

2026 LiveLaw (SC) 160

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
B.V. NAGARATHNA; J., UJJAL BHUYAN; J.
FEBRUARY 6, 2026

CIVIL APPEAL NO.827 OF 2026 (Arising out of Special Leave Petition (Civil) No.4774 of 2026)
A (MOTHER OF X) versus STATE OF MAHARASHTRA & OTHERS

Medical Termination of Pregnancy – Reproductive Autonomy and Bodily Integrity – Right to Life and Liberty under Article 21 – Supreme Court allowed the medical termination of a 30-week pregnancy of a girl who conceived as a minor – Supreme Court set aside the Bombay High Court's order which had declined termination on the grounds of foetal viability and the possibility of adoption - Key Principles Established – i. Priority of Maternal Rights: held that the reproductive autonomy and bodily integrity of the pregnant woman must be given sufficient emphasis over the rights of an unborn foetus; ii. Decisional Autonomy: A woman's right to choose whether to carry a pregnancy to term is firmly rooted in her right to bodily autonomy – Noted that forcing a woman to continue an unwanted pregnancy causes "visceral" trauma and ignores the physical and mental transformations a woman's body undergoes; iii. Irrelevance of Foetal Viability: When a pregnant woman is determined to terminate and has detached herself from the pregnancy, considerations such as whether the child would be born healthy or is viable are not relevant; iv. Status of the Mother: The fact that the daughter had crossed 18 years of age by the time of the High Court order was deemed "irrelevant," as she was a minor at the time of conception and the pregnancy resulted from a relationship outside of wedlock. [Relied on *X vs. Health & Family Welfare Department*, 2022 SCC OnLine SC 1321; Paras 15-17]

For Petitioner(s): Mr. Shantanu M. Adkar, Adv. Mr. Ashley Cushner, Adv. Mr. Mohit Kumar Singh, Adv. Ms. Shambhavi Kanade, Adv. Ms. Amita Sachdeva, AOR

For Respondent(s): Ms. Devanshi Singh, Adv. Mr. Siddharth Dharmadhikari, Adv. Mr. Aaditya Aniruddha Pande, AOR Mr. Shrirang B. Varma, Adv. Ms. Arunima Das, Adv.

J U D G M E N T

NAGARATHNA, J.

Leave granted.

2. Being aggrieved by the order dated 27.01.2026 passed by the High Court of Judicature at Bombay in Writ Petition (L) No.2388 of 2026 by which the appellant's request for medical termination of pregnancy of her minor daughter "X" (presently she is stated to have crossed 18 years of age) was declined and instead certain directions were issued for continuation of the pregnancy and to give birth to a child, the appellant is before this Court.

3. Briefly stated, the facts of the case are that the appellant herein is the mother of the daughter who at the relevant time was stated to be a minor. The daughter of the appellant herein is alleged to have indulged in physical relations with a friend and as a result conceived. In January 2026, the daughter informed the appellant of abdominal pain and not having menstruated for a few months. Upon being medically examined, it was revealed that she was about 23 weeks' pregnant.

4. An FIR bearing No.3/2026 came to be lodged by the appellant against the friend of the minor daughter under Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act", for short) and Section 64(2)(i) of the Bharatiya Nyaya Sanhita, 2023 ("BNS", for short) at the Srinagar Police Station, District Thane Sehar, Maharashtra.
5. The appellant herein preferred Writ Petition (L) No.2388 of 2026 before the High Court of Judicature at Bombay seeking urgent medical termination of pregnancy of her minor daughter, on the grounds of the negative impact such pregnancy would have on the minor daughter's physical and mental health, as well as on her societal standing and future prospects.
6. By interim order dated 23.01.2026, the High Court directed the minor daughter of the appellant herein to undergo examination by the Medical Board of Sir J.J. Hospital at 3:00 PM and sought opinion on questions relating to the stage of pregnancy, whether termination could take place and if yes, by what method and whether any health risk would be faced by the minor daughter if such termination was effectuated.
7. The Medical Board in its Report stated that the minor daughter of the appellant was in her 28th week of pregnancy, that the foetus did not possess any congenital anomalies, that termination was possible but that Sir J. J. Hospital did not possess the expertise to carry out the specific procedure required and that termination at this stage may result in the premature birth of the foetus.
8. By the impugned order dated 27.01.2026, the High Court refused to grant permission for the medical termination of pregnancy on the grounds that the minor daughter had attained majority as on the date of the order, that the child to be born could be given up for adoption and that termination in these facts and circumstances would amount to foeticide. The High Court heavily relied on the judgement of a three-Judge Bench of this Court in the case of *X vs. Union of India, 2023 INSC 919*, wherein permission was not granted for medical termination of pregnancy when the foetus was determined to be viable.
9. We have heard learned counsel for the appellant and learned counsel for the first respondent-State. We have perused the material on record as well as the impugned order.
10. The issue which arises for our consideration in this case is with regard to the disinclination of the appellant's daughter herein to continue with the pregnancy and to give birth to a child. The appellant's daughter is presently pregnant for thirty weeks. The request was made by the appellant for seeking medical termination of her daughter's pregnancy since the said pregnancy was owing to a relationship that her daughter had with her friend. It is stated that the continuation of the pregnancy resulting in delivery would be traumatic both mentally as well as physically to the daughter and adversely affect her future prospects. It is in the above circumstances that the appellant approached the High Court.
11. The High Court was of the view that since the appellant's daughter had already crossed twenty-seven weeks which was also beyond the period stipulated under the Medical Termination of Pregnancy Act, 1971, permitting the appellant's daughter to terminate the pregnancy at that stage would not be in the interest of the foetus to be given birth to as a baby. In this regard, there was a Medical Board constituted and the Report of the Medical Board was also considered. The said Report does not indicate any grave risk to the appellant's daughter if she is permitted to terminate the pregnancy. However, the High Court was of the view that the appellant's daughter could give birth to the child and

the child could be given up for adoption in case she did not intend to bring up the child. This would also be in the interest of a viable foetus being born alive.

12. Being aggrieved by the said direction, the appellant is before this Court.

13. During the course of submissions, appellant's counsel contended that if the minor daughter of the appellant is permitted to complete the pregnancy and give birth to the child, it would cause grave mental trauma to her owing to the social stigma that would be attached to her. It was submitted that this is a case where the appellant's daughter would be forced to give birth to an illegitimate child which she may well avoid although it may have been belated in taking a decision in the matter. But nevertheless the rights of the appellant's daughter must be protected and enforced even though ultimately the termination of the pregnancy may result in the foetus being born alive at this stage. It was submitted that the rights of the pregnant daughter of the appellant must prevail over the rights of an unborn foetus.

14. *Per contra*, learned counsel appearing for the respondent(s) State of Maharashtra contended that each case would have to be looked at on its own facts and circumstances having regard to the fact that there have been certain cases where termination has not been permitted by the High Court or by this Court whereas there are also other cases where termination has been permitted beyond the period stipulated under the provisions of the Act. In this regard, she submitted that the High Court has taken care of not only the interest of the daughter of the appellant, who is to deliver the child, but also the interest of the child to be born inasmuch as she submitted that if the foetus remains alive there are chances of the foetus suffering from ailments and the risk would be greater if the foetus is born alive which would require neonatal treatment of a very high order and for a longer period of time. On the other hand, if the appellant's daughter is directed to complete the pregnancy and give birth to a child, there is a possibility of the child being a healthy one and she may be permitted to give up the child for adoption.

15. The issues raised by the respective sides are quite persuasive and delicate inasmuch as the arguments advanced by the respective counsel have their own weight. But what has to be considered in the instant case is ultimately the right of the minor child i.e. the appellant's daughter to continue a pregnancy which is *ex facie* outside marriage and the child to be born is to a pregnant woman who is stated to be minor. The appellant's daughter was a minor when she conceived and who has to face this unfortunate situation of having a pregnancy owing to a relationship that she had. The fact that presently she has crossed eighteen years of age is an irrelevant factor.

16. We are also not on the question whether the relationship was consensual or whether it was a case of sexual assault although a criminal complaint has been lodged by the appellant in January 2026. That is not the issue to be considered in the present case. Ultimately, the denominator is the fact that the child to be born is not out of a wedlock and secondly, the mother to be of the child does not want to bear such a child. If the interest of the mother is to be taken note of, then her reproductive autonomy must be given sufficient emphasis. The court cannot compel any woman, much less a minor child, to complete her pregnancy if she is otherwise not intending to do so; that would be more traumatic for a minor such as the appellant's daughter in the instant case.

17. In this regard we reiterate what has been observed by one of us (Nagarathna, J) in *X vs. Union of India & Another*, I.A. No.211690 of 2023 in M.A. No.2157 of 2023 in Writ Petition (Civil) No.1137 of 2023 dated 11.10.2023 as under:

“5. In this context, it would be necessary to reiterate the three Judge Bench Judgment of this Court in *X vs. Health & Family Welfare Department, 2022 SCC OnLine SC 1321*, authored by Dr. Justice D.Y. Chandrachud, presently the Chief Justice of India, of which paragraphs 99, 101 and 102 read as under:

“99. The ambit of reproductive rights is not restricted to the right of women to have or not have children. It also includes the constellation of freedoms and entitlements that enable a woman to decide freely on all matters relating to her sexual and reproductive health. Reproductive rights include the right to access education and information about contraception and sexual health, the right to decide whether and what type of contraceptives to use, the right to choose whether and when to have children, the right to choose the number of children, the right to access safe and legal abortions, and the right to reproductive healthcare. Women must also have the autonomy to make decisions concerning these rights, free from coercion or violence.

X X X

101. To this, we may add that a woman is often enmeshed in complex notions of family, community, religion, and caste. Such external societal factors affect the way a woman exercises autonomy and control over her body, particularly in matters relating to reproductive decisions. Societal factors often find reinforcement by way of legal barriers restricting a woman's right to access abortion. The decision to have or not to have an abortion is borne out of complicated life circumstances, which only the woman can choose on her own terms without external interference or influence. Reproductive autonomy requires that every pregnant woman has the intrinsic right to choose to undergo or not to undergo abortion without any consent or authorization from a third party.

102. The right to reproductive autonomy is closely linked with the right to bodily autonomy. As the term itself suggests, bodily autonomy is the right to take decisions about one's body. The consequences of an unwanted pregnancy on a woman's body as well as her mind cannot be understated. The fetus relies on the pregnant woman's body for sustenance and nourishment until it is born. The biological process of pregnancy transforms the woman's body to permit this. The woman may experience swelling, body ache, contractions, morning sickness, and restricted mobility, to name a few of a host of side effects. Further, complications may arise which pose a risk to the life of the woman. A mere description of the side effects of a pregnancy cannot possibly do justice to the visceral image of forcing a woman to continue with an unwanted pregnancy. Therefore, the decision to carry the pregnancy to its full term or terminate it is firmly rooted in the right to bodily autonomy and decisional autonomy of the pregnant woman.

(underlining by me)”

6. Unwanted pregnancy as a result of failure in a familyplanning method, even during the period of Lactational Amenorrhea as in the instant case or as a result of sexual assault results in the same consequence. The pregnant lady is not interested in continuing with the pregnancy. In such a situation whether the child to be born is viable or if the child would be a healthy child are not relevant considerations. What is to be focused upon is, whether, the pregnant lady intends to give birth to a child or not. This is what has been emphasized by this Court in the aforesaid three Judge Bench decision which is binding on this Bench.

7. It may not be out of place to note that a foetus is dependent on the mother and cannot be recognized as an individual personality from that of the mother as its very existence is owed to the mother. It would be incongruous to conclude that the foetus has a separate identity from the mother and in spite of the physical or mental health of a mother being under threat, she will have to continue her pregnancy until the foetus is born which would endanger her delicate health. Such a position is contrary to Article 21 and 15(3) of the Constitution of India which recognize the right to life and liberty and particularly those of a woman.

One cannot also lose sight of the fact that reproduction is unique to women and throughout her life, a woman goes through the process of menstruation, pregnancy, delivery, post-delivery

phase and ultimately menopause. As stated above, right to reproductive health being a woman's human right would also include the right to an abortion. Otherwise, a woman who is forced into an unwanted pregnancy would experience physical and mental trauma and to endure the pregnancy which may continue in the post-natal period owing to which she would have the burden of bringing up an additional child and consequently, may lose out on other opportunities in life including right to employment and contribution to the income of the family.

X X X

This is not to say that in every case where there is an unwanted pregnancy, this Court or the High Courts ought to exercise its jurisdiction and order for termination. It would depend on the facts of each case.

But in this case, when the petitioner is determined to terminate her pregnancy and has completely detached herself from the fact that she would be giving birth to her child shortly, she cannot be made worse off by this Court by declining to grant her the relief she has sought and thereby forcing her to continue with an unwanted pregnancy.”

18. In the circumstances, we accept the submissions made by learned counsel for the appellant.

19. We allow this appeal and set aside the order dated 27.01.2026 passed by the High Court of Judicature at Bombay in Writ Petition (L) No.2388 of 2026.

20. We direct that the appellant's daughter is permitted to undergo medical termination of pregnancy.

21. It is needless to observe that the appellant herein shall give a written undertaking consenting to the medical termination of pregnancy of her daughter.

22. The appellant's daughter is presently at J.J. Group of Hospitals, Mumbai. We direct the J.J. Group of Hospitals, Mumbai to conduct the procedure of medical termination of pregnancy of the daughter of the appellant herein by bearing in mind all medical safeguards.

23. Since there is a grave urgency expressed in the matter, we shall release the operative portion of the order today itself.

24. We direct the Registry of this Court to release the operative portion of the order during the course of the day.

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