



WEB COPY

WP No. 26441 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 07-07-2026**

CORAM

**THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ**

**WP No. 26441 of 2026  
and WMP.No.28914 of 2026**

XXX

XX

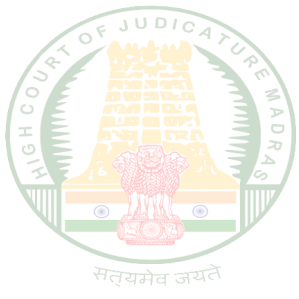
..Petitioner(s)

Vs

1. The Inspector of Police  
AWPS - Washermentpet,  
Old Washermentpet, Chennai 600 021
2. The Director  
Institute of Obstetrics and Gynaecology and  
Government hospital for Women and Children,  
Egmore, Chennai 600 008
3. The State  
Rep by secretary,  
Health Department,  
Secretariat, Fort St. George,  
Chennai 600 009

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Mandamus, directing the 2nd respondent to permit and facilitate the medical termination of petitioner's daughter's pregnancy in accordance with law, including Section 5 of the Medical Termination of Pregnancy Act 1971 on the basis of the opinion of the Competent Medical Board.



WEB COPY

WP No. 26441 of 2



For Petitioner(s):

M/s.Deepika Murali

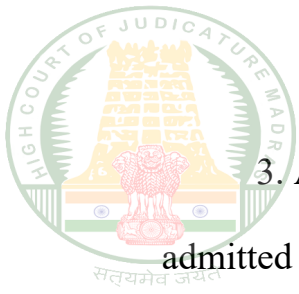
For Respondent(s):

Mr.J.V.Sakthi Baalakrishnan,  
Government Counsel for respondents

### **ORDER**

This Writ Petition has been filed seeking issuance of a Writ of Mandamus, directing the 2nd respondent to permit and facilitate medical termination of petitioner's daughter's pregnancy in accordance with law, including Section 5 of the Medical Termination of Pregnancy Act 1971, on the basis of the opinion of the Competent Medical Board.

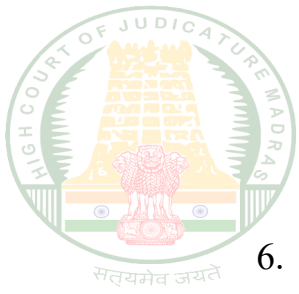
2. Petitioner is the mother and natural guardian of a 14-year-old minor born on 27.07.2011 and a victim under the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The child was subjected to non-consensual sexual intercourse by her uncle, accused in Crime No.36 of 2026 dated 02.07.2026 on the file of the first respondent under Sections 5(n), 5(I), 5(j)(ii), 5(i) and 6 of the POCSO Act. As a consequence of the said assault, petitioner's daughter became pregnant and her pregnancy came to light on 23.06.2026, when she was found to be carrying a foetus of approximately 27 weeks' gestation, presently assessed at approximately 28 weeks 1 day.



3. An Accident Register entry was made on 23.06.2026; and the child was admitted to the second respondent Hospital on 26.06.2026, where she continues as an in-patient however, the FIR came to be registered only on 02.07.2026, and the matter was forwarded to the Child Welfare Committee only on 04.07.2026. Tulir – Centre for the Prevention and Healing of Child Sexual Abuse was appointed as Support Person vide *suo motu* Order dated 04.07.2026 of the learned Special Court under the POCSO Act, Chennai.

4. Petitioner and her child have unequivocally expressed their consent and desire to terminate the pregnancy. Despite her continued hospitalisation and request to terminate the pregnancy, second respondent Hospital has not, till date, constituted the requisite Medical Board for evaluating the request for medical termination of pregnancy. Being a 14-year-old child and a survivor of sexual assault, the continuation of the pregnancy would cause grave and irreparable harm to her physical and mental health and violate her rights under Article 21 of the Constitution of India.

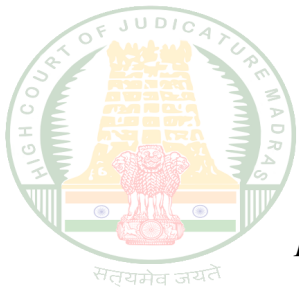
5. It is submitted by the learned Government Counsel appearing for respondents that a Medical Board has since been constituted and evaluation of the medical health of the victim is being conducted, he would submit that subject to clearance/approval by Medical Board, X would be permitted to terminate her pregnancy.



6. It is submitted by the learned counsel for petitioner as well as the learned Government Counsel appearing for respondents that under similar circumstances, this Court had permitted termination of pregnancy of a 30 week pregnant girl (minor) in W.P.No.22374 of 2026 dated 12.06.2026 and that the same directions may be issued in this writ petition. The said order is extracted hereunder:

*“The present writ petition is filed praying for a writ of Mandamus to medically terminate the pregnancy of petitioner's daughter (hereinafter referred to as "X") who is a minor girl aged about 15 years and victim under the Protection of Children from Sexual Offences Act, 2012 (referred to as “POCSO Act”).*

*2. Learned counsel for petitioner would submit that petitioner is residing in Tiruppur and petitioner's husband is presently in prison in relation to a case in Town Police Station-Pollachi. She would further submit that petitioner's daughter is a dependent minor and petitioner is her natural guardian. X was subjected to non-consensual sexual intercourse by an accused repeatedly in October and November, 2025. An FIR is registered in Crime No.29 of 2026 dated 07.06.2026 on the file of the 1<sup>st</sup> respondent. It is stated that the minor girl is now pregnant and carrying a foetus with gestational age of about 29 to 30 weeks as per the antenatal USG report of the 2<sup>nd</sup> respondent hospital dated 10.06.2026.*



WEB COPY



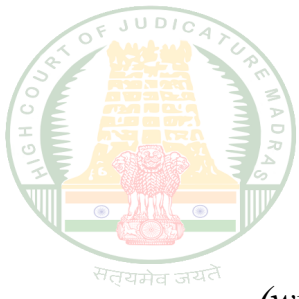
3. *Learned counsel for petitioner would further submit that petitioner had admitted her minor daughter to the 2nd respondent hospital on 09.06.2026 and continues to remain an in-patient. She submitted that the condition of X is stated to be fragile and vulnerable apart from the mental trauma she is made to suffer. It is submitted that petitioner and her minor daughter are not inclined to go ahead with the unwanted pregnancy.*

4. *Learned counsel for petitioner would submit that "Medical Termination of Pregnancy Act, 1971", (hereinafter referred to as "the Act") allows medical termination of pregnancy by a registered medical practitioner and would further submit that in terms of Section 3(2) of the Act, pregnancy may be terminated by a medical practitioner where the length of pregnancy does not exceed 20 weeks and up to 24 weeks in case of such categories of woman as may be prescribed by Rules. In this regard, it may be relevant to refer to Rule 3 B(b) of the Termination of Pregnancy Rules, 2003, which sets out the categories of woman who are eligible for termination of pregnancy up to 24 weeks. The relevant portions of the Rule is extracted hereunder:*

*"3B. 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 subsection (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;*



WEB COPY



- (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.]”

5. To a pointed question to the learned counsel for petitioner that inasmuch as the Act and the Rules provides for termination of pregnancy within 20 weeks and in case of minor up to 24 weeks. Though X is admittedly a minor and is 29 weeks pregnant, whether it would be permissible for medical termination of pregnancy at this stage, learned counsel for petitioner would place reliance on the judgment of this Court in Crl.O.P.No.14506 of 2019 and Crl.M.P.No.7043 of 2019 dated 19.06.2019 and submit that in case where length of pregnancy exceeds the stipulated period, the victim may approach the High Court which would refer the matter to a Permanent Medical Board constituted by Government of Tamil Nadu, and the Board would in turn examine the case and take immediate action and would furnish a report to the High Court. The relevant portions of the judgment is extracted hereunder:

“19. In all cases, where a victim girl suffers an unwanted



WEB COPY



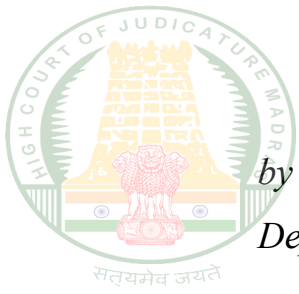
*pregnancy and where the length of pregnancy does not exceed 20 weeks, the victim girl need not be referred to the Medical Board and the termination of pregnancy can be done as per the provisions of Section 3 of the Medical Termination of Pregnancy Act, 1971. The victim girl should not be unnecessarily made to knock the doors of this Court.*

*20. Even in cases where the length of pregnancy has exceeded 20 weeks, the pregnancy can be terminated in accordance with Section 5(1) of the Medical Termination of Pregnancy Act, 1971, immediately to save the life of the pregnant woman and the medical practitioner forms such an opinion in good faith. In such cases the length of pregnancy will have no relevance and what will be relevant is only the life of the pregnant woman.*

*21. In all other cases where the length of pregnancy exceeds 20 weeks, the victim may approach the High Court seeking for termination of pregnancy and at which point of time, the High Court will refer the matter to the permanent Medical Board constituted by the Government of Tamil Nadu and which shall examine such cases and will ensure urgent/immediate action and submit its report to the Court, based on it the Court can take a decision.*

*22. In all cases involving termination of pregnancy where a criminal case is pending, samples will be taken for DNA test of both mother and the conceptus (foetus and placenta) and it shall be sent to the Forensic Laboratory through the concerned Police and a report shall also be received from the Forensic Laboratory.*

*23. The various guidelines given by this Court at para 19 to 22 shall be strictly complied with by the Police and the medical practitioners and necessary circular shall be issued in this regard*



by the DGP of Police and the Health and Family Welfare Department, Government of Tamil Nadu immediately.

24. This Court does not want to transfer the investigation at this stage and the investigation conducted by the 1st respondent shall be monitored by the Assistant Commissioner of Police, Kilpauk and he shall ensure that the investigation progresses effectively.”

*(emphasis supplied)*

6. Learned counsel for petitioner would also place reliance on the order of this Court in W.P.No.18043 of 2022 dated 15.07.2022, wherein this Court had directed termination of pregnancy though the victim girl therein was 28 weeks and three days pregnant. The relevant portions of the order is extracted hereunder:

“11. From the aforementioned decisions, it is clear that even in cases where the length of pregnancy has exceeded 20 weeks, this Court is having power to order for termination of pregnancy of the victim girl on the ground of grave danger to her physical and mental health.

12. Section 3 of the Medical Termination of Pregnancy Act, 1971 deals with cases for medical termination of pregnancy without intervention of the Court. Without intervention of the Court, a Registered Medical Practitioner can terminate the pregnancy in the circumstances mentioned in section 3(2) of the Medical Termination of Pregnancy Act, 1971. While exercising powers under Article 226 of the Constitution of India, this Court has got wider powers than what is prescribed under section 3(2) of the Medical Termination of Pregnancy Act, 1971 which permits the



WEB COPY



*registered medical practitioner to terminate the pregnancy only when the length of pregnancy does not exceed a maximum period of twenty weeks. In the case on hand, the victim girl is 28 weeks + 3 days pregnant. However, considering the fact that the medical report recommends termination of her pregnancy and after giving due consideration to the fact that the victim girl is small statured and is only 13 years old, this Court exercising powers under Article 226 of the Constitution of India has got the powers to take judicial notice of those facts and can permit termination of victim-s pregnancy. As observed earlier, the victim is also not physically and mentally strong to withstand the pregnancy and this Court has taken into consideration the said factor also.*

*(emphasis supplied)*

7. At this stage, the learned counsel for respondents would bring to the notice of this Court a recent judgment of the Supreme Court in the case of *A vs. State of Maharashtra and others* reported in 2026 Livelaw SC 160, wherein the Supreme Court allowed medical termination of pregnancy of a 30 week pregnant girl (minor). The relevant portions of the judgment is extracted hereunder:

“15. The issues raised by the respective sides are quite persuasive and delicate inasmuch as the arguments advanced by the respective counsel have their own weight. But what has to be considered in the instant case is ultimately the right of the minor child i.e. the appellant’s daughter to continue a pregnancy which is *ex facie* outside marriage and the child to be born is to a pregnant woman who is stated to be minor. The appellant’s daughter was a minor when she conceived and who has to face this unfortunate situation of having a pregnancy



owing to a relationship that she had. The fact that presently she has crossed eighteen years of age is an irrelevant factor.

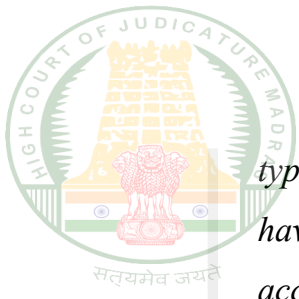
WEB COPY

16. We are also not on the question whether the relationship was consensual or whether it was a case of sexual assault although a criminal complaint has been lodged by the appellant in January 2026. That is not the issue to be considered in the present case. Ultimately, the denominator is the fact that the child to be born is not out of a wedlock and secondly, the mother to be of the child does not want to bear such a child. If the interest of the mother is to be taken note of, then her reproductive autonomy must be given sufficient emphasis. The court cannot compel any woman, much less a minor child, to complete her pregnancy if she is otherwise not intending to do so; that would be more traumatic for a minor such as the appellant's daughter in the instant case.

17. In this regard we reiterate what has been observed by one of us (Nagarathna, J) in *X vs. Union of India & Another*, I.A. No.211690 of 2023 in M.A. No.2157 of 2023 in Writ Petition (Civil) No.1137 of 2023 dated 11.10.2023 as under:

“5. In this context, it would be necessary to reiterate the three Judge Bench Judgment of this Court in *X vs. Health & Family Welfare Department*, 2022 SCC OnLine SC 1321, authored by Dr. Justice D.Y. Chandrachud, presently the Chief Justice of India, of which paragraphs 99, 101 and 102 read as under:

“99. The ambit of reproductive rights is not restricted to the right of women to have or not have children. It also includes the constellation of freedoms and entitlements that enable a woman to decide freely on all matters relating to her sexual and reproductive health. Reproductive rights include the right to access education and information about contraception and sexual health, the right to decide whether and what



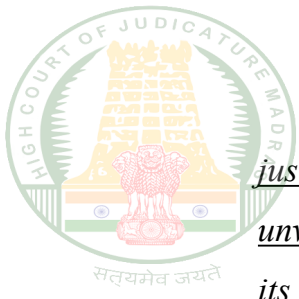
*type of contraceptives to use, the right to choose whether and when to have children, the right to choose the number of children, the right to access safe and legal abortions, and the right to reproductive healthcare. Women must also have the autonomy to make decisions concerning these rights, free from coercion or violence.*

xxx

*101. To this, we may add that a woman is often enmeshed in complex notions of family, community, religion, and caste. Such external societal factors affect the way a woman exercises autonomy and control over her body, particularly in matters relating to reproductive decisions.*

*Societal factors often find reinforcement by way of legal barriers restricting a woman's right to access abortion. The decision to have or not to have an abortion is borne out of complicated life circumstances, which only the woman can choose on her own terms without external interference or influence. Reproductive autonomy requires that every pregnant woman has the intrinsic right to choose to undergo or not to undergo abortion without any consent or authorization from a third party.*

*102. The right to reproductive autonomy is closely linked with the right to bodily autonomy. As the term itself suggests, bodily autonomy is the right to take decisions about one's body. The consequences of an unwanted pregnancy on a woman's body as well as her mind cannot be understated. The fetus relies on the pregnant woman's body for sustenance and nourishment until it is born. The biological process of pregnancy transforms the woman's body to permit this. The woman may experience swelling, body ache, contractions, morning sickness, and restricted mobility, to name a few of a host of side effects. Further, complications may arise which pose a risk to the life of the woman. A mere description of the side effects of a pregnancy cannot possibly do*



WEB COPY



justice to the visceral image of forcing a woman to continue with an unwanted pregnancy. Therefore, the decision to carry the pregnancy to its full term or terminate it is firmly rooted in the right to bodily autonomy and decisional autonomy of the pregnant woman.

(underlining by me)''

6. Unwanted pregnancy as a result of failure in a family planning method, even during the period of Lactational Amenorrhea as in the instant case or as a result of sexual assault results in the same consequence. The pregnant lady is not interested in continuing with the pregnancy. In such a situation whether the child to be born is viable or if the child would be a healthy child are not relevant considerations. What is to be focused upon is, whether, the pregnant lady intends to give birth to a child or not. This is what has been emphasized by this Court in the aforesaid three Judge Bench decision which is binding on this Bench.

7. It may not be out of place to note that a foetus is dependent on the mother and cannot be recognized as an individual personality from that of the mother as its very existence is owed to the mother. It would be incongruous to conclude that the foetus has a separate identity from the mother and in spite of the physical or mental health of a mother being under threat, she will have to continue her pregnancy until the foetus is born which would endanger her delicate health. Such a position is contrary to Article 21 and 15(3) of the Constitution of India which recognize the right to life and liberty and particularly those of a woman.

One cannot also lose sight of the fact that reproduction is unique to women and throughout her life, a woman goes through the process of menstruation, pregnancy, delivery, post-delivery phase and ultimately menopause. As stated above, right to reproductive health being a woman's human right would also include the right to an abortion.



WEB COPY



*Otherwise, a woman who is forced into an unwanted pregnancy would experience physical and mental trauma and to endure the pregnancy which may continue in the post-natal period owing to which she would have the burden of bringing up an additional child and consequently, may lose out on other opportunities in life including right to employment and contribution to the income of the family.*

xxx

*This is not to say that in every case where there is an unwanted pregnancy, this Court or the High Courts ought to exercise its jurisdiction and order for termination. It would depend on the facts of each case. But in this case, when the petitioner is determined to terminate her pregnancy and has completely detached herself from the fact that she would be giving birth to her child shortly, she cannot be made worse off by this Court by declining to grant her the relief she has sought and thereby forcing her to continue with an unwanted pregnancy.”*

*18. In the circumstances, we accept the submissions made by learned counsel for the appellant.”*

*9. From a reading of the above judgments, the following position would emerge:*

*i) Court cannot compel any woman, much less a minor child, to complete her pregnancy if she is otherwise not intending to do so; that would be more traumatic for a minor such as the appellant’s daughter in the instant case.*

*ii) Decision to carry the pregnancy to its full term or terminate it is firmly rooted in the right to bodily autonomy and decisional autonomy of the pregnant woman.*

*iii) It would be incongruous to conclude that the foetus has a*



WEB COPY

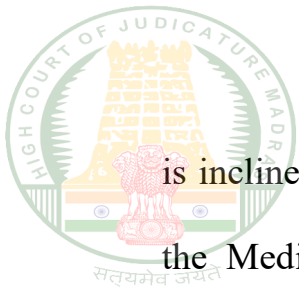


*separate identity from the mother and in spite of the physical or mental health of a mother being under threat, she will have to continue her pregnancy until the foetus is born which would endanger her delicate health. Such a position is contrary to Article 21 and Article 15(3) of the Constitution of India which recognize the right to life and liberty and particularly those of a woman.*

*8. Learned counsel for petitioner also expressed certain concerns over the treatment that has been extended to the petitioner's daughter until now by 2<sup>nd</sup> respondent Hospital. To which, the learned counsel for respondents would submit that necessary measures with regard to treatment would be taken by the 2<sup>nd</sup> respondent Hospital in this regard.*

*9. In the light of the above discussion, this Court keeping in view the facts of the case and the law laid down by the Supreme Court in the judgment referred supra is inclined to permit X to undergo medical termination of pregnancy subject to the Medical Board certifying that X's health permits the same. The above examination shall be made by the Medical Board in the 2<sup>nd</sup> respondent Hospital forthwith. The respondents are directed to submit a status report before this Court on 19.06.2026, relating to termination of pregnancy of X. It is made clear that subject to clearance/ approval by Medical Board, X is permitted to terminate her pregnancy. Post on 19.06.2026."*

9. In the light of the above, this Court keeping in view the facts of the case and the law laid down by the Supreme Court in the judgment referred supra



is inclined to permit X to undergo medical termination of pregnancy subject to the Medical Board certifying that X's health permits the same. The above examination shall be made by the Medical Board in the 2<sup>nd</sup> respondent Hospital forthwith. It is made clear that subject to clearance/ approval by Medical Board, X is permitted to terminate her pregnancy.

10. Accordingly, this Writ Petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

**07-07-2026**

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/No  
ANU

To

1. The Inspector of Police  
AWPS - Washermenpet,  
Old Washermenpet, Chennai 600 021
2. The Director  
Institute of Obstetrics and Gynaecology and  
Government hospital for Women and Children,  
Egmore, Chennai 600 008
3. The State  
Rep by secretary,  
Health Department,  
Secretariat, Fort St. George,  
Chennai 600 009



WEB COPY

WP No. 26441 of 2



**MOHAMMED SHAFFIQ, J.**

ANU

WP No. 26441 of 2026  
and WMP.No.28914 of 2026

07-07-2026