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Rohit Ghuge

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 13260 OF 2026

Mrs. XYZ

...Petitioner

Versus

1. **The State of Maharashtra**
Through the Principal Secretary,
Public Health Department,
Mantralaya, Mumbai.

- 2.

...Respondents

Mr. Narayan L. P. Mishra, for Petitioner.

Smt. M. P. Thakur, AGP for Respondent-State.

Mr. Rammani G. Upadhyay a/w Rajeev Shukla, for Respondent No.2.

**CORAM: BHARATI DANGRE &
 ASHISH S CHAVAN, JJ.**

DATE : 06th OCTOBER 2026.

JUDGMENT [Per Ashish S. Chavan J.]:

1. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned counsel appearing for the Respondents waive notice on behalf of the

respective Respondents. The Registry is directed to anonymise the name of the Petitioner in the judgment.

2. The Petitioner, a married woman aged 33 years has invoked the Writ Jurisdiction of this Court seeking medical termination of her pregnancy in accordance with the Medical Termination of Pregnancy Act, 1971 (“**MTP Act, 1971**”) and the Rules framed therein alleging that her husband, Respondent No. 2 concealing the fact that he was previously married, entered into a marriage with the Petitioner on 16.02.2025. It is alleged that believing his false representation, the Petitioner consented to the marriage. It is further alleged that, subsequently the Petitioner discovered documents and information indicating that her husband had a previous marriage. On a separate note, the Petitioner was allegedly subjected to continuous mental and physical harassment due to which she left her matrimonial house. Petitioner after having undergone a sonography test on 26th July 2026, realised that she was pregnant and the gestational age of her pregnancy was 13 weeks and 2 days. She approached this Court by way of the present Petition which was filed on 10.08.2026 and circulated before us on 06.10.2026. The prayers in the Petition are:

“(a) To direct the competent Medical Board/qualified medical practitioners to immediately examine the Petitioner and assess her physical and mental condition and the feasibility of medical termination of pregnancy;

(b) To direct the concerned medical hospital to undertake medical termination of the Petitioner's pregnancy, in accordance with the Medical Termination of Pregnancy Act, 1971 and the Rules framed thereunder;

(c) To direct that such medical examination and, the termination procedure be carried out at the earliest, considering the advancing gestational age;

(d) To pass appropriate directions for maintaining confidentiality of the Petitioner's identity and medical records, in accordance with law; and

(e) To pass such other and further orders as this Hon'ble Court may deem fit and proper."

3. Heard Mr. Mishra for the Petitioner, Ms. Thakur, AGP for Respondent No. 1-State and Mr. Upadhyay for Respondent No. 2.

4. The Ld. Counsel for the Petitioner has submitted that the pregnancy of the Petitioner is at an advanced stage and its gestational age is approximately 24 weeks. Since she had crossed the limit of 24 weeks prescribed by the MTP Act, 1971 to undergo medical termination of pregnancy, it was prayed that she may be referred to the Medical Board constituted under the MTP Act. 1971 and after examining and assessing her condition, she may be permitted to terminate her pregnancy. The only argument that was canvassed before us on behalf of the Petitioner in support of her prayers was that due to the discovery of the fraud allegedly perpetrated on her by Respondent No.2, the Petitioner is in a

severe mental trauma and loss of trust in the matrimonial relationship. She is an adult woman having reproductive autonomy and the continuation of her pregnancy is likely to cause grave injury to her mental health, having regard to her actual and reasonably foreseeable circumstances. The Ld. Counsel for the Petitioner relied on Explanation I to Section 3(2) and Rule 3-B of the MTP Act, 1971 and Rules framed therein to argue that the mental trauma suffered by her is grave enough to attract the aforesaid provisions.

5. The issue that arises before us is whether the Petitioner can be permitted to terminate her pregnancy in terms of the MTP Act, 1971 and the Rules framed therein in the peculiar facts of the present case.

Before proceeding to examine this issue, it would be apposite to set out the scheme of the MTP Act, 1971 (as amended till date). Originally enacted in 1971, the said Act provided for termination of certain pregnancies by registered medical practitioners recognizing the importance of safe, affordable, accessible abortion services to women who needed to terminate pregnancy under certain specified conditions. The Act was amended from time to time since, with the advancement of medical technology, it was felt that there was scope for increasing the upper gestational limit for terminating pregnancies, especially for vulnerable women with substantial foetal anomalies. It provided for

certain procedural changes including delegation of powers to approve more places for medical termination of pregnancy and active involvement at the grass root levels by constituting district level committees for implementation of the Act, enhancing the penal punishment for offence under this Act to extend upto 7 years. The amendments further stipulated a period of 24 weeks for gestation as the upper limit for termination of pregnancy with the safeguard of requirement of opinion of two registered medical practitioners for termination of pregnancy. They also provided for the constitution of a medical board to authorise termination of such pregnancies as felt necessary after diagnosis of any substantial foetal anomalies by the medical board, even beyond, the stipulated period of 24 weeks.

6. Revisiting the facts of the present case, Section 3 (2) of the MTP Ac, 1971 provides for termination of a pregnancy within 24 weeks if the continuation of the pregnancy would involve a risk to the life of the pregnant woman or a grave injury to her physical or mental health or there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality. By way of explanations, the MTP Act, 1971 presumes that where any pregnancy is alleged to have been caused by rape, the anguish caused by such pregnancy is deemed to be a grave injury to the mental health of the woman. Similarly, where

such 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 children or preventing pregnancy, the anguish caused by such pregnancy is deemed to be a grave injury to the mental health of the woman. Section 3 (2-B) provides that the length of the pregnancy will not apply to its termination where such termination is necessitated by the diagnosis of any substantial foetal abnormalities diagnosed by a medical board. Rule 3-B of MTP Rules, 2003 enumerates the eligibility criteria for termination of pregnancy upto 24 weeks under Section 3 (2) (b). It reads thus:

“3-B. Women eligible for termination of pregnancy up to twenty-four weeks. -

The following categories of women shall be considered eligible for termination of pregnancy under clause (b) of sub-section (2) section 3 of the Act, for a period of up to twenty-four weeks, namely: -

(a) survivors of sexual assault or rape or incest;

(b) minors;

(c) change of marital status during the ongoing pregnancy (widowhood and divorce);

(d) women with physical disabilities [major disability as per criteria laid down under the Rights of Persons with Disabilities Act, 2016 (49 of 2016)];

(e) mentally ill women including mental retardation;

(f) the foetal malformation that has substantial risk of being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped; and

(g) women with pregnancy in humanitarian settings or disaster or emergency situations as may be declared by the Government.”

7. In the facts of the present case, the Petitioner has neither pleaded nor contended any change in her marital status by way of widowhood or divorce as contemplated under Rule 3-B (c) of the MTP Act, 1971. Evidently, she is not covered by any other category of eligibility as contemplated by Rule 3-B. The solitary submission of the Petitioner is that the mental trauma suffered by her on account of the deception practiced by the Respondent No.2 i.e. her husband, arising out of the alleged discovery of the fraud played by him is grave enough to attract the provisions of the MTP Act, 1971. The Petitioner has neither pleaded nor contended that there is any judicial finding as to the allegations of fraud alleged by her. Thus, the contentions of the Petitioner are in the realm of allegations. It is not the case of the Petitioner that her foetus suffers from any abnormalities which would involve a risk to her life.

Even otherwise, Section 3 of the MTP Act, 1971 r/w Rule 3-B does not contemplate a situation/category which renders the Petitioner eligible for termination of pregnancy under the MTP Act, 1971. It is trite law that relief cannot exceed the four corners of statute. Although, we empathise with the predicament of the Petitioner, unfortunately, in the facts of the present case, we see no legal relief for her under the

provisions of the MTP Act, 1971. In these circumstances, therefore, we reject the prayers of the Petitioner. Writ Petition is dismissed. Rule is discharged.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.