is Posterior, Lower Margin well above the internal OS.

Amniotic fluid adequate

INVESTIGATIONS:

Hb:10.7 gm/dl

Platelets:2.4lakh cells/mm³

Blood glucose:108.5mg/dl

TSH: 1.38

Blood group: 'O' Positive

HBsAg- Non Reactive

VDRL- Non Reactive

HIV- Non Reactive

RADIOLOGIST OPINION

Dr. Arul Dasan, Here is a patient by name XX. Aged 22 years unmarried, admitted under department of OBG with diagnosis, primi gravida with 6 months of amenorrhoea for MTP, there can be psychological burden on the patient and family. The patient can be treated based on the aforementioned information as per the court orders.

MEDICINE OPINION

Patient can be taken for the procedure after Anaesthetic fitness moderate surgical risk.

PSYCHIATRY OPINION

Patient is diagnosed as adjustment disorder, need supportive therapy and Tab. Escitalopram 10mg 1-0-0 (to start after the procedure), Tab. Clonazepam 0.5mg 0-0-1 (to start from today)

FINAL OPINION

MISS XX, D/O Mahalingaih, Aged 22 years with WP No. 3640/2024 (GM-RES) who was referred to the medical board for opinion on medical termination of pregnancy, was examined by the medical board and is of the opinion that she has been denied permission to undergo termination of pregnancy as she has crossed the period of gestation (Pregnancy) prescribed by the 2022 MTP Act for termination of pregnancy and fetus will be viable at the time of delivery.”

(Emphasis added)

The afore-quoted opinion of the Medical Board indicates that the petitioner - victim has been denied to undergo medical termination of pregnancy in view of the fact that the gestational age of the foetus has crossed 24 weeks and the termination would result in violation of the Act.

6. It is now germane to consider the relevant provisions of the Act, which read as follows:

“Section 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 such physical or mental abnormalities.

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 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."

Section 3 deals with termination of pregnancy and subsection (2) of Section 3 indicates termination of pregnancy which has exceeded twenty weeks but does not exceed twentyfour weeks. In terms of the final opinion of the Medical Board, at Vani Vilas Hospital, the petitioner – victim has crossed her gestational age of 24 weeks and termination would violate the Act.

7. The opinion of the Obstetrician concerning the termination is that, the petitioner can undergo the procedure for termination after Anaesthetic fitness with moderate surgical risk. The Radiologist has opined that there can be psychological burden on the patient and her family and therefore, she can undergo the medical termination of pregnancy as per Court orders. The Psychiatrist has opined that the petitioner is diagnosed with adjustment disorder, requires supportive therapy through medication and has also prescribed medication post termination. Despite, the opinion of the Obstetrician, Radiologist and Psychiatrist, the Medical Board in its final opinion has rejected the petitioner's request for medical termination of

pregnancy only on the score that it would result in violation of the Act and that the foetus would be viable at the time of delivery.

8. On a perusal at the opinion of the Medical Board, what would unmistakably emerge is that, though the petitioner is medically fit to undergo the medical termination of pregnancy, the Board has rejected it only on the score that it would violate the Act. When the Board was directed to render its opinion as to the fitness of the petitioner to undergo the procedure, the Board in its final opinion has not even whispered about the fitness of the petitioner but has gone into the Act in a mechanical way, thereby, failing to consider the best interest of the petitioner - victim.

9. In the peculiar facts and circumstances of the case at hand, it would be appropriate to quote the judgment of the Apex Court rendered in the case of **Z VS. STATE OF BIHAR AND OTHERS** reported in **(2018) 11 SCC 572**, wherein the Apex Court has held as follows:

*“9. After so stating, the High Court adverted to Sections 3 to 5 of the Act and opined that the provisions are not applicable to the writ petitioner. The learned Single Judge also referred to Section 10 of the Human Immunodeficiency Virus and AIDS (Prevention and Control) Act, 2017 and distinguished the decisions rendered in Meera Santosh Pal v. Union of India – (2017) 3 SCC 462, X v. Union of India and others – (2017) 3 SCC 458 and X v. Union of India – (2016) 14 SCC 382. He placed reliance on Sheetal Shankar Salvi and another v. Union of India – (2018) 11 SCC 606, wherein this Court has declined termination of 20 weeks of pregnancy. The High Court, thereafter, adverted to the statement of law in Suchita Srivastava and another v. State (UT of Chandigarh) – (2009) 9 SCC 1 and reproduced certain paragraphs and took note of the concept that in the case of a pregnant woman and 'compelling State interest' and further adverted to the doctrine of 'parens patriae' where in certain situations the State must make decisions in order to protect the interest of those persons who are unable to take care of themselves. Thereafter, the learned single Judge adverted to the two standards, namely, 'best interests' test and 'substituted judgment' test as laid down in Suchita Srivastava (supra). **The High Court also dwelled upon the role of the court that it must undertake a careful***

inquiry of the medical opinion on the feasibility of the pregnancy as well as social circumstances faced by the victim.

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22. ***In the instant case, the gravamen of the submission of the learned counsel for the appellant is that negligence and delay have been caused by the authorities of the State. Be it noted, learned counsel for the appellant has filed a chart giving various dates to highlight the chronology of events. On a perusal of the same, it is demonstrable that after the appellant was brought to Shanti Kutir, it was noticed that she was pregnant. She was taken to PMCH. At that time, she was 13 weeks and 6 days pregnant. In the midst of 18th week, she expressed her desire to terminate her pregnancy and that was communicated by the Shanti Kutir to the hospital and, thereafter, she was taken to PMCH, where she made an allegation that she had been raped and expressed her desire to terminate her pregnancy. Though she was taken to the hospital for termination of pregnancy, yet the hospital authorities instead of proceeding with the termination, called the father of the appellant to sign the consent form. According to the learned counsel for the appellant, while she had gone to the government hospital and clearly stated that she had been raped and further she was taken by the persons from the Shanti Kutir, which is a Women Rehabilitation Centre, and further there was no material that she was suffering from any mental illness, it was obligatory on the part of the hospital to terminate the pregnancy. Had that been done at the right time, the grave mental torture that she has been going through could have been avoided. Learned counsel also criticized the approach of the High Court in not dealing with the matter with required amount of sensitivity and not adhering to the statutory provision that when there is an allegation of rape, the pregnancy can be terminated. The High Court directed for a Medical Board to be constituted and after receipt of the report of the Medical Board some time was consumed and, thereafter, also the High Court required the father of the appellant to file an affidavit giving his consent.***

23. ***We have already analysed in detail the factual score and the approach of the High Court. We do not have the slightest hesitation in saying that the approach of the High Court is completely erroneous. The report submitted by the IGIMS stated that termination of pregnancy***

may need major surgical procedure along with subsequent consequences such as bleeding, sepsis and anesthesia hazards, but there was no opinion that the termination could not be carried out and it was risky to the life of the appellant. There should have been a query in this regard by the High Court which it did not do. That apart, the report shows that the appellant, who was a writ petitioner before the High Court, was suffering 30 from mild mental retardation and she was on medications and her condition was stable and she would require long term psychiatry treatment. The Medical Board has not stated that she was suffering from any kind of mental illness. The appellant was thirty-five year old at that time. She was a major. She was able to allege that she had been raped and that she wanted to terminate her pregnancy. PMCH, as we find, is definitely a place where pregnancy can be terminated.

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27. Thus, the opinion has to be formed by the registered practitioners as per the Act and they are required to form an opinion that continuance of pregnancy would involve a grave mental or physical harm to her. We have already referred to Explanation 1 which includes allegation of rape. As is perceivable, the Appellant had gone from a women rehabilitation centre, had given consent for termination of pregnancy and had alleged about rape committed on her, but the termination was not carried out. In such a circumstance, we are obliged to hold that there has been negligence in carrying out the statutory duty, as a result of which, the Appellant has been constrained to suffer grave mental injury.

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41. In a recent decision in Ms. Eera Thr. Dr. Manjula Krippendorf v. State (Govt. of NCT of Delhi) and Anr.- 2017 (8) SCALE 112, the distinction between the mental illness and mental retardation, keeping in view the statutory provisions and the concept of purposive interpretation, has been accepted.

42. In the case at hand, the Appellant is a victim of rape. She suffers from mild mental retardation and she is administered psychiatry treatment, but she is in a position to express her consent.

Under the statutory framework, she was entitled to give her consent for termination of pregnancy. As is evident, she did not desire to bear a child. This is a reverse situation what has been portrayed in Suchita Srivastava (supra). The principle set out in Suchita Srivastava (supra) emphasizes on consent. As the facts would unfurl, the Appellant had given consent for termination and she had categorically alleged about rape. In such a circumstance, we perceive no fathomable reason on the part of the PMCH not to have proceeded for termination of the pregnancy because there was nothing on record to show that there was any danger to the life of the victim.”

(Emphasis supplied)

In the light of the afore-quoted judgment of the Apex Court, the Medical Board should have only rendered its opinion concerning the risk to the life of the victim, in case of medical termination of pregnancy, keeping in mind the reproductive choice of the petitioner. But, in the case at hand having not done so, the petitioner is been forced to undergo an unwanted pregnancy, which poses several problems such as a grave risk to her mental health and financial difficulties.

10. Again, the Apex Court in the later judgment in the case of ***X Vs. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi and Another*** reported in ***(2023) 9 SCC 433***, while discussing the impact of an unwanted pregnancy upon the mental health of a woman, has held as follows:

“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 57, discovery of foetal anomalies - A v. Union of India, (2018) 14 SCC 75; 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 Vs. Union of India, (2020) 19 SCC 806, and pregnancies resulting from sexual assault or rape - Z v. State of Bihar, (2018) 11 SCC 57; X Vs. 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 recognized 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 Organization defines mental health as a state of “mental well-being that enables people to cope with the stresses of life, realize their abilities, learn well and work well, and contribute to their community.” (World Health Organisation, “Promoting Mental Health: Concepts, Emerging Evidence, Practise (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 recognizes 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.*

69. *There have been numerous decisions of the High Courts where a purposive interpretation is given to the phrase mental health as used in the MTP Act. In Medical Termination of Pregnancy of Woman Prisoner in Byculla District Prison, In re. – 2016 SCC Online Bom 8426, The High Court of Bombay correctly held that compelling a woman to continue any unwanted pregnancy violates a woman’s bodily integrity, aggravates her mental trauma and has a deleterious*

effect on the mental health of the woman because of the immediate social, financial and other consequences flowing from the pregnancy.

70. In Sidra Mehboob Shaikh v. State of Maharashtra – 2021 SCC Online Bom 1839 the High Court of Bombay permitted the petitioner to undergo medical termination of her pregnancy on the ground that compelling her to continue with her unwanted pregnancy would be oppressive, and would likely cause a grave injury to her mental health. The petitioner, a victim of domestic violence, had approached the court to allow her to undergo an abortion as she pleaded that she did not want to raise a child in the absence of financial and emotional support from her husband; and raising a child on her own would be burdensome. The High Court observed that:

“22. Mental state of a person is a continuum with good mental health being at one end and diagnosable mental illness at the opposite end. Therefore, mental health and mental illness, although sound similar, are not the same.”

71. We note the correct interpretation adopted in two other judgments from the Bombay High Court, where the Court permitted unmarried petitioners to abort, after purposively construing the effects of carrying an unwanted pregnancy on mental health of a woman. In XYZ Vs. State of Maharashtra - 2021 SCC Online Bom 3353, an unmarried petitioner aged about 18 years was allowed to terminate her pregnancy in the 26th week after considering her socio-economic condition, and the impact of the continuation of pregnancy on her mental health.

72. In Siddhi Vishwanath Shelar v. State of Maharashtra – 2020 SCC Online Bom 11672, a twenty-three year old petitioner contended that she was not mentally ready to be an unwed mother and sought the termination of her pregnancy of approximately twenty-three weeks. The Petitioner was engaged in a consensual relationship but had since parted ways from her partner, and thus wanted to terminate the unwanted pregnancy. While permitting the abortion, the High Court of Bombay observed that insisting upon continuance of pregnancy would involve a grave injury to the petitioner’s health. The High Court took note of the woman’s submissions regarding her actual and foreseeable environment.”

(Emphasis supplied)

As per Explanation (2) to Section 3(2)(b) of the Act quoted (*supra*), where any pregnancy is alleged to be a consequence of a rape, the anguish caused by such pregnancy to the woman shall constitute a grave injury to the mental health of the pregnant woman. The Medical Board has infact acted de hors the Explanation (II) to Section 3(2)(b) by not recognizing the grave impact on the mental health of the petitioner in continuing the pregnancy, considering that she is a victim of rape.

11. Apart from the report of the Medical Board, it is pertinent and imperative to note the socio-economic impact on the victim, if she begets. As per the petition averments, the victim in the case at hand is an unmarried woman and not financially sound. Learned counsel for petitioner - victim further expresses the difficulties of the petitioner in providing the required necessities for nurturing a child. In such circumstances, it would be onerous upon the petitioner to bring up a child.

12. In the light of the aforesaid reasons, the petitioner - victim can undergo termination of pregnancy with necessary precautions during the procedure for termination with psychological support. It would become necessary for a direction to be issued to the Hospital to undertake termination of pregnancy. Therefore, the following:

ORDER

1. The writ petition is allowed.
2. *Mandamus* issues to Vani Vilas Hospital, Bengaluru, through the respondents - State to carryout the procedure for Medical Termination of Pregnancy in terms of the Medical Termination of Pregnancy Rules, 1971, forthwith at its hospital at the cost of the State.
3. The procedure is subject to further examination of the Doctor who has to conduct such a procedure and if in the opinion of the Doctor, such a procedure would cause harm or injury to the life of the petitioner, the Doctor shall be the

final deciding authority as to whether to go ahead or not with such a procedure;

4. In the event of the Doctor being of the opinion that medical termination of pregnancy procedure has to be carried out and is in fact carried out, the foetus shall be preserved by Vani Vilas Hospital in such a manner as to facilitate DNA testing of the foetus. The said Hospital is directed to send the tissue sample of the foetus for DNA testing to the Central Forensic Testing Laboratory at Bangalore.
5. If the baby is alive at birth, the hospital shall ensure that the baby is offered the best medical treatment available, so that it develops into a healthy child.
6. If the petitioner is not willing to assume the responsibility of the baby, the State and its agencies shall assume full responsibility and offer medical support and facilities to the child, keeping in mind the best interests of the child and the statutory provisions in the Juvenile Justice (Care and Protection of Children) Act, 2015.
7. Respondent No.1 – State shall pay the compensation to the petitioner – victim in terms of the Government Order No.HD 42 PCB 2018, dated 25.09.2018
8. Official respondents shall file status report in two weeks, for its compliance.
9. A copy of this order shall be furnished to learned Additional Government Advocate.
10. Registry shall communicate this order to the Hospital – the Medical Superintendent of Vani Vilas Hospital, forthwith, by way of electronic mail.

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