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2026:DHC:9446

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Date of decision: 24.10.2026***

\# **CNR No. DLHC010512382026**

\+ W.P.(CRL) 3348/2026

MINOR V THR GRAND MOTHER M .....Petitioner

Through: Mr. Anwesh Madhukar, Advocate (DHCLSC) along with Ms. Prachi Nirwan, Mr. Pranjal Shekhar and Ms. Diptasree Bag, Advocates.

versus

THE STATE OF NCT OF DELHI AND ANR. .....Respondents

Through: Mr. Amol Sinha, ASC for R-1/State along with SI Maina, PS Khayala through video-conferencing.

**CORAM:**
**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR**

% **JUDGEMENT (Oral)**

1. The present Writ Petition, filed on behalf of Minor 'V', through her grand-mother M, under Article 226, read with Article 21 of the **Constitution of India, 1950**[1] and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeks, *inter alia*, directions to Respondent Nos. 1 and 2, to medically terminate the pregnancy of the **Minor Girl 'V'**[2], in terms of Section 3(2) of the **Medical Termination of Pregnancy Act, 1971**[3].

2. By way of the present Petition, the intervention of this Court

[1] Constitution
[2] Petitioner

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has been sought *qua* the termination of pregnancy of the Petitioner, since the current gestational period of the Petitioner is stated to be beyond the permissible limits under the MTP Act.

***SUBMISSIONS ON BEHALF OF THE PARTIES:***

3. Learned counsel appearing on behalf of the Petitioner, at the outset, submits that the Petitioner is a minor and is victim of rape, and is presently at approximately 29 weeks of gestation of pregnancy, conceived from the said rape. It is also submitted that the Petitioner is presently admitted to Deen Dayal Upadhyay Hospital, New Delhi for care and supervision of the said pregnancy.

4. Learned counsel for the Petitioner contends that both, the Petitioner as well as her grand-mother, are desirous of terminating this pregnancy, as its continuation would cause grave mental injury and psychological trauma to the Petitioner, having regard to her tender age and the circumstances in which the pregnancy was conceived.

5. Learned counsel for the Petitioner, therefore, submits that the Petitioner seeks to invoke her *'Right to Life'*, as enshrined under Article 21 of the Constitution, for seeking the medical termination of her pregnancy. It is contended that rejection of the said relief would expose the minor Petitioner to grave mental injury and psychological trauma.

6. Learned counsel appearing on behalf of the parties draw the attention of this Court to the ***Report of the Medical Board for Pregnancy Termination Beyond 24 weeks***[4], prepared by the **Medical Board constituted at Deen Dayal Upadhyay Hospital, New Delhi**[5],

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[3] MTP Act
[4] Report of the Medical Board
[5] Medical Board

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to submit that the Medical Board, constituted under the MTP Act, has found the Petitioner to be physically fit for undergoing the procedure for medical termination of pregnancy. Learned counsel for the Respondent, in view of the same, submits that appropriate directions may be passed, as sought for, keeping in view the Report of the Medical Board and the prevalent position of law.

7. No other submissions were advanced on behalf of the parties by the learned counsel appearing on their behalf respectively.

***ANALYSIS:***

8. This Court has heard the learned counsel appearing on behalf of the parties and, with their able assistance, perused the material available on record, including the Report of the Medical Board.

9. Before adverting to the facts of the present case, this Court deems it apposite to take note of various decisions of the Hon'ble Supreme Court, as also this Court, whereby medical termination of pregnancy, even beyond the statutory limit of 24 weeks, as stipulated in the MTP Act, was permitted.

10. In ***S vs. The Union of India & Ors.***[6]**,** the Hon'ble Supreme Court allowed medical termination of pregnancy wherein the gestational period of pregnancy of the Petitioner therein was 28 weeks. It was held that while exercising jurisdiction under Article 226 or Article 32 of the Constitution, the Constitutional Courts are not constrained by the statutory limitations prescribed under the MTP Act and must primarily consider the welfare, dignity, bodily integrity and reproductive autonomy of the pregnant woman, particularly, in cases involving minors and unwanted pregnancies.

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11. The Hon'ble Supreme Court recognised that reproductive choice forms an integral part of the fundamental rights guaranteed under Article 21 of the Constitution and held that no woman, much less a minor rape survivor, can be compelled to carry an unwanted pregnancy to full term against her wishes, merely because the statutory gestational limit has been crossed.

12. The Hon'ble Supreme Court has further emphasised that in cases of unwanted pregnancy, the focus must remain on the welfare and autonomy of the pregnant woman rather than the interests of the unborn child. The absence of foetal abnormality, the advancement of gestational age, or the absence of a diagnosed psychiatric disorder cannot by themselves constitute grounds to deny termination. The relevant portions of the decision rendered in ***S (Supra)*** are reproduced as under:

> *"xxx xxx xxx*
> *11. The Court must, while exercising jurisdiction under Article 226 or Article 32 of the Constitution of India, therefore, prioritize the best interests of the minor mother-to- be in the present case, over the procedural and statutory limitations under the MTP Act. If the interest and welfare of the mother-to-be are to be given due consideration, her reproductive autonomy must be accorded the highest importance. This is particularly having regard to the facts and circumstances of the present case.*
> ***11.1 The right to make decisions concerning one's body, particularly in matters of reproduction, is an integral facet of personal liberty and privacy under Article 21 of the Constitution of India. This right cannot be rendered ineffective by imposing unreasonable restrictions, especially in cases involving minors and unwanted pregnancies, such as in the instant case.***
> ***11.2 No court ought to compel any woman and more so a minor child, to carry a pregnancy to full term against her express will. Such compulsion would not only disregard her decisional autonomy but could also inflict grave mental, emotional and physical trauma in case she is compelled to give birth. In these circumstances, denying the relief sought would compel the minor to endure irreversible consequences. Such an approach would be contrary to the constitutional ethos and the settled principles recognizing reproductive choice as a fundamental right. What is***

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***of relevance is the choice of the pregnant woman rather than the interest of an unborn child. It is easy to say that if the pregnant woman is not interested in raising the child, she may give away the child in adoption and therefore must be compelled into giving birth to the child. However, that cannot be the correct approach, particularly, in cases where the child to be born is unwanted. In such a situation, directing the pregnant woman to give birth to the child against her wishes and to forcefully continue her pregnancy would negate the welfare of the pregnant woman and make it subordinate to the child yet to be born.***

*11.3 We find that in cases of unwanted pregnancy, often the decision to terminate is made beyond the statutory period prescribed under the MTP Act owing to several reasons. It is under such circumstances that Constitutional Courts must weigh the circumstances in which a case in relation to the welfare of the pregnant woman has to be considered rather than the child to be born. In fact, under certain grounds, the MTP Act itself permits termination of pregnancy which is therefore recognised in law. The Constitutional Court is approached only when the statutory remedy is not available to a party. Can the Constitutional Court then say that since the statutory remedy is not available, no constitutional remedy would be available. That, in our view, cannot be the approach.* ***A lack of remedy under a statute does not bar a constitutional remedy. The statute codifies a part of the constitutional remedy. If a case is not covered within the four corners of a statute then, can the constitutional relief be also denied? In our view, in such circumstances, the Constitutional Court ought to weigh all facts and circumstances from the lens of the party who intends to terminate the pregnancy and is willing to undertake the medical risk, rather than compelling her to complete the pregnancy term and give birth to an unwanted child. If the pregnant woman carrying an unwanted pregnancy is compelled to continue such a pregnancy, then the constitutional rights of the pregnant woman would be breached.***

*11.4 Further, if the Constitutional Court adopts the view that even an unwanted pregnancy must be continued, then instead of approaching the Court for permission, pregnant women would visit illegal abortion centres and secretly undergo termination of such pregnancies which would only make such women more vulnerable and expose them to more dangerous procedures. It is under such considerations that a Constitutional Court must decide what is best in the interest of the pregnant woman, particularly, when the pregnancy is unwanted as in the present case.*

*xxx xxx xxx"*

***(Emphasis supplied)***

13. The Hon'ble Supreme Court has allowed medical termination of

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pregnancy beyond the gestation period of 24 weeks on various other occasions, *inter alia*, in ***Venkatalakshmi vs. The State of Karnataka & Ors.***[7] , where the gestational period of the Petitioner therein was 26 weeks, the medical termination of pregnancy was allowed.

14. Likewise, a Co-ordinate Bench of this Court, in ***Minor R Thr. Mother H vs. State NCT of Delhi & Anr***[8], allowed the medical termination of pregnancy, where the gestational period was 24 weeks and 5 days. This Court took note of the fact that termination of pregnancy where a minor is a victim of rape, cannot be reduced merely to be defined as right of a woman sexually assaulted, but also to be recognized as a human right, as it affects the dignified existence of a victim, if the same is not permitted. Thus, it was held that it would not be appropriate to expect the minor rape victim to take the burden of giving birth and raising a child, especially in a situation, where she herself is passing through the age of adolescence.

15. This Court has, time and again, granted the permission for medical termination of pregnancy beyond the statutory period of 24 weeks, in terms of the MTP Act. The Co-ordinate Benches of this Court, *inter alia*, in ***Minor S (Thr. Father B) vs. State & Anr.***[9], ***Minor S through her guardian B vs. State Government of NCT of Delhi***[10] *and* ***Mrs. X Versus GNCTD & Anr.***[11], allowed the medical termination of pregnancy, where the gestational period of such pregnancies exceeded 27 weeks, 30 weeks and 33 weeks, respectively.

16. Having considered the aforesaid judicial precedents, it emerges

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[7] 2017 SCC OnLine SC 2156
[8] 2023 SCC OnLine Del 383
[9] 2025: DHC: 2710
[10] W.P.(Crl) 2763/2026 *vide* Order dated 08th September, 2026
[11] 2022/DHC/005344

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that the question of medical termination of pregnancy cannot be merely determined or restricted by the statutory period of 24 weeks, but must be examined in the context of the facts and circumstances of each case, including the age and the reason of such pregnancy, the medical opinion placed on record, and the rights and the interest of the pregnant woman. It is in the backdrop of the aforesaid legal position and the judicial precedents that this Court proceeds to examine the present case.

17. This Court takes note of the fact that the Petitioner is a minor girl of approximately 17 years, and the pregnancy is stated to be unwanted and having been conceived from a rape, against which a FIR has already been registered at Police Station Khyala, Delhi. The gestation period of the said pregnancy exceeds 29 weeks, as per the report of the Medical Board.

18. This Court also takes note of the opinion expressed in the Report of the Medical Board placed on record, wherein it has been expressly opined by the doctors of the Medical Board that *"Minor V is medically & psychologically fit for termination of pregnancy"*.

19. Having regard to the facts and circumstance of the present case, and in light of the opinion of the Medical Board that the Petitioner, *i.e.*, the minor victim, is medically fit to undergo the procedure for termination of pregnancy, the present Petition is allowed.

***DECISION*:**

20. Accordingly, the medical termination of pregnancy of the Petitioner is permitted, in the best interest of the minor Petitioner, subject to the safeguards and directions as set out below:

I. The procedure for termination of pregnancy shall be carried out

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by a team of competent doctors in accordance with the provisions of the MTP Act and the relevant Rules and Regulations and Guidelines prescribed for the aforesaid purpose.

II. Complete record of such procedure, performed upon the minor for the purpose of termination of said pregnancy, shall be maintained by the Medical Board.

III. Respondent No. 2, *i.e.*, Deen Dayal Upadhyay Hospital, New Delhi, is directed to preserve the tissue of the foetus for the purposes of DNA testing, which would be required with reference to the criminal case which stands registered.

IV. Respondent No. 1, *i.e.*, the State shall bear all the expenses necessary for the termination of the pregnancy of the minor in question and her stay at the hospital during such period. The expenditure towards post-operative period shall also be borne by the State.

V. In case the child is born alive, Medical Superintendent, Deen Dayal Upadhyay Hospital, New Delhi, in conjunction with the State Authorities, would ensure that medical support, as well as every possible and feasible assistance is offered to such child, and the child shall be kept in an incubator. Intimation in this regard shall be given to the concerned Child Welfare Committee ("CWC"), and as and when so required, further directions be sought from CWC.

VI. In that case, as per wish of minor and her family, such child be given in adoption as per prescribed procedure.

VII. The identity of the Petitioner/minor survivor shall be strictly

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protected. The respondent authorities, the hospital, the Medical Board and all other persons associated with the proceeding shall ensure that no particulars capable of identifying her, including her name, address, photographs and medical records, are disclosed, save to the extent authorised or required by law.

21. A copy of this Order be sent *forthwith* to the SHO, Police Station Khyala, Delhi and to the Investigating Office (I.O.), who is stated to be Sub-Inspector Ms. Maina, Police Station Khyala, Delhi.

22. The IO is directed to communicate this Order to the concerned Department and the Medical Officer(s) of Deen Dayal Upadhyay Hospital, New Delhi, including Dr. Sunita Seth (Mob. No. 9718990153), who is stated to be handing the medical case and pregnancy of the Petitioner.

23. The present Petition, along with pending Application(s), if any, stands disposed of in aforementioned terms.

24. A copy of this Order be given *Dasti* under the signatures of the Court Master.

**HARISH VAIDYANATHAN SHANKAR, J.**

**OCTOBER 24, 2026/tk/DJ**