



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF DECEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 26768 OF 2023 (GM-RES)

BETWEEN:

1. MS. X

...PETITIONER

(BY SRI. A.S.VISHWAJITH, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY
THE CHIEF SECRETARY,
VIDHANA SOUDHA
BENGALURU – 560 001.
2. STATE OF KARNATAKA
REPRESENTED BY
MASTI POLICE STATION
KOLAR SUB DIVISION
KOLAR, KARNATAKA – 563 139.
3. KARNATAKA STATE
LEGAL SERVICES AUTHORITY





1ST FLOOR, NYAYA DEGULA
H.SIDDAIAH ROAD
BENGALURU – 560 027.
REPRESENTED BY MEMBER SECRETARY

4. SNR DISTRICT HOSPITAL
BANGARPET ROAD
GOWRIPETE, KOLAR
KARNATAKA – 563 101
REPRESENTED BY ITS DISTRICT SURGEON

5. CHILD WELFARE COMMITTEE
KOLAR DIVISION
MUSKAM 'A' BLOCK
ANDERSONPET POST
KGF, KOLAR – 563 113
REPRESENTED BY ITS CHAIRPERSON

6. DISTRICT CHILD PROTECTION UNIT KOLAR
2ND FLOOR, CANARA BANK BUILDING
NEAR DOMMLIGHT CIRCLE
KOLAR – 563 101.
REPRESENTED BY ITS
INSTITUTIONAL OFFICER

...RESPONDENTS

(BY SMT. NAVYA SHEKHAR, AGA)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO DIRECT R-4 TO ADMIT
THE PETITIONER AND TAKE NECESSARY MEDICAL STEPS TO
TERMINATE THE PREGNANCY OF THE PETITIONER.

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



ORDER

The petitioner represented by her mother is before this Court seeking the following prayer:

- A. *Issue a writ of Mandamus or any other appropriate writ, order or direction, directing the Respondents No.4 to admit the Petitioner and take necessary medical steps to terminate the pregnancy of the Petitioner;*
- B. *Issue a writ of Mandamus or any other appropriate writ or direction, directing or Respondent No.4 to preserve the terminated fetus / product of conception for the purpose of DNA testing and analysis;*
- C. *Issue a Writ of Mandamus or any other an appropriate writ, order or direction, directing Respondent No.2 to take any and all steps to conduct DNA tests at the State Forensic Laboratory, Madivala, Bangalore of the terminated fetus/product of conception for the purpose of investigation and trial in Crime No.0192/2023 at the Masti Police Station, Kolar District;*
- D. *Issue a Writ of Mandamus or any other an appropriate Writ, order or direction, directing Respondent No.3, Karnataka Legal Services Authority to disburse a sum of Rupees Seventy Five Thousand and / or any other further amounts to the Petitioner in order for her to meet the expenses of medical treatments, counseling services, and any other medical care as she may require;*
- E. *Grant such or other reliefs as this Hon'ble Court deems fit in the facts and circumstances of the above case as also compensation for their losses and costs in the above in the interests of justice and equity."*



2. Heard Sri A.S.Vishwajith, learned counsel for the petitioner and Smt. Navya Shekhar, learned Additional Government Advocate for the respondents – State.

3. The petitioner – a minor girl who is aged 16 years was allegedly subjected to sexual assault at the hands of the accused in Crime No.192 of 2023 for offences punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 376 of the IPC. The documents appended to the petition would indicate that the petitioner was examined by the General Hospital, Bangarpet, Kolar on 22.11.2023, on account of experiencing pain in her abdomen and Amenorrhoea. The obstetric sonogram examination report resulted in an indication that the petitioner is 26 weeks pregnant. After the registration of the aforesaid crime, the victim is presently placed in Government's Girls Home for such care and protection. The mother of the victim – a minor petitioner then requests for facilitation of termination of pregnancy as she has crossed 24 weeks.



4. In view of the impending urgency, this Court by an order dated 01.12.2023, referred the victim for examination to Vani Vilas Hospital, Bangalore to constitute Medical Board of Gynecologist, Pediatrician and all necessary experts, who shall examine the petitioner on 02.12.2023 and give and render an opinion as to the fitness of the victim to undergo medical termination of pregnancy as also the condition of the foetus.

5. The report of the Bangalore Medical College and Research Institute is received today and it reads as follows:

""As per the Honorable High Court of Karnataka, Bangalore

Order No. W.P. No:26768/2023 dated: 01.12.2023

*Medical Board Opinion for the Termination of Pregnancy of
Miss. X D/o Thimmarayappa*

Name: Miss. X D/o Thimmarayappa

Age: 16 years

Date: 02/12/2023

Address: Malur Taluk, Kolar, Karnataka

Phone. No: 7026902402

Accompanied by: Mother - Shanthamma

*Date, time and place of examination: 02/12/2023, 11am, Vani
Vilas Hospital, BMCRI, Bengaluru.*



Identification Marks:1) Mole over right chest 2cm below mid part of clavicle

2) Mole Over Right forearm middle part of flexor side.

Case examined by – OBG 'D' UNIT

HISTORY

LMP: 01/06/23

EDD: 08/03/2024

Primigravida with 26 + 1 weeks period of gestation

H/o 6 months of amenorrhea

No history of any comorbidities like DM,.Hypertension, thyroid/ heart diseases, epilepsy, etc

PHYSICAL EXAMINATION

Patient is alert, conscious and cooperative.

Build and nutrition: Moderate

Weight: 40 kgs

Height: 152 cm BMI:17.3

No pallor, no pedal edema, no cyanosis

Thyroid, breast, spine are normal

Pulse: 90bpm

BP: 100/60 mm Hg

Secondary sexual characters well developed (Tanner stage 4)

Respiratory rate: 16 cpm

Cardiovascular system: S1, S2 heard, clinically no abnormality detected

Respiratory system: clinically no abnormality detected

OBSTETRIC EXAMINATION

Per abdomen: Uterus 24 weeks size, relaxed, Fetal heart sound – present, 136bpm



ULTRASOUND EXAMINATION

*Ultrasound examination of abdomen on 02/12/2023
Single live intrauterine gestation noted with the following parameters:*

Presentation: head at lower pole

Fetal heart rate: 138 bpm

Biparietal Diameter: 6.01 cm

Head circumference: 23.38 cm

Abdominal circumference: 21.00 cm

Femur length: 4.61cm

Mean gestational age: 25 weeks 02 days + /-3 weeks

Estimated fetal weight: 804 gms +/-15%

Placenta posterior, Lower Margin well above the internal OS.

Liquor : Adequate

IMPRESSION: *SINGLE LIVE INTRAUTERINE GESTATION OF
25 WEEKS 2 DAYS +/- 3 WEEKS GROWTH BY SCAN*

INVESTIGATIONS:

Hb-12g%

Platelets:2.88 lakh/mm³

WBC: 7060

Blood glucose:84mg/dl

Blood group: B positive

HBsAG- Non reactive

VDRL- Non reactive

HIV- Non reactive

Final Obstetrics Opinion

*Based on above examinations and opinions. Miss. X D/O
Thimmarayappa, aged 16 years 4 months WP NO.26768/2023
who was referred for opinion as to the fitness of the victim to
undergo medical termination of pregnancy as also the
condition of the fetus was examined by the board and opined*



that she shall undergo termination of pregnancy with necessary precautions.”

In the light of the afore-quoted opinion of the Medical Board, the victim can undergo termination of pregnancy with necessary precautions and it would become necessary for a direction to be issued to the Hospital to undertake termination of pregnancy. Therefore, the following:

ORDER

1. The writ petition is disposed.
2. *Mandamus* issues to the respondents – State to direct Vani Vilas Hospital to carryout the procedure for Medical Termination of Pregnancy in terms of the Medical Termination of Pregnancy Rules, 1971, forthwith at its hospital at the cost of the State.
3. The procedure is subject to further examination of the Doctor who has to conduct such a procedure and if in the opinion of the Doctor, such a procedure would cause harm or injury to the life of the petitioner, the Doctor shall be the final deciding authority as to whether to go ahead or not with such a procedure;
4. The petitioner shall not be asked to make any payment towards such procedure.



5. The respondent No.3 – Karnataka Legal Services Authority to disburse a sum of Rs.75,000/- to the petitioner for her medical treatment and care as she would require in future.
6. In the event of the Doctor being of the opinion that medical termination of pregnancy procedure has to be carried out and is in fact carried out, the foetus shall be preserved by the Vani Vilas Hospital in such a manner as to facilitate DNA testing of the foetus. The Vani Vilas Hospital is directed to send the tissue sample of the foetus for DNA testing to the Central Forensic Testing Laboratory at Bangalore.
7. Respondent No.1 – Masti Police Inspector, Kolar Sub-division, Kolar, shall make necessary arrangements as may be necessary to facilitate the transport of the petitioner and her immediate family members/attendants to Vani Vilas Hospital for treatment and after such treatment for their transport back to their residence. In the event of any follow-up treatment being required and as advised by the treating doctor, shall arrange for such transport at such times as advised and/or as directed by



the Doctor, the same being carried out at the cost of the State.

8. Official respondents shall file status report in two weeks.
9. A copy of this order shall be furnished to learned Additional Government Advocate.
10. Registry shall communicate this order to the Hospital – the Medical Superintendent of Vani Vilas Hospital forthwith, by way of electronic mail.

**Sd/-
JUDGE**