

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.9012 OF 2022**

Xyz ... **Petitioner**
 Versus
 The State of Maharashtra & Ors. ... **Respondents**

Mr. Yogesh M. Birajdar i/b. Mr.Nagraj S. Shinde, Advocate
 for the Petitioner.

Mrs. M. P. Thakur, AGP for the Respondents/State.

**CORAM: S.V. GANGAPURWALA &
 A. S. DOCTOR, JJ.**

DATED : AUGUST 1, 2022

P.C.

1. The petitioner claims to be a rape victim and also mentally retarded. The First Information Report is filed bearing No.0434 of 2022 under the provisions of Sections 376, 504 and 506 of the Indian Penal Code with the Indapur Police Station. The petitioner seeks termination of pregnancy. The petitioner was referred to Expert Medical Board at Sassoon Hospital, Pune. The expert body examined the petitioner and submits the report. The relevant part of the report reads thus :

9. Investigation done :- At B.J. Govt. Medical College and Sassoon General Hospital Pune on 29/07/2022 at 12.00 pm.

S.No.	Investigations done	Key findings
1.	Ultrasonography done at B. J. Govt. Medical College and Sassoon	Single live intrauterine fetus of maturity 33 wks +/-3

	General Hospital Pune on 19/07/2022	weeks with no congenital anomaly with oligohydramnios with normal doppler study with EFW 2163 gm.
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10. Additional findings and observations :-

1. As per psychiatry evaluation, the patient has moderate intellectual disability.
2. As per evaluation by physician, the patient has ECG changes for which 2D echo advised.
3. 2D echo (30/07/2022) - within normal limit.

Termination of pregnancy at this advanced gestational age may be considered high risk to maternal health including need of operative interventions. The fetus is very much salvageable due to absence of gross fetal anomalies as per sonography.

11. Physical fitness for termination :-

- a. Yes.

12. Recommendation by Medical Board for termination (choose one and provide any additional recommendations of the panel in the box below it any):

- b. Not recommended (If no, justification) Due to advanced gestational age.

Key recommendations of the panel (if any) with justification :

On clinical and sonographic examination of mother, due to advanced gestational age, medical termination of pregnancy is not recommended with kind permission of Hon'ble High Court.

2. It appears that today the pregnancy is almost 35 weeks. The Expert Committee has not recommended termination of pregnancy due to advanced gestational age. This Court would be guided by the report of the Expert Committee, however, as it is a pregnancy due to rape, necessary directions are also required to be issued. The guardian of the petitioner shall intimate the Investigating Officer of the place where the delivery is to be conducted

and the Investigating Officer shall remain present at the time when the delivery is to take place so that necessary steps shall be undertaken for the purpose of DNA test, tissue culture and other tests required to facilitate the trial.

3. This Court would consider the further aspects of the compensation in otherwise after hearing the learned AGP.

4. Stand over to **17th August 2022**.

5. If the child is born alive, the State shall take necessary steps as directed in the judgment of the Division Bench of this Court in ***XYZ v. Union of India & Ors.***¹ (Writ Petition Nos.10835 of 2018, 9748 of 2018 and Writ Petition (L) No. 3172 of 2018 decided on 2nd November 2018/ 3rd April 2019.

(A. S. DOCTOR, J.)

(S.V. GANGAPURWALA, J.)

¹ 2019 (3) Bom. C. R. 400.