

ITEM NO.38

COURT NO.1

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.9163/2024

(Arising out of impugned final judgment and order dated 04-04-2024 in WPL No.11208/2024 passed by the High Court of Judicature at Bombay)

A (MOTHER OF X)

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ANR.

Respondent(s)

(With IA No. 95161/2024 - EXEMPTION FROM FILING O.T.)

Date : 19-04-2024 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s) Mr. Shantanu M. Adkar, Adv.
Mr. Ashley Kusher, Adv.
Ms. Bharti Tyagi, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG
Akshaja Singh, Adv.

Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pandey, Adv.
Mr. Bharat Bagla, Adv.
Mr. Preet Phanse, Adv.
Mr. Aditya Krishna, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 By its order dated 4 April 2024, the High Court of Judicature at Bombay has dismissed the petition filed by the mother of a minor who is about fourteen years of age seeking a medical termination of pregnancy of the minor.
- 2 It is alleged that the minor was subjected to sexual assault and an FIR has been registered with Turbhe MIDC Police Station at her instance on 20 March 2024 for offences punishable under Section 376 of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act 2012.
- 3 In declining permission for medical termination of pregnancy, the High Court has substantially relied on the opinion of the Medical Board constituted at the Department of Obstetrics & Gynaecology of the Grant Government Medical College & Sir J J Group of Hospitals, Mumbai. It appears that there were two medical reports. The grievance of the petitioner is that the second of the two reports which is annexed at Annexure P-3 of the Special Leave Petition, was prepared without examination of the petitioner's daughter.
- 4 Besides the counsel appearing on behalf of the petitioner and Standing Counsel for the State of Maharashtra, we have had the benefit of hearing submissions of Ms Aishwarya Bhati, Additional Solicitor General.
- 5 From the material which has been placed on the record, a striking feature which has emerged before this Court, *prima facie*, is that the medical report does not contain an evaluation of the physical and mental status of the minor, particularly having regard to the background leading up to the pregnancy, including the alleged sexual assault. Moreover, it would be necessary that this Court is apprised whether the carrying of the pregnancy to the full term would impact upon the physical and mental well being of the minor who is barely fourteen years old. The Medical Board shall also opine on

whether a termination of the pregnancy can be carried out at this stage without any threat to the life of the minor.

- 6 In this view of the matter, we are of the view that the petitioner's daughter should be examined afresh by a Medical Board to be constituted at the Lokmanya Tilak Municipal General Hospital and Lokmanya Tilak Municipal Medical College, Sion, Mumbai tomorrow (20 April 2024). We request the Medical Superintendent of the hospital to constitute a Medical Board for that purpose.
- 7 We have requested Standing Counsel for the State of Maharashtra to ensure that due arrangements are made for the transportation of the petitioner and her daughter from the place of residence to the Lokmanya Tilak Municipal General Hospital and Lokmanya Tilak Municipal Medical College, Sion, Mumbai and return.
- 8 A copy of the report shall be submitted through the Standing Counsel for the State of Maharashtra and shall be placed on the record of this Court at 10.30 am on 22 April 2024.
- 9 List the Special Leave Petition at 10.30 am on 22 April 2024 as the first item on the Board.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar