

IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 30<sup>th</sup> DAY OF NOVEMBER 2021

BEFORE

THE HON'BLE MR. JUSTICE N.S. SANJAY GOWDA

W.P.No.104672/2021(GM-RES)

BETWEEN:

KUMARI V (NAME OF THE PETITIONER IS WITHHELD)  
AGE: 18 YEARS

THE PETITIONER BEING MINOR  
AND THIS MATTER PERTAINS TO  
POSCO ACT AND MTP IS PRAYED  
THE NAME OF THE PETITIONER IS NOT  
DISCLOSED IN ORDER TO MAINTAIN  
DIGNITY AND PRIVACY OF THE VICTIM  
AND HER FAMILY

... PETITIONER

(BY SRI.SANGAMESH S GHULAPPANAVAR, ADV.)

AND:

1. THE STATE OF KARNATAKA,  
REPRESENTED BY SECRETARY,  
DEPARTMENT OF HEALTH,  
MS BUIDLING, BENGALURU-560001.
2. THE DISTRICT HEALTH SURGEON,

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DISTRICT CIVIL HOSPITAL,  
CHANNAMMA CIRCLE,  
BELAGAVI, DIST BELAGAVI 590001.

... RESPONDENTS

(BY SRI.V S KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENT No.2 TO MEDICALLY TERMINATE THE PREGNANCY OF PETITIONER/VICTIM FORTHWITH.

THIS PETITION COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

1. This petition is filed seeking for a writ of mandamus to the 2<sup>nd</sup> respondent to medically terminate the pregnancy of the petitioner.

2. It is the case of the petitioner that she was subjected to a rape on 16.08.2021 and in this regard a crime has been registered in Crime No.280/2021 by the Athani police station.

3. At the time of the crime, the petitioner was a minor. Subsequently, she has attained the age of majority.

4. The petitioner's request for termination of her pregnancy was not entertained in view of the fact that the length of pregnancy was more than 24 weeks and as a consequence, the present writ petition is filed.

5. Having regard to the fact that the petitioner was subjected to an alleged rape when she was a minor, this Court by an order dated 29.11.2021 directed that a Medical Board be constituted comprising of Gynecologist, a Pediatrician and a Radiologist or Sonologist and a Psychiatrist and directed the Board to render an opinion as to whether continuation of pregnancy would constitute a grave risk to the physical and mental health of the petitioner.

6. The Medical Board has been constituted and an opinion has been rendered to the effect that the pregnancy of the petitioner is required to be terminated as continuation of the pregnancy would endanger physical and mental health of the petitioner. The said Medical report reads as under:

**"Gynecologist:**

*Pt. by Name xxxxxxxxx Age: 18 year, IP No. 20210143634. Admitted on 23.11.2021 at 01.33.55pm. The patient is a Case of Sexual Assault with previous MLC dated 23.11.2021 with 6 months of Gestation admitted. Patient has come for MTP with consent given by Mother and herself. Further investigation were done, on ultrasound it was 24 weeks + 4 days life pregnancy. As it has crossed 24 weeks as per law it needs to be terminated after obtaining legal permission by Court. The anticipated complications during procedure may be as follows:*

- *If tried medically it may fail*
- *Require surgical intervention*
- *Excessive per vaginal bleeding and its consequences*
- *Infection and its consequences*
- *Psychological problem*

*If the procedure is not carried out it may affect her mental health. She may deliver vaginally at term.*

*Continuing pregnancy may cause serious grave injuries to mother physical & mental health as it is high risk pregnancy (teenage pregnancy)*

**Radiologist:**

*Is of the opinion as per ultrasound report it is single live intrauterine gestation of 24 weeks 4 days with no gross congenital anomalies at present.*

**Pediatricians:**

*Since the mother is a teenage mother (High Risk Pregnancy) which might affect her physical & mental health if pregnancy is continued and might affect the fetal growth & development.*

**Physician:**

*Since the mother is in teenage pregnancy which may effect her physical & mental health problems as it is high risk pregnancy. It is safe for termination of pregnancy with moderate risk.*

**Psychiatrist:**

*If the patient continues her pregnancy she can develop anxiety, by extending anxiety can lead to depression definitely it affects the mental health of the patient. After delivery again social problems like unmarried delivery, & social isolation problems. All above things affect the mental health of the patient.*

**Opinion of the medical board is as follows:**

*The victim needs termination as continuing pregnancy endangers the mother physical & mental health with risk as explained by Gynecologist & Psychiatrist."*

7. This Court in Writ Petition No.104344/2021 has held that whenever the length of pregnancy exceeds 24 week, the Medical Practitioners would not be able to terminate pregnancy and request for

termination can only be considered only by the constitutional Court having regard to the fundamental right guaranteed to a lady under Article 21 of the Constitution, vis-à-vis an intrusion into her body and consequences thereon.

8. It is stated in the medical report that the petitioner's length of pregnancy is 24 weeks 4 days. In other words, the outer limit of 24 weeks has been exceeded only by 4 days.

9. It is stated that the petitioner's father is no more and she has been raised by her mother alone. It is also stated that the petitioner is a student studying in 2<sup>nd</sup> year PUC and her mother is eking out of her livelihood as an agriculturist. Having regard to the fact that the petitioner is still studying and is being raised by a single parent, as affirmed by the psychiatrist, continuation of the pregnancy would definitely constitute grave risk to the mental and physical health

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to the petitioner. I am therefore of the view that this is an extraordinary case which require a direction to be issued to the 2<sup>nd</sup> respondent for terminating the pregnancy of the petitioner. The 2<sup>nd</sup> respondent shall ensure that the Medical Practitioners terminate the pregnancy in accordance with the provisions of the Medical Termination of Pregnancy Act, 1971 forthwith.

10. The 2<sup>nd</sup> respondent shall ensure that the foetus extracted shall be retained for the purpose of criminal prosecution.

The Registry is directed to furnish a copy of this order to the learned HCGP forthwith.

KGK

Sd/-  
JUDGE