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WP-3491-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

ON THE 28th OF JANUARY, 2025WRIT PETITION No. 3491 of 2025*PROSECUTIX X**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Hitendra Singh - Government Advocate for the State.
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ORDER

Following directions are issued by this Court in W.P. No.39431/2024

(Seema Bai Vs. The State of Madhya Pradesh and others):-

(i) The SHO of the said police station, on the basis of the MLC of the victim indicating that she is pregnant, shall forthwith forward the victim to the concerned District Court;

(ii) the learned Judge of the District Court, regardless of any application for termination of pregnancy, though not maintainable, filed before it or not, shall refer the victim to the concerned medical officer/Board to expeditiously submit its report, if the pregnancy of the victim can be terminated;

(iii) the District Court, after obtaining the said medical report, under intimation to the victim and her parents, directly refer such case and report to the nearest Registry of the High Court;

(iv) the Registry of this Court, in turn, shall register such reference as a Writ Petition under Article 226 of the Constitution, Suo Moto, and list the matter immediately before the concerned Bench having the roster, so that appropriate orders regarding termination of pregnancy can be passed by this Court without any undue delay.

2. On going through Provisions of the Medical Termination of



Pregnancy Act, 1971 (hereinafter referred as MTP Act 1971), it is found that Section 3 is enabling provision to terminate pregnancy of conditions mentioned in said section. Section 3 protects Doctor who terminates pregnancy from any prosecution. Section 3(2)(A) of MTP Act, 1971 pregnancy can be terminated by registered Medical Practitioner where length of pregnancy does not exceed twenty weeks. Section 3(2)(B) of MTP Act, 1971, pregnancy may be terminated where length of pregnancy does not exceed 24 weeks by two registered Medical Practitioners (RMP). Termination under 3(2)(A) and 3(2)(B) shall only take place, if opinion is formed under Section 3(2)(i) or under Section 3(2)(ii), which are quoted as under:-

*"(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."*

3. Further explanation 2 of Section 3(2) of MTP Act, 1971 lays down that any pregnancy which is alleged by pregnant woman to have been caused by rape, the anguish caused by pregnancy shall be presumed to constitute a grave injury to mental health of a pregnant woman.

4. Considering the Provisions of MTP Act 1971, pregnancy can be terminated by RMP without there being an order of the Court, if case falls within purview of Section 3(2)(A) or under Section 5(1) or under Section 3(2)(B) of MTP Act, 1971.

5. Categories of woman has also been mentioned in Rule 3B of Medical Termination of Pregnancy Rules, who can get their pregnancy



terminated upto 24 weeks i.e. woman who are survivors of sexual assault or rape or incest are covered.

6. In all aforesaid cases, order from the Court is not required for termination of pregnancy. Pregnancy can be terminated in all aforesaid cases which are covered within the purview of the Act. Permission from the Court is only required in cases where pregnancy is more than 24 weeks old. Termination of such pregnancy is not permissible under Medical Termination of Pregnancy Act, 1971. In said cases, High Court has to exercise its jurisdiction under Article 226 of the Constitution of India for passing orders for termination of pregnancy.

7. In this case, fetus is aged 6-7 weeks. Medical report has been obtained on 25.01.2025. As per said medical report, it will be safe to terminate pregnancy at higher centre i.e. Medical College, Rewa.

8. Considering the said circumstances, petition is *disposed off* directing termination of pregnancy at higher medical centre i.e. at Medical College, Rewa expeditiously.

9. Copy of this order be sent to the Office of Advocate General, Registrar General and Principal Scretary of Medical and Health Centre for compliance.

(VISHAL DHAGAT)
JUDGE